

**RULES FOR ETON IRRIGATION COOPERATIVE LTD**

**A NON-TRADING COOPERATIVE REGISTERED UNDER THE  
COOPERATIVES ACT 1997 (QLD)**

**These are the proposed rules for Eton Irrigation Cooperative Limited following a transfer of the Eton Irrigation Scheme to Eton Irrigation Scheme Limited and its conversion to a cooperative.**

**The rules are subject to approval by the Government Shareholder prior to transfer and the approval of the Registrar of Cooperatives**

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# Interpretation

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## 1. Definitions

In these rules<sup>1</sup>:

**Act or Cooperatives Act** means the Cooperatives Act 1997 and includes any amendment or re-enactment of that Act, or any Act, Code or other Statutory Instrument in substitution of that Act;

**active member** means a member who is in active membership under section 6.

**allocation** means, in relation to a person, the nominal volume of a water allocation or water allocations of which they are the holder (as defined in the Water Act) which is distributed under the DOL held by the cooperative, and excludes a person who receives any temporary transfer or seasonal assignment of a water allocation.

**auditor** means the person who is the auditor or auditors for the time being of the cooperative appointed under the Act or regulation.

**board** means the whole or any number of the directors assembled at a meeting of the Directors or transacting business in accordance with Section 45 of the rules, being not less than a quorum or a majority, as the case may be.

**director** includes deputy director.

**DOL** means a distribution operations licence issued under the *Water Act 2000* (Qld).

**Eton Irrigation Scheme** means the water distribution system used to supply water under water allocations to customers who purchase irrigation services in the irrigation infrastructure by which water is supplied from Kinchant Dam to the customers.

**financial institution account** includes an account at a financial institution into which the cooperative's money may be paid.

**financial year** means the financial year of the cooperative specified in section 53.

**independent director** has the meaning given in section 36(b).

**member** means a member of the cooperative.

**member director** has the meaning given in section 36(a).

**registrar** means the Registrar of Cooperatives or any person delegated the Registrar's functions.

**special resolution** means a resolution is passed in accordance with section 34.

**State** means the State of Queensland.

**Supply Contract** means the Distribution Contract: Eton Channel Scheme between the Cooperative and members (as customers) setting out the terms and conditions on which the Cooperative provides distribution services and other services to customers, as amended, varied or replaced from time to time.

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<sup>1</sup> This section only contains definitions required for the rules. Other defined terms may be found in the Act or the *Acts Interpretation Act 1954*, for example, section 36 (Meaning of commonly used words and expressions).

**the regulation** means the Cooperatives Regulation 1997.

**Water Act** means the Water Act 2000 (Qld).

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## 2. Interpretation

In these rules, unless the context otherwise requires:

- (a) **alter** or similar word or expression used in relation to a rule amendment. includes add to, substitute, and rescind:
- (b) **may** or a similar word or expression, used in relation to a power of the board indicates that the power may be exercised or not at the board's discretion;
- (c) **month** means calendar month;
- (d) **prescribed** means prescribed by the Act or under the Act by Regulation:
- (e) **rules** mean the registered rules of the cooperative as altered from time to time and reference to particular rules has a corresponding meaning
- (f) **must** or a similar word or expression, used in relation to a power of the board indicates that the power must be exercised, subject to the Act or the Rule granting the power;
- (g) writing includes printing, typing, lithography and other modes of representing or reproducing words in a visible form and "written" has a corresponding meaning.
- (h) words importing one gender include the other genders
- (i) words importing persons include corporations.
- (j) words in the singular include the plural, and vice versa;
- (k) words or expressions used have the same meanings as those given to them by the Act.

## Rules

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### 3. Rules

- (a) The rules of the cooperative have the effect of a contract under seal—
  - (i) between the cooperative and each member;
  - (ii) between the cooperative and each director, the principal executive officer and the secretary of the cooperative; and
  - (iii) between a member and each other member.
- (b) Under the contract, each of those persons agrees to observe and perform the rules as in force for the time being so far as those provisions are applicable to that person.
- (c) These rules may be altered by:
  - (i) a special resolution by members in general meeting; or
  - (ii) by special postal ballot; or

- (iii) by a resolution of the board in accordance with section 108 of the Act; or
- (iv) as otherwise permitted by the Act.
- (d) No alteration to these rules takes effect until it is registered by the registrar.
- (e) Any member shall be entitled on demand to a copy of the rules on payment of the amount prescribed under the Act from time to time for obtaining a copy of the rules from the registrar.
- (f) Any person may obtain a copy of these rules from the registrar on payment of the prescribed fee.

