



**RULES OF**  
**Hepburn Community Wind Park Co-operative  
Limited**

**Registration Number: G0003442Y**

**Distributing Co-operative Victoria**

Approved by the Registrar on: 31/10/22

Adopted by the co-operative on: 23/11/22

## Contents

How to use your rules	5
Rules can be changed	5
How the rules are arranged	5
CATEGORY ONE - Co-operative name, primary activities and active membership	7
1.2 DEFINITIONS	7
1.3 PRIMARY ACTIVITIES	7
1.3A ACTIVE MEMBERSHIP	8
1.4 CANCELLATION OF MEMBERSHIP FOR INACTIVITY	8
CATEGORY TWO - Membership and member rights and obligations	9
2.1 MEMBER QUALIFICATIONS	9
2.2 MEMBER APPLICATIONS, FEES AND ANNUAL SUBSCRIPTIONS	9
2.2A CORPORATE REPRESENTATION	10
2.3 WHEN MEMBERSHIP CEASES	10
2.4 MEMBER RESIGNATION	10
2.5 EXPELLING A MEMBER	10
2.6 FINANCIAL CONSEQUENCES OF RESIGNATION OR EXPULSION	11
2.7 SUSPENDING A MEMBER	12
2.8 DISPUTE RESOLUTION	12
2.9 FINES PAYABLE BY MEMBERS	13
2.10 LIABILITY OF MEMBERS	13
2.11 DEATH OF A MEMBER	13
2.12 RIGHTS AND LIABILITIES OF MEMBERS WHO ARE BANKRUPT, INSOLVENT OR OTHERWISE INCAPABLE	14
2.13 ENTITLEMENTS AND LIABILITIES OF PERSONS REGISTERED AS TRUSTEE, ADMINISTRATOR ETC	14
CATEGORY THREE - Capital and finance	15
3.1 SHARE CAPITAL AND MINIMUM SHAREHOLDING FOR MEMBERSHIP	15
3.1A ANNUAL SUBSCRIPTIONS	15
3.2 ADDITIONAL MEMBER SHARES	16
3.3 CALLS ON SHARES	16
3.4 SHARE FORFEITURE	16
3.5 REPURCHASE OF SHARES	17
3.6 SHARE TRANSFERS	17
3.7 EFFECT OF SALE, TRANSFER OR DISPOSAL OF SHARES	18
3.8 TRANSFER OF SECURITIES OTHER THAN SHARES	18
3.9 ISSUE OF CO-OPERATIVE CAPITAL UNITS (ccus)	18
CATEGORY 4 - Board of directors and board meetings	19
4.1 BOARD OF DIRECTORS	19
4.2 QUALIFICATIONS OF DIRECTORS	19
4.3 FIRST DIRECTORS AND TERMS OF OFFICE	20
4.3A Retiring Directors	20
4.4 ELECTION OF DIRECTORS	20
4.5 REMOVAL OF A DIRECTOR	21
4.6 WHEN A DIRECTOR VACATES OFFICE AND CASUAL VACANCIES	21
4.7 ALTERNATE OR DEPUTY DIRECTORS	22
4.8 DIRECTOR REMUNERATION	22
4.9 BOARD MEETINGS	22
4.10 BOARD QUORUM	22
4.11 CHAIRPERSON OF THE BOARD	23
4.12 MINUTES OF BOARD AND OTHER MEETINGS	23
CATEGORY 5 - Member meetings	24
5.1 GENERAL MEETINGS	24
5.1A SPECIAL GENERAL MEETINGS	24
5.2 NOTICE OF GENERAL MEETINGS AND MEMBER RESOLUTIONS	24
5.3 BUSINESS OF THE AGM	25
5.4 QUORUM AT GENERAL MEETINGS	25
5.5 CHAIRPERSON AT A GENERAL MEETING AND ADJOURNMENTS	26
5.6 ATTENDANCE AND VOTING AT GENERAL MEETINGS	26
5.7 VOTING ON A SHOW OF HANDS OR ON A POLL	27
5.8 DETERMINING THE OUTCOME WHEN VOTES ARE EQUAL	27
5.9 PROXY VOTING	27
5.10 POSTAL BALLOTS	27
5.11 SPECIAL POSTAL BALLOTS	28
5.12 SPECIAL RESOLUTIONS	28
CATEGORY SIX - Accounts and administration	30
6.1 FINANCIAL YEAR	30
6.2 BANK ACCOUNTS	30

6.3 MEMBER FINANCIAL STATEMENTS AND AUDIT	30
6.4 PROVISION FOR LOSS	30
6.5 DISTRIBUTION OF SURPLUS OR RESERVES	31
6.6 SAFEKEEPING OF SECURITIES	31
6.7 AUTHENTICATION OF CO-OPERATIVE DOCUMENTS	32
6.8 AMENDMENT AND COPIES OF RULES	32
6.9 NOTICES AND OTHER DOCUMENTS TO MEMBERS	32
6.10 WINDING UP	32

## How to use your rules

The rules or constitution of your co-operative are a set of rules that apply specifically to your cooperative. The rules set out how it operates internally, the governance structure and the share capital. Most importantly like any contract, it specifies what the co-operative will be doing, how members will work with their co-operative and how they work with each other.