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## 4. Powers

- (a) The cooperative has the power of an individual and the ability to restrict or place additional powers in the rules.
- (b) The cooperative must not accept money on deposit (this restriction does not apply to deposits collected and held by the cooperative under the terms of its Supply Contract with its customers).

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## 5. Name

- (a) The name of the cooperative shall be the Eton Irrigation Cooperative Ltd.
- (b) The cooperative may change its name under section 248 of the Act.
- (c) The cooperative may abbreviate its name under section 246 of the Act.

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## 6. Active membership provisions

- (a) Under part 6 of the Act—
  - (i) the following **are primary activities** of the cooperative—
    - A. owning, operating and maintaining the Eton Irrigation Scheme;
    - B. providing irrigation services and water transportation services to customers;
    - C. facilitating the purchase, sale, transfer or lease of water allocations distributed under the DOL for the Eton Irrigation Scheme;
    - D. planning and providing for the renewal and refurbishment of the Eton Irrigation Scheme infrastructure, plant and equipment to meet anticipated future requirements; and
    - E. doing all such other lawful things as are incidental or conducive to (and for the purpose of) the attainment of the above activities including, if desirable to achieve efficient operations providing irrigation services to adjacent irrigation service providers for their irrigation customers;
  - (ii) to establish **active membership** of the cooperative a member must be the holder of an allocation and be a party to a Supply Contract.
- (b) All members of a cooperative must be active members.

- (c) An active member of the cooperative will become an inactive member where:
- (i) the member no longer holds any allocation for any reason, including where—
    - A. the member transfers all of their allocation on a permanent basis to another person; or
    - B. the member leases all of their allocation and the lessee becomes the holder (as that term is defined in the Water Act) of that allocation;
    - C. all of the member's allocation is permanently surrendered; or
  - (ii) the Supply Contract with the member is terminated and is not replaced.
- (d) A member who fails to be or ceases to be an active member must, subject to the Act, in particular to section 132 of the Act, have their membership cancelled and their interest forfeited.

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## **7. Qualifications for membership**

- (a) A person is not qualified to be admitted to membership of the cooperative unless there are reasonable grounds for believing the person will be an active member of the cooperative.
- (b) A person (including a corporation) may apply to become a member of the cooperative where a person holds an allocation, including where—
  - (i) an existing holder of an allocation is not already a member of the cooperative; or
  - (ii) the transferee of an allocation wishes to become a member.
- (c) If an allocation is held jointly or as tenants in common, those holders may only apply for membership, or become a member, on the basis of that allocation as joint members.

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## **8. Membership, subscriptions and periodic fees**

- (a) The cooperative must give to a person intending to become a member written notice of entry fees or regular subscriptions payable by a member of the cooperative.
- (b) An application for membership and any amount required must be lodged at the registered office in the application form, approved by the board.
- (c) Every application must be considered by the board.
- (d) If the board approves the application, the applicant's name, and any other information required under the Act must be entered in the register of members.
- (e) 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.
- (f) The board may, at its discretion, refuse an application for membership. The board need not give reasons for the refusal. On refusal any amounts accompanying the application for membership must be refunded without interest.

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## 9. Ceasing membership

- (a) A person stops being a member in any of the following circumstances—
  - (i) if the member's membership is cancelled under part 6 of the Act (Active membership requirements);
  - (ii) if the member is expelled under these rules;
  - (iii) if the member becomes bankrupt and the trustee of the member's estate disclaims any debt, contract, duty or liability of the member with the cooperative;
  - (iv) on death of the member;
  - (v) if the contract of membership is rescinded on the ground of misrepresentation or mistake;
  - (vi) on the expiry of 1 month's written notice of the member's intention to resign from membership, given by the member to the secretary;
  - (vii) for a member who is a corporation—if the corporation is dissolved.

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## 10. Expulsion of members

- (a) Subject to part 6, division 4 of the Act, a member may be expelled from the cooperative by special resolution to the effect that the member has—
  - (i) failed to discharge the member's obligations to the cooperative, under these rules or a contract; or
  - (ii) acted in a way that has—
    - A. prevented or hindered the cooperative in carrying on its primary activity or one or more of its primary activities; or
    - B. brought the cooperative into disrepute; or
    - C. been contrary to one or more of the cooperative principles in section 7 of the Act and in so acting has caused the cooperative harm.
- (b) Written notice of the proposed 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.
- (c) If a general meeting is to be called under this section the following procedures apply—
  - (i) at the meeting, the member must be given a full opportunity to be heard and is entitled to call witnesses and to cross examine witnesses called against the member;
  - (ii) if the member fails to attend at the time and place mentioned, without reasonable excuse, the act must be considered and the cooperative may decide on the evidence before it in the absence of the member;
  - (iii) once the act is considered, the cooperative may decide to expel the member who committed the act;

- (iv) the cooperative must not make a decision on the act or on expulsion, other than by vote by secret ballot of the members present and entitled to vote. A motion for the decision is not taken to be passed, unless two-thirds of the members present and entitled to vote, vote in favour of the motion.
- (d) If a member is expelled from the cooperative all amounts owing by the member to the cooperative become immediately payable in full.
- (e) Payment to the expelled member of any amount owing by the cooperative to the member must be made at the time decided by the board.
- (f) An expelled member must not be re-admitted as a member unless the re-admission is approved by special resolution.

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## 11. Suspension of members

- (a) The cooperative may, in general meeting, suspend members, by special resolution, for not more than one (1) year, who do any of the following—
  - (i) contravene these rules (excluding by-laws);
  - (ii) fail to discharge obligations to the cooperative, whether under these rules or a contract; or
  - (iii) act detrimentally to the interests of the cooperative.
- (b) If in the opinion of the board, a member does an act mentioned in subsection (a), the board may call a special general meeting, if required, within 28 days of the occurrence of the act to consider it.
- (c) If a general meeting is to be called under this section the procedure in section 10(c) applies and all mention of expulsion in section 10(c) is taken to be mention of suspension.

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## 12. Disputes

- (a) If there is a dispute or grievance, relating to these rules, existing between members, a member or members and the cooperative (the “parties involved”) then—
  - (i) all parties must meet to discuss and if possible, resolve the dispute or grievance within the earlier of 14 days after the dispute or grievance arises to the knowledge of all involved, or a party gives notice to the other party’s involved of the dispute or grievance; and
  - (ii) if the dispute or grievance is not resolved under paragraph (i), then within 10 days of the meeting required under that paragraph taking place a further meeting must be held by all parties involved in the presence of a mutually agreed referee. In the absence of agreement about a referee the meeting must be held in the presence of a referee, whether a member of the cooperative or otherwise, appointed by the board of the cooperative.
- (b) The referee must not make a decision binding on the parties but must conciliate and mediate.
- (c) If the dispute or grievance is not settled under subsection (a)(ii), all parties must agree to seek resolution within 10 days by the assistance and with the mediation of the Alternative Dispute Resolution Division of the Department of Justice.

- (d) (If there is an entitlement to expel a member under the Act, rules, regulations or contract the grievance procedure does not apply unless the members, by special resolution vote for the procedure to apply, or vote for it to apply whilst reserving the right to vote on expulsion if the matter is not resolved by the grievance procedure).
- (e) In subsection 12(a)—  
**members** does not include independent directors or non-member employees or non-member officers.

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### **13. Fines payable by members**

- (a) The board may impose on a member a maximum fine equal to the maximum fine prescribed from time to time for a contravention of the rules.
- (b) A fine must not be imposed on a member under subsection (a) unless—
  - (i) written notice of intention to impose the fine and the reason for it has been given to the member; and
  - (ii) the member has been given a reasonable opportunity to appear before the board in person (with or without witnesses), or to send to the board a written statement, for showing cause why the fine should not be imposed.

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### **14. Liability of members to cooperatives**

- (a) A member is, under section 70 of the Act, liable to pay to the cooperative the charges, including entry and periodic fees, payable by the member to the cooperative under these rules.
- (b) On the death of a member, the member's estate is subject to the same liability as the member would have been until the member's personal representative or some other person is registered in the member's place.
- (c) Joint members are jointly and severally liable for any charges mentioned in subsection (a).