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.

The registration of co-operatives is governed by laws in each State and Territory. There are some differences depending on which State or Territory you choose as your place of registration.

For New South Wales, Victoria, South Australia, Tasmania, the Australian Capital Territory and the Northern Territory, the legislation is a uniform code called the [Co-operatives National Law \(CNL\)](#).

The laws in each State and Territory adopt the Co-operative Principles developed by the International Co-operative Alliance. The Co-operative Principles provide a guidance for cooperative legislation and how co-operatives should operate. In brief, they are:

1. Voluntary and open membership
2. Democratic member control
3. Member economic participation
4. Autonomy and independence
5. Education, training and information
6. Co-operation among co-operatives, and
7. Concern for the community

The full text of the co-operative principles can be accessed in the legislation relevant to the State or Territory in which your co-operative is registered. Where there are specific requirements under the legislation and those requirements impact on how your rule operates, the rules will have a note or signpost to the relevant legislation.

## Rules can be changed

At the point of start-up, it is not possible to prepare a rule to deal with every possible contingency or event. As your cooperative begins its operations and grows, you may need to consider new rules and review existing rules to deal with new situations. The process for changing the rules is governed both by the relevant legislation and these rules.

## How the rules are arranged

These rules are designed to suit a distributing co-operative, (called a trading cooperative in Queensland). Rules are arranged under categories. Each category is accompanied by a broad description.

The categories are:

1. Co-operative's name, primary activities and active membership
2. Membership and member rights and obligations
3. Capital and finance
4. Board of directors and board meetings
5. Member meetings
6. Accounts and administration

Some rules will be accompanied by a note. These notes are not the rules, they merely provide operational guidance and references to relevant legislation.

## CATEGORY ONE - Co-operative name, primary activities and active membership

These rules define what your co-operative will do to pursue its purpose, along with the minimum transactional commitment between members and the co-operative – active membership.

Your co-operative name and its registration number are the public identifiers of the co-operative. They must appear on all of the co-operative's official documents and correspondence. The cooperative can use other trading or business names that are owned by the co-operative.

### 1.1 CO-OPERATIVE NAME

The name of the co-operative is Hepburn Community Wind Park Co-operative Limited.

### 1.2 DEFINITIONS

In these rules:

- Either of the words **Law** or **Act** means the co-operatives legislation applying in the State or Territory where the co-operative is registered.
- **co-operatives legislation** 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 (CNL).
- **corporate member** means a member that is also an incorporated body, including a company or incorporated association.
- **corporate representative** means a person appointed to represent the interests and exercise the rights of a corporate member.
- **co-operative principles** means the co-operative principles adopted under the co-operatives legislation applying in the State or Territory where the co-operative is registered.
- **legal personal representative** comprises a solicitor, attorney, trustee, executor or any other person lawfully appointed to represent the interests of a natural person, who is unable to manage their affairs through mental or physical incapacity or because the person is deceased.
- **year** means the co-operative's financial year as defined in these rules.

Unless specifically defined, words and expressions have the same meaning as they have in the applicable co-operatives legislation.

### 1.3 PRIMARY ACTIVITIES

1. The primary activities of the Hepburn Community Wind Park Co-operative Limited are to:
  - a. develop, own, operate and manage an energy and agribusiness farm or farms;
  - b. generate and supply energy;
  - c. undertake any activities associated with the co-operative farm or farms;
  - d. provide advice and assistance to its members to reduce energy usage and increase members energy efficiency;
  - e. raise community awareness of the benefits of sustainable and renewable energy.

### 1.3A ACTIVE MEMBERSHIP

1. In order to establish and maintain active membership of the co-operative, an Ordinary member must:
  - a. purchase or consume energy generated directly or indirectly by the Co-operative; or,
  - b. subscribe to the Co-operative's information advisory service relating to energy usage and efficiency; or,
  - c. subscribe to the Co-operative's newsletter.
2. In order to establish and maintain active membership of the co-operative, Community Solar members and Community Battery members must purchase or consume energy generated directly or indirectly by the Co-operative.

### 1.4 CANCELLATION OF MEMBERSHIP FOR INACTIVITY

The board cancel a person's membership 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 the required period; or
2. the member is not active and has not been active within the meaning of rule 1.3A for the required period.
3. In this rule the required period is 3 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 and member 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 determines 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, MEMBERSHIP TYPES, AND RIGHTS AND OBLIGATIONS

1. **Ordinary Membership.** In accordance with these rules and any conditions established by the board of the co-operative, a person qualifies for Ordinary Membership of the co-operative if they are able to use or contribute to the services of the co-operative.
2. **Associate Membership.** Supporters can make financial contributions and become an 'Associate of Hepburn Wind (non-shareholding)' but without qualifying for voting rights or a return on their financial contribution.
3. **Community Solar Membership.** A person qualifies for Community Solar Membership if they are able to use or contribute to the solar farm services of the co-operative subject to any conditions established by the board of the co-operative from time to time as set out in the disclosure statement of the co-operative.
4. **Community Battery Membership.** A person qualifies for Community Battery Membership if they are able to use or contribute to the community battery services of the co-operative subject to any conditions established by the board of the co-operative from time to time and as set out in the disclosure statement of the co-operative.
5. A person may qualify for, and be appointed to, multiple classes of membership. Where a person holds more than one type of membership, they must meet the active membership provisions of each class of membership but they are still considered to be one member of the co-operative and so are entitled to one vote only in general meetings in accordance with the rules of the co-operative and the Law.
6. The board may vary qualification requirements and prospective entry and subscription fees due to socio-economic, geographic, or other circumstances that pertain to members in accordance with these rules and the Law.

Note: Community Solar members or Community Battery members residing in different geographic locations may be required to meet different qualifications for membership (and/or due to personal or regional economic circumstances may be levied different entry and/or subscription fees).

### 2.2 MEMBER APPLICATIONS, FEES AND SUBSCRIPTIONS

1. Applications for membership must be lodged at the address listed on the application form using the application form approved by the board, and should be accompanied by payment of:
  - a. any entry fee as determined by the board from time to time and published at the registered office;
  - b. payment for the allotment of the minimum number of shares in the co-operative required under rule 3.1; and
  - c. payment of the annual subscription under rule 3.1A and/or any other subscription fees for Community Solar Farm members and Community Battery members as set out in the disclosure statement, if any.
2. Every application for membership must be considered by the board.
3. If the board approves 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 provide reasons for the refusal. On refusal, any amounts accompanying the application for membership, other than the application fee referred to in paragraph 1a of this rule, must be refunded within 28 days without interest.
7. The board may establish different entry and subscription fees for different classes of members from time to time, as set out in the disclosure statement.

### 2.2A CORPORATE REPRESENTATION

Where a corporate member is a member of the co-operative, that corporate member may from time to time in such manner as the board directs, appoint a corporate representative to represent in respect of its 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 the Law if:
  - a. the person's membership is cancelled 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;
  - f. the member's total shareholding is transferred or sold to another person under these rules and the name of the transferee is entered in the register of members in respect of the shareholding;
  - g. the member's total shareholding is forfeited under the Law or these rules;
  - h. the member's total shareholding is purchased by the co-operative under the Law; or
  - i. the amount paid up on the member's shares is repaid to the member under these rules.
2. Except as otherwise provided by the Law a person will not cease to be a member of a cooperative if the person:
  - a. becomes bankrupt and their property is subject to control under laws relating to bankruptcy; or
  - b. 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 a co-operative by giving one month's notice in writing or such lesser period of time approved by the board in a particular case.

## 2.5 EXPELLING A MEMBER

1. A member may be expelled from the co-operative by special resolution on the grounds:
  - a. that the member has seriously or repeatedly failed to discharge their 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 each of 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 make a decision on expulsion by secret ballot of those members entitled to vote who are either present or represented by a legal personal representative, corporate representative or a proxy and entitled to vote; and
  - e. the special resolution is passed if at least two-thirds of the members voting in the secret ballot vote in favour of the expulsion.
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.
6. A member re-admitted must not have restored to them any shares that were cancelled on their expulsion.