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### **15. Forfeiture and cancellations—inactive members**

- (a) The board must, after giving notice under section 130 of the Act, declare the membership of a member who was a member for the period stated in the notice cancelled if—
  - (i) the whereabouts of the member are not presently known to the cooperative and have not been known to the cooperative for a continuous period of at least two (2) years before that date; or
  - (ii) the member is not presently an active member and has not been an active member at any time in the past one month immediately before that time.
- (b) The cooperative must, in the approved form, keep a register of memberships cancelled under subsection (a), which must specify the particulars prescribed in schedule 2 of the regulation.

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### **16. Death of member**

- (a) Subject to section 167(1) of the Act the board must transfer the deceased member's interest in the cooperative to—

- (i) the personal representative of the deceased, that is, an executor or administrator of the estate of a deceased member; or
- (ii) to the person the deceased's personal representative may specify, in an application made to the cooperative within three (3) months after the death of the member,

provided that the personal representative or other person also obtains that member's allocation and becomes a member of the cooperative in that capacity.

- (b) The board may approve the transfer of that member's interest to a person other than the executor or administrator and in considering whether to approve the transfer the board must consider whether—
  - (i) there are reasonable grounds for believing the proposed transferee will be an active member of the cooperative; and
  - (ii) the proposed transferee is qualified to be a member of the cooperative under these rules.
- (c) If the total value of the deceased member's interest in the cooperative is less than \$10 000 or another amount prescribed under the regulation the board may transfer the interest under section 79 of the Act if there has not been a grant of letters of administration or of probate of the deceased's will.
- (d) In accordance with section 80 of the Act, the board must decide the value of the interest of a deceased member as the amount payable to the deceased member less any amounts owing to the cooperative by the deceased member.

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## 17. Dealings of members with cooperatives

- (a) The cooperative may, under section 73 of the Act, make a contract with a member requiring the member to have specified dealings with the cooperative for a fixed period.
- (b) The contract may require a member—
  - (i) to sell products through or to the cooperative; or
  - (ii) to obtain supplies or services through or from the cooperative; or
  - (iii) to pay to the cooperative specified sums as liquidated damages for any failure to comply with a requirement authorised by this section.
- (c) Any amount, if any, specified as liquidated damages is to be considered as a debt payable to the cooperative for which, the cooperative has, under section 75 of the Act, a charge on each of the following—
  - (i) the credit balance and deposits of the member or past member;
  - (ii) any entry and periodic fees required to be repaid to a member when the member ceases to be a member.

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## 18. Registration of official trustee in bankruptcy

If a member is declared bankrupt, the Official Trustee in Bankruptcy may be registered as the holder of the interest held by the bankrupt member where the Official Trustee in Bankruptcy is also the holder of that member's allocation and becomes a member of the cooperative in that capacity.

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## 19. Registration as administrator of estate on incapacity of member

A person appointed under a law of a State to administer the estate of a member who, through mental or physical infirmity is incapable of managing his or her affairs, may be registered as the holder of the member's interest where that person is also the holder of that member's allocation and becomes a member of the cooperative in that capacity.

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## 20. Entitlements and liabilities of person registered as trustee, administrator etc

- (a) A person entitled to hold the interest of a member because of the death, bankruptcy or the incapacity of the holder of the interest, is entitled to the advantages to which the member would be entitled if he or she were the registered holder of the interest. However, before being registered as a member, the person is not entitled to exercise any right conferred by membership in relation to meetings of the cooperative.
- (b) A person registered under section 16, 18 or 19 is, while registered, subject to the same liabilities in relation to the dead person, incapable person or the bankrupt person would have been liable if he or she had remained a member with full legal capacity.

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## 21. Transfer and transmission of debentures

- (a) On the written request of the transferor (the "giver") of a debenture, the cooperative must enter in the appropriate register the name of the transferee (the "receiver") in the same way and subject to the same conditions as if the application for entry were made by the transferee.
- (b) If the cooperative refuses to register a transfer of debentures it must, within 28 days after the date on which the transfer was lodged with it, send to the transferee notice of the refusal.
- (c) An instrument of transfer of a debenture must be executed by or on behalf of the transferor and the transferee.
- (d) The transferor is taken to remain the holder of the debenture until the debenture in the name of the transferee is entered in the register of debentures.
- (e) The board may decline to recognise any instrument of debenture and may decline to register any debenture unless—
  - (i) a fee of \$10 (or a lesser amount decided by the board from time to time) is paid to the cooperative for the transfer registration; and
  - (ii) the instrument of transfer is accompanied by the relevant debenture/s and the other evidence as the board may reasonably require, in particular the evidence that shows the right of the transferor to make the transfer; and
  - (iii) any government stamp duty payable is paid.
- (f) Debentures shall be transferred in the following form or in a form approved by the board—

I, [INSERT] (the transferor) of ..... in the State of .....  
in consideration of the sum of \$□ paid to me by [INSERT] (the transferee), of  
..... in the State of ..... transfer to the transferee the

debenture (or debentures) numbered ..... to be held by the transferee, the transferee's executors, administrators, and assigns, subject to any conditions on which I hold the debenture/s and subject to any other conditions being terms of the transfer of the debenture/s.

And I, the transferee agree to take the debenture/s subject to the conditions mentioned.

Dated this ..... day of ..... 20□

Signed ....., transferor.

In the presence of ....., witness.

Signed by ....., transferee.

In the presence of ....., witness.

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## 22. Annual general meetings

- (a) An annual general meeting must, under section 198 of the Act, be held each year at a place and on a date and time decided by the board within five (5) months after the end of the cooperative's financial year or within the further time allowed by the registrar or prescribed by regulation.
- (b) A general meeting of the cooperative other than the annual general meeting must be a special general meeting.
- (c) If an annual general meeting is not held as required by subsection (a), the members may, under section 203 of the Act and section 23 of these rules, requisition an annual general meeting.

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## 23. Special general meetings

- (a) The board may, whenever it considers appropriate, call a special general meeting of the cooperative.
- (b) The board must call a general meeting of the cooperative on the requisition in writing by any active 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 cooperative.
- (c) The requisition must—
  - (i) state the objects of the meeting; and
  - (ii) be signed by the requisitioning members (and may consist of several documents in like form each signed by one or more of the requisitioning members); and
  - (iii) be served on the cooperative by being lodged at the registered office of the cooperative.
- (d) A meeting requisitioned by members under these rules must be called within 21 days with the meeting being fixed to be held as soon as practicable and held within two (2) months after the requisition is served.
- (e) All resolutions that are proposed at a meeting requisitioned by members under these rules and that are contemplated in the objects of the meeting must be passed by a special resolution.

- (f) If the board does not call a meeting 21 days after the requisition is served, the following provisions apply—
- (i) the requisitioning members (or any of them representing at least half their aggregate voting rights) may call the meeting in the same way as nearly as possible as meetings are called by the board;
  - (ii) (for that purpose they may ask the cooperative to supply a written statement of the names and addresses of the persons entitled when the requisition was served to receive notice of general meetings of the cooperative;
  - (iii) the board must send the requested statement to the requisitioning members within seven days after the request for the statement is made;
  - (iv) the meeting called by the requisitioning members must be held within three months after the requisition is served;
  - (v) any reasonable expenses incurred by the requisitioning members because of the board's failure to call the meeting must be paid by the cooperative;
  - (vi) any amount required to be paid by the cooperative is to be retained by the cooperative out of any money due from the cooperative by way of fees or other remuneration in respect of their services to such of the directors as were in default.

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## **24. Notice of general meetings**

- (a) At least 14 days notice (not including the day on which the notice is served or taken to be served, but including the day for which notice is given) must be given of a general meeting in the way stipulated in section 61 of these rules. Notice must be given to the persons who are, under these rules entitled to receive notices from the cooperative, but the non-receipt of the notice by a member does not invalidate the proceedings at the general meeting. The notice must specify the place, the day, and the hour of the meeting and, for special business, the general nature of that business.
- (b) For a special resolution, notice must be given at least 21 days before the meeting.
- (c) Any member who has a resolution to submit to a general meeting must give written notice of it to the cooperative at least 28 days before the date of the meeting.
- (d) The board must have inserted in a notice calling a general meeting any business which a member has notified, before the notice calling the meeting is issued, his or her intention to move at the meeting (and the notification has been made under these rules).