## 2.6 FINANCIAL CONSEQUENCES OF RESIGNATION OR EXPULSION

1. In this **deficiency** means the amount of any reduction of the value of the total shares issued by the co-operative, represented by the co-operative's net asset value, as disclosed in the balance sheet of the co-operative last reported before the date that the member resigns or is expelled.
2. 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.
3. The shares of an expelled or resigning member must be cancelled as at the day of expulsion or resignation, and the cancellation must be noted in the register of shares.
4. Subject to paragraph 5 of this rule and the written terms of any other class of shares issued, the co-operative must pay to the expelled or resigning member the amount of capital paid up on the former member's shares at the time of expulsion or resignation, less any amount owing by the former member to the co-operative.
5. The co-operative may deduct from the amount of capital paid up on the shares of the expelled or resigning member an amount equal to the proportion of any deficiency.
6. Payment to the expelled or resigning member of any amount owing by the co-operative to the former member must be made no later than one year from the date of expulsion or resignation unless the provisions of s128 of the Law apply.
7. If a member 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 on the grounds that the member has:
  - a. contravened any of these rules;
  - b. failed to discharge obligations to the co-operative, whether under these rules, a contract or memorandum of understanding; or
  - c. acted 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 must convene a board meeting to consider suspension of the member and must permit the member to attend the meeting and address the board on the matter of the suspension.
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 amounts paid or payable to the cooperative 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. In the absence of agreement between the parties:
  - a. for a dispute between a member and another member, the mediator is to be a person appointed by the board; or
  - b. for a dispute between a member and the co-operative, the mediator is to be a person appointed by the Australian Mediation Association or some other body that provides alternative dispute resolution services.
6. The mediator may be a member of the co-operative, unless they are 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. This rule does not apply to any dispute
  - a. as to the construction or effect of any mortgage or contract contained in any document; or
  - b. involving the expulsion or suspension of a member.
13. If the mediation process does not resolve the dispute, either party may seek resolution through arbitration or legal action.
14. 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 on the shares held by the member, together with any charges, including application fees or regular subscriptions payable by the member to the co-operative under these rules.
2. Joint members are jointly and severally liable for any amount unpaid on shares and for any other amounts referred to in paragraph 1 of this rule.

## 2.11 DEATH OF A MEMBER

The legal personal representative of a deceased member may apply to the board for a transfer of the deceased member's shares in a form approved by the board.

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

1. The shares 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 legal personal representative appointed to administer the affairs of a member who, through mental or physical incapacity, is incapable of managing their affairs, may be registered as the holder of the member's shares and the rights and liabilities of membership vest in the legal personal representative during the period of the appointment.
3. The liabilities attaching to the shares of a member under bankruptcy, insolvency or mental or physical incapacity continue in accordance with the Law.
4. The board may decide to suspend some or all active membership obligations where a legal personal representative has been appointed for a member, 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 (corporate member) or incapable of managing 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 person who is mentally or physically incapable, it will be a legal personal representative, 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. Normally only persons who are active members are permitted to hold shares, the Law provides for an exception in these cases by allowing the substitution of an administrator, liquidator or trustee as the case may be, to be the legal 'owner' of the shares and do whatever is necessary to deal with the shares.*



### **2.13 ENTITLEMENTS AND LIABILITIES OF PERSONS REGISTERED AS TRUSTEE, ADMINISTRATOR ETC**

1. A person who is entitled to hold shares in the co-operative, because of the death, bankruptcy, insolvency or incapacity of a member, is entitled to the dividends and other advantages of membership of the co-operative, other than the right to vote, as soon as their entitlement arises. The person entitled to hold the shares may only exercise the right to vote if that person is registered as a member of the co-operative.
2. A person referred to in paragraph 1 of this rule who is registered as the holder of shares in the co-operative has the same liabilities in relation to the shares as the member on whose behalf the shares are held.
3. The board has the same right to decline or to suspend registration of a share transfer by a person referred to in paragraph 1 of this rule as it would for a share transfer by a member.

## CATEGORY THREE - Capital and finance

The rules in this category set out the fixed price of shares in the co-operative as well as the minimum number of shares that a member must buy (subscribe for) to become a member. The minimum share capital is the risk capital that a member must invest in the co-operative. Share capital in a co-operative is different from share capital in a company. It can only be held by members and it cannot be traded on a stock exchange. Shares in a co-operative do not carry a vote, the vote belongs to the member on the basis of one member: one vote. In certain circumstances shares are repayable to the member. Shares in a co-operative can be transferred provided they are transferred to another member or a person who is about to become a member. Co-operatives can issue more shares to members over and above the minimum share requirements and they can issue other types of securities to raise capital for the co-operative. Annual subscriptions, if any, are also in this category of rules.

### 3.1 SHARE CAPITAL AND MINIMUM SHAREHOLDING FOR MEMBERSHIP

1. The initial capital of the co-operative must be raised by the issue of ordinary member shares at the fixed price of \$1 each.
2. An ordinary member must hold a minimum number of paid ordinary member shares in the co-operative as approved by the board from time-to-time and must not hold or have a relevant interest in more than 20% of the nominal value of issued share capital of the co-operative unless permitted to do so under the Law.
3. A share in the co-operative does not carry a vote.
4. The right to vote in the co-operative is attached to membership.
5. Community Solar members must hold a minimum of one paid Community Solar share (of nominal value of \$250 each) in the co-operative as approved by the board from time-to-time and must not hold or have a relevant interest in more than 20% of the nominal value of issued share capital of the co-operative unless permitted to do so under the Law.
6. Community Battery members must hold a minimum of one paid Community Battery share (of nominal value of \$250 each) in the co-operative as approved by the board from time-to-time and must not hold or have a relevant interest in more than 20% of the nominal value of issued share capital of the co-operative unless permitted to do so under the Law.
7. The board of the co-operative may require that new Community Solar members or Community Battery members hold more than the minimum of one share (as set out in rules 3.1(5) and (6) respectively) in order to raise sufficient funds to establish community-based solar or battery facilities within a particular region or for some other reason in accordance with the Law and the disclosure statement. If the board of the co-operative requires a new minimum
8. To allow for equitable access for members to purchase or consume energy generated directly or indirectly by the Co-operative the board may decide to allot Solar Farm shares or Community Battery shares where at least 10% of the nominal value of the share has been paid in accordance with the Law and as set out in the disclosure statement.

#### 3.1A ANNUAL SUBSCRIPTIONS

The annual subscription fee for the newsletter will be determined by the board but will not exceed an amount of \$20 per annum.

#### 3.1B SHARE STATEMENT

1. The board, on approval of the application of a person holding shares in the co-operative, must issue to that person, without payment, a statement of holdings 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 statement of holdings in respect of those shares; and
  - b. the delivery of the statement of holdings to one joint shareholder is sufficient delivery to all.
3. If the board is satisfied that a statement of holdings issued by the cooperative is defaced, lost or destroyed, the board may issue a duplicate statement on payment of a fee determined by the board.  
**Note:** This rule applies to all securities held by a person in the co-operative.

#### 3.2 ADDITIONAL MEMBER SHARES

1. A member may subscribe for additional shares (applicable to their class of membership) above the minimum required under rule 3.1, provided that the member does not hold or have a relevant interest in more than 20% of the nominal value of all issued share capital of the co-operative.
2. Additional shares may be fully or partly paid.

#### 3.3 CALLS ON SHARES

1. The board may from time to time make calls on the members for any amounts unpaid on their shares. A call can be made for payment of any amount unpaid whether it is for the fixed price of the share or any premium attached to the share.
2. Each member must, on receiving at least 14 days' notice of the time and place of payment, pay to the co-operative, at the time and place specified, the amount called on in relation to the shares.
3. The directors may revoke or postpone a call.
4. A call is taken to have been made when the resolution of the board authorising the call is notified to members.
5. A call can be made for payment of the full amount unpaid or that the amount unpaid is to be paid in specified instalments.
6. The joint holders of a share are jointly and severally liable to pay all calls for the share.
7. If an amount called for a share is not paid by the time fixed for payment, the share may be forfeited under rule 3.4.
8. Where the terms of issue of a share require payment of the share price or any premium by specified instalments, the time when an instalment is due and payable is taken to be a properly made call. If the instalment amount is not paid, the share may be forfeited under rule 3.4.
9. The board may, in relation to the issue of shares, differentiate between the holders in the amount of calls to be paid and the times of payment.
10. The board may accept from a member all or part of the money uncalled and unpaid on shares held by the member.

**Note:** This rule only applies where the co-operative issued partly paid shares.

### 3.4 SHARE FORFEITURE

1. If a member fails to pay a call or instalment of a call by the day appointed for payment, the board may, at any time that any part of the call or instalment remains unpaid, serve a notice on the member requiring payment of so much of the call or instalment as is unpaid, together with any interest that may have accrued.
2. The notice must name a further day for payment that allows at least a further 14 days for payment required to be made. The notice must also state that, in the event of non-payment on or before the time appointed, the shares for which the call was made will be liable to be forfeited.
3. If the requirements of the notice served under this rule are not complied with, any share in respect of which the notice has been given may at any time be forfeited by a resolution of the board.
4. Forfeiture of shares includes forfeiture of all dividends declared for the forfeited shares and not actually paid before forfeiture.
5. Forfeited shares must be cancelled.
6. A person whose shares have been forfeited under these rules stops being a member if as a result of the forfeiture, the person no longer holds the minimum number of shares required under rule 3.1.
7. A statutory declaration in writing by a director, the chief executive officer or secretary of the co-operative stating that a share in the co-operative has been forfeited and cancelled on a date stated in the declaration, is proof of that fact as against all persons claiming to be entitled to the share.
8. The co-operative has set-off rights against share capital as specified in the Law.

**Note:** If a member owes the co-operative other amounts at the time of the forfeiture, the co-operative may deduct or set-off these amounts against any share capital that must be repaid to the member.