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## **25. Business of general meetings**

- (a) The ordinary business of the annual general meeting shall be—
  - (i) to confirm minutes of the last general meeting (whether annual or special); and
  - (ii) to receive from the board, auditors, or any officers of the cooperative reports on the transactions of the cooperative for the financial year, including balance sheet, profit and loss account and the state of affairs at the end of that year; and

- (iii) to elect and decide the remuneration of directors, as prescribed by the rules.
- (b) The annual general meeting may also transact special business of which notice has been given to members under these rules.
- (c) All business of a general meeting, other than business of the annual general meeting that is by this section termed ordinary business, is special business.

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## **26. Quorum at general meetings**

- (a) No item of business must be transacted at a general meeting unless a quorum of members is present when the meeting is considering the item.
- (b) Unless these rules otherwise state 10 active members present in person, each being entitled to exercise a vote, constitute a quorum.
- (c) If within half an hour after the appointed time for the meeting a quorum is not present, the meeting, if called on the requisition of members, must be dissolved. In any other case it must be adjourned to the same day in the next week at the same time and place. If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the meeting the members present constitute a quorum.

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## **27. Chairperson at general meetings**

- (a) The chairperson, if any, of the board must preside as chairperson at every general meeting of the cooperative.
- (b) If there is no such chairperson, or if at any meeting he or she 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)
- (c) The chairperson may, with the consent of a meeting at which a quorum is present (and must if directed by the meeting) adjourn the meeting from time to time and from place to place. However, the only business that can be transacted at any adjourned meeting is the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for 14 days or more notice of the adjourned meeting must be given just as for the original meeting. Apart from this it is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting.

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## **28. Standing orders at general meetings**

The following standing orders must be observed at the cooperative's meetings, subject to any suspension of, or amendment of, or addition to, them adopted for the meeting by the members present at a meeting—

- (a) the mover of a proposition must not speak for more than 10 minutes. Subsequent speakers must be allowed 5 minutes, and the mover of the proposition 5 minutes to reply. The meeting may however by simple majority extend in a particular instance the time permitted by this section;
- (b) whenever an amendment to an original proposition is proposed, no second amendment can 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 must 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 if the attention of the chairperson is called to a point of order;
- (f) propositions and amendments must be submitted in writing, if asked by the chairperson;
- (g) any discussion may be closed by a resolution 'that the question be now put' being moved seconded and carried. Such resolution shall be put to the meeting without debate;
- (h) 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 provided that the permission may be conditional;
- (i) standing orders may be suspended for any period by ordinary resolution.

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## **29. Attendance and voting at general meetings**

- (a) At any meeting of the cooperative a member who has been given notice that the member's cooperative rights are required to be forfeited under the active membership provisions of the Act cannot attend.
- (b) A member of the cooperative cannot vote at a meeting of the cooperative unless that person is an active member of the cooperative.
- (c) At any general meeting a resolution put to the vote of the meeting must (as provided in section 202 of the Act) be decided on a show of hands. This is unless a poll is (before or on the declaration of the result of the show of hands) demanded by at least 5 members. If no poll is demanded, a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the cooperative is evidence of the fact. No proof is needed of the number of proportion of the votes recorded in favour of, or against, that resolution.
- (d) On a show of hands or on a poll every representative of a corporation, under section 64 of the Act, or every member (not under the age of 18), who is present at a meeting in person or represented by proxy or attorney, has subject to subsection (e), one vote. However, no member may vote, or be entitled or eligible to vote, contrary to the Act.
- (e) If the votes are equal, 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, is entitled to a second or casting vote.
- (f) All resolutions, except special resolutions, must be decided by a simple majority.
- (g) An active member of a cooperative has one vote only on a question or motion arising at a general meeting of the cooperative.
- (h) For joint membership, the joint members have one vote only between them.
- (i) In the event of a dispute between joint members as to which member may exercise the 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 the one to exercise the vote.

- (j) A member's right to vote is a personal right.

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### **30. Proxy votes**

- (a) The instrument appointing a proxy must be in writing signed by the appointer or the appointer's attorney duly authorised in writing.
- (b) An instrument appointing a proxy may state the way in which the proxy is to vote in relation to a particular resolution and, if an instrument of proxy so provides, the proxy cannot vote on the resolution except as specified in the instrument.
- (c) No person can act as a proxy unless the person is an active member of the cooperative.
- (d) A person must not act as a proxy for more than 10 members, unless the proxy acts under an instrument of proxy mentioned in subsection (b).
- (e) An instrument appointing a proxy may be in any form set out in the schedule or any other form the board approves.
- (f) An instrument appointing a proxy must not be treated as valid until the instrument, and the power of attorney or other authority (if any) under which the instrument is signed or a notarially certified copy of that power or authority, is or are deposited, at least 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, for a poll, at least 24 hours before the time appointed for the taking of the poll, at the registered office of the cooperative or at such other place specified for the purpose in the notice calling the meeting.
- (g) A vote given under the terms of an instrument of proxy or of a power of attorney is valid despite the previous death or unsoundness of mind of the principal, the revocation of the instrument (or of the authority under which the instrument was executed) or the power, if no intimation in writing of the death, unsoundness of mind or revocation has been received by the cooperative at the registered office before the start of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