### 3.5 REPURCHASE OF SHARES

1. A co-operative may, if requested by a member, purchase the member's shares and repay some or all of the capital subject to any restrictions under the Law or the terms of issue of the shares.
2. The co-operative must cancel any shares that have been repurchased.

**Note:** Co-operatives can repurchase members' share capital. To protect the financial viability of the co-operative, repayment of share capital on request by a member is tightly controlled under the Law. There are limits on the amount of capital that can be repaid in a financial year and a discretion to refuse to repay capital.

3. The board may determine to allot or issue debentures or CCUs of the co-operative to the member in satisfaction of part or all of the purchase price of the member's shares in accordance with the Law or the terms of issue of the shares.

### 3.6 SHARE TRANSFERS

1. A share may not be sold or transferred except:
  - a. with the consent of the board, and to a person who is qualified to be admitted to the same class of membership of the co-operative as the transferor; or
  - b. as otherwise provided by these rules or the Law.
2. The instrument of transfer of a share must be:
  - a. signed by or for the transferor and the transferee; and
  - b. be accompanied by
    - i. the transfer fee determined by the board, such transfer fee being no more than \$50; and
    - ii. evidence showing the right of the transferor to make the transfer.
3. The board may decline to register a transfer of shares if the transfer is:
  - a. is contrary to the terms of issue of the shares;
  - b. to a person not qualified to be a member (either at all or in the same class of membership of the co-operative as the transferor); or
  - c. in respect of shares on which the co-operative has a lien or charge.
4. If the board refuses to register a transfer of shares it must send notice of the refusal to the transferee within 28 days after the day the board declined to register the transfer.
5. The board of the co-operative must not consent to the sale or transfer of shares that would result in a member having an interest (including a beneficial interest) in more than 20% of the issued share capital of the co-operative.
6. The transferor is taken to remain the holder of the share until the name of the transferee is entered in the register of members.
7. The board must maintain a record of all transfers in the co-operative's register of members and their shareholdings.
8. The board may suspend the registration of transfers during the 45 days immediately before the annual general meeting in each year.

### 3.7 EFFECT OF SALE, TRANSFER OR DISPOSAL OF SHARES

A member who has sold, transferred, or disposed of the beneficial interest in some or all of their shares, so that they no longer hold the minimum number of member shares required by the cooperative, or has agreed to do any of those things, is not entitled to vote at any meeting of the cooperative.

### 3.8 TRANSFER OF SECURITIES OTHER THAN SHARES

1. Securities other than shares 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 of security holders.
3. The board may decline to register an instrument or form transferring a security other than a share if:
  - a. the transfer would be contrary to the terms of issue of such security, or
  - b. the transfer fee (as noted on the transfer form or instrument) is not paid to the cooperative 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 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.

### **3.9 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 cooperative.

#### CATEGORY 4 - Board of directors and board meetings

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 cooperative, 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.

Keeping minutes of board and other meetings is also in this category of rules.

#### 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 cooperative that are not required to be exercised by the co-operative in a general meeting.
2. The board must have 7 directors.
3. The board may, by resolution, delegate any of its 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 two directors;  
or
  - c. is only a delegation of power to an advisory committee of members of the co-operative and other persons if members comprise the majority of persons on the committee;  
and
  - d. clearly describes the power delegated and any limitations on the exercise of such delegated power.

**Note 1:** The board is empowered to make decisions regarding the operations and business of the co-operative. Important questions such as the election, removal and remuneration of directors, changes to this constitution and other matters that require a resolution or special resolution under the Law, must be made by the members.

**Note 2:** A co-operative board may also establish committees to assist with particular functions in an advisory capacity. Advisory committees may comprise directors or directors and other members or other members. Boards need to identify particular functions and establish a system to appoint or elect persons to various committees. For example, it may be useful to establish a finance committee or a member engagement committee to assist the board in planning and delivering its obligations. Committees would need to report to the board and may, if authorised by a delegation under this rule, have delegated authority to perform certain functions.

#### 4.2 QUALIFICATIONS OF DIRECTORS

1. A person is not qualified to be a director of the co-operative unless the person is a natural person 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 of this rule is known as a member director. A person qualified under paragraph 1.b of this rule is known as a non-member director or independent director.
3. The board of directors must have a majority of member directors.
4. Any newly appointed or elected director without experience as a director of a corporation to the satisfaction of the board must undergo governance training as determined by the board of directors at the expense of the co-operative.

**Note 1:** An independent or non-member director may, in accordance with section 174 of the law, be an employee of the co-operative; or, be nominated on the basis of the person's qualifications, skills, experience or knowledge in the engineering, industrial, legal, commercial or financial sectors.

**Note 2:** A person must not act as a director if the person is disqualified under section 181 of the Law.

#### 4.3 FIRST DIRECTORS AND TERMS OF OFFICE

1. The first directors are those directors who are elected by poll at the formation meeting.
2. The term of office of the first directors shall be no more than 19 months.
3. At the first annual general meeting, two board positions become vacant and at the annual general meeting in each subsequent year, positions shall become vacant in rotation of two, three and two.
4. A retiring director retains office until the close of the meeting at which his or her successor is elected.
5. 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 two or more directors who became directors on the same day, those who retire must be determined by lot unless they otherwise agree among themselves.
6. A retiring director is eligible for re-election.

#### 4.3A Retiring Directors

Retiring directors shall be deemed to be nominated unless a director advises the co-operative at least 28 days before the annual general meeting that he or she does not seek re-election.

#### 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 AGM 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 six weeks before the AGM, the board must:
    - i. notify all members of the number of directors retiring at the AGM 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 two or more members; and
    - b. provide details of the qualifications and experience and any experience as a director of the person nominated; and
    - c. be accompanied by a notice in writing signed by the person consenting to their nomination.
  5. A nomination for election of a non-member or independent director must:
    - a. be signed by two 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 cooperative at least 30 days before the AGM.
  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 AGM. 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 AGM.
  9. If there are insufficient nominees to fill all vacancies, the nominees must be declared elected at the AGM 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 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 two 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 incapacity.
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 1 of this rule or because there were insufficient nominees for election at an AGM.
3. A person appointed to fill a vacancy under paragraph 2 of this rule is appointed until the next AGM.

#### 4.7 ALTERNATE OR DEPUTY 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 qualified to be appointed as an alternate or deputy director for:
  - a. a member director, if the person is an active member or is a corporate representative for an active corporate member; or
  - b. a non-member director, if the person holds similar skills or expertise to the principal director.
3. An alternate or deputy director holds office until the next AGM 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 or deputy alternate 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 as directors without member approval.

#### 4.9 BOARD MEETINGS

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 does not exercise 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 without a physical meeting by circulating papers that require each director to record their vote and sign. Co-operatives legislation provides a process for this to occur.

#### 4.10 BOARD QUORUM

1. The quorum for a meeting of the board is four directors.
2. For a quorum, the number of member directors must outnumber the non-member directors by at least one.

#### 4.11 CHAIRPERSON OF THE 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 all 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 or of a board committee; and
  - c. all resolutions and proceedings at all general meetings of the co-operative, board meetings and committee meetings.
2. Minutes must be entered in the appropriate records within 28 days of when the meeting to which they relate was held.
3. The minutes are to be signed and confirmed by the chairperson within a reasonable time after the meeting to which they relate was held.
4. Members do not have access to the minutes of board or committee meetings, but may write to the board to request access to such minutes.

## CATEGORY 5 - Member meetings

Co-operatives are organisations that are designed to serve all their members, not just those who hold the most shares. Accordingly, members' meetings have a very important role in ensuring democratic governance of the co-operative.

This category of rules provides for general meetings where members vote on matters. The rules contain the procedures for voting, how resolutions are passed at meetings, voting by postal ballot and proxy voting. Co-operatives legislation separately provides for resolutions to be passed by members of smaller co-operatives using a circulating resolution.

### 5.1 GENERAL MEETINGS

1. An AGM must be held on a date and at a time decided by the board within five 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 cooperative.
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.

#### 5.1A SPECIAL GENERAL MEETINGS

In accordance with section 257 of the Act, the board must convene a general meeting of the co-operative on the written requisition of 100 active members of the co-operative.

### 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 by starting 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 participate in 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 cooperative.
8. If the co-operative has been served with notice under paragraph 7 the resolution is to be considered at the next general meeting that occurs more than two 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 more instructions about special resolutions.

### 5.3 BUSINESS OF THE AGM

1. The ordinary business of the AGM of the co-operative must be:
  - a. to confirm minutes of the 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; and
  - c. to approve any payments of fees to directors; and
  - d. to elect directors to fill any vacancies on the board.
2. The AGM may also transact special business, notice of which has been given to members under these rules.
3. All business of a general meeting, other than business of the AGM that is ordinary business, is special business.

### 5.4 QUORUM AT GENERAL MEETINGS

1. An item of business cannot be considered or decided at a general meeting unless a quorum of members is present.
2. Subject to sub-rule 3 the quorum of the co-operative is 50 members entitled to vote at a meeting of the co-operative.
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; or
  - c. the Chairperson announces that written notice will be given as to an alternative day time or place and the meeting is then adjourned.
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 legal personal representative or corporate representative, 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 2 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 at an adjourned meeting, under sub-rule 3.b or 3.c, a quorum is not present within half an hour after the time appointed for the meeting 30 members shall be 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 to a different time and 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 five members present in person 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 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; 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

The chairperson of the meeting may not exercise a second, casting vote where the votes in favour and against a resolution are equal.

#### 5.9 PROXY VOTING

Voting by proxy is not permitted at a general meeting.

#### 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 take into consideration the following matters:
  - 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, where 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, require 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, and must have reasonable time to be advised of the postal ballot, 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 must be sent to all voting members at least 21 days before the closing date of the postal ballot.
9. Ballot papers are to be in the form approved by the board and must include the following:
  - a. particulars of the matter to be decided by postal ballot;
  - b. an explanation of how to lodge a valid vote;
  - c. the majority required to pass the vote; and
  - d. notice of the closing time and date of the postal ballot.
10. This rule does not apply 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 process.*

#### 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 time to be advised of the postal ballot, 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 must be sent to members at least 28 days before the closing date of the special postal ballot.
6. Ballot papers are to be in the form approved by the board and must include the following:
  - a. particulars of the matter to be decided by special postal ballot;
  - 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;
  - d. the majority required to pass the vote; and
  - e. notice of the closing time and 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.*

#### 5.12 SPECIAL RESOLUTIONS

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

## **CATEGORY SIX - Accounts and administration**

*This category of rules deals with accounting, administrative and financial reporting to members. The rules provide for bank accounts, specifying the financial year, co-operative document authentication, and how to send notices to members.*

*This category also contains the rule regarding distribution on winding up. 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 rule 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, bills of exchange, promissory notes and other negotiable instruments drawn on the account of the co-operative must be signed by two authorised officers or employees of the co-operative.
3. The board may authorise a director, or a person authorised by the board, to operate an electronic account in the name of the co-operative, without the need for a second written or electronic signature, provided that the authority is restricted to:
  - a. transactions conducted in the ordinary course of the co-operative's business; and
  - b. subject to a monetary limit specified in the board's written authorisation.

### **6.3 MEMBER FINANCIAL STATEMENTS AND AUDIT**

1. The cooperative must appoint an auditor.
2. An auditor appointed under this rule is to conduct an audit of the financial statements to be provided to members.
3. The appointment of an auditor under this rule may be made by the board but must be confirmed at the next general meeting after the board makes the appointment.
4. The cooperative may appoint another auditor at a subsequent AGM if there is a vacancy in the office of the auditor.
5. The audited financial statements must be provided to members either 21 days before the AGM or four months after the end of the cooperative's financial year, whichever is earlier.

### **6.4 PROVISION FOR LOSS**

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

### **6.5 DISTRIBUTION OF SURPLUS OR RESERVES**

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, in accordance with the Law.
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 357(5) of the Law) on shares held.
3. The rebate, bonus shares or limited dividend:
  - a. must not exceed the amount recommended by the board; and
  - b. in the case of dividend must not exceed the amount permitted by the Law 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 Law 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.

### **6.5A DISTRIBUTION OF SURPLUS OR RESERVES TO DIFFERENT TYPES OF MEMEBRS**

1. The co-operative may determine that the distribution of surplus or reserves of the co-operative by way of rebates and/or trade discounts and/or issue of bonus shares and/or limited dividends may be applied or paid to different membership types in different ways in accordance with the Law, or any terms of issue of shares (as set out in the disclosure statement of the co-operative).

## 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 provision for their security as the board directs.

## 6.7 AUTHENTICATION OF CO-OPERATIVE DOCUMENTS

Instruments requiring authentication require signatures of two directors or one director and one officer or sub-contractors of the co-operative, as delegated by the board.

## 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 and clearly shows the existing rule or rules concerned and the proposed amendment to those rules.
3. A member is entitled to a copy of the rules, being a current consolidated set of the rules, on payment to the co-operative of the following amount:
  - a. for a hard copy of the rules - \$10; and
  - 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 cooperative 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 in their capacity as the representative of the deceased, incapacitated person, trustee, or liquidator, as the case may be, 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 would 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 on the winding up or dissolution there remains any property after the satisfaction of all the co-operative's debts and liabilities this must be distributed in the following manner:
  - a. first, repayment of amounts paid up on shares or other securities issued by the cooperative in accordance with their terms of issue; then
  - b. any remaining surplus must be distributed equally to all members of the co-operative in proportion to their shareholding, subject to the terms of issue of any other securities issued by the co-operative.
3. If on the winding up or dissolution there is a deficiency, members are liable to contribute to the deficiency to the extent of any amount unpaid on the shares they hold and any charges payable by them to the co-operative, as required by these rules.

**Note:** *There may be obligations on some former members of a co-operative to contribute in a winding up under co-operatives legislation.*