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### **31. Restriction on voting entitlement under power of attorney**

A person cannot exercise a member's right to vote under a power of attorney, if that person has a power of attorney to vote for another member.

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### **32. Postal ballot**

- (a) Voting must not be by fax or electronic means.
- (b) The way of postal voting must be under the regulation.
- (c) A postal ballot must be held when required by the Act, and in the following circumstances—
  - (i) when the members by ordinary resolution approve one;
  - (ii) when the members by ordinary resolution approve a special resolution being decided by postal ballot;

- (iii) when more than 50% of the active members requisition a postal ballot in writing; and
  - (iv) in relation to any proposal to cease to provide irrigation services to any material area within the Eton Channel Irrigation Scheme, which proposal must be approved as a Special Resolution.
- (d) A special postal ballot must be held when required by the Act, and in the following circumstances—
- (i) when the members by ordinary resolution approve one;
  - (ii) when the members by ordinary resolution approve a special resolution being decided by special postal ballot;
  - (iii) when more than 50% of the active members requisition a special postal ballot in writing.
- (e) A special postal ballot must be held for passing a special resolution in relation to any of the following relating to a cooperative—
- (i) conversion of—
    - A. a share capital cooperative to a non-share capital cooperative or vice versa; or
    - B. a trading cooperative to a non-trading cooperative or vice versa;
  - (ii) transfer of incorporation;
  - (iii) an acquisition or disposal of assets mentioned in section 268 of the Act;
  - (iv) takeover;
  - (v) merger;
  - (vi) transfer of engagements;
  - (vii) members' voluntary winding-up.
- (f) The cooperative may hold a postal ballot to decide any issue or proposal by the members in the following way.
- (g) The board must cause the details of the proposal on which the ballot is to be held to be set in a statement and fix the dates for the forwarding of ballots to members and closing the ballot.
- (h) Every ballot must be conducted by the returning officer who must be appointed by the board. In default of an appointment being made in enough time to allow the procedure in this section to be followed, the secretary, or in absence of the secretary the person acting in the capacity of secretary, must be the returning officer.
- (i) Any person, with the exception of a director of the cooperative, may be appointed by the board to act as returning officer.
- (j) The returning officer may be helped in the performance of duties or powers under this section by the persons (who would be eligible to be returning officers) the returning officer appoints.

- (k) The returning officer must prepare a roll of the full names and addresses of the members of the cooperative as disclosed by the register of members together with particulars of the number of votes each member would be entitled to exercise on a poll.
- (l) A person whose name is on the roll, is entitled to vote in a postal ballot, and no person is otherwise eligible or entitled.
- (m) The returning officer must cause ballot papers to be prepared in or to the following effect—

Name of cooperative .....

Ballot of members to decide the following proposal—

.....  
 .....  
 .....

The ballot will close at [#] on .....

**How to Vote**

1. Read these directions and the ballot paper carefully.
2. Complete and sign the details on the reverse side of the middle envelope,
3. If you are in favour of the proposal insert 'YES' in the square in the ballot paper hereunder. If you are not in favour of the proposal insert the word 'NO'. If you do not wish to cast a vote on the proposal insert the word 'ABSTAIN'.
4. After marking the ballot paper fold it and place it in the small envelope provided and seal the envelope. Then place this envelope in the middle envelope and place the middle envelope in the envelope addressed to the returning officer. Forward this envelope either by post or personal delivery to reach the returning officer by[#] on .....
5. Unless the ballot paper is marked as indicated in 3 above and the details mentioned in 2 above are completed in full and signed, your vote may be rejected as informal.

.....

Initials of Returning Officer

**BALLOT PAPER**

Are you in favour of the proposal as mentioned above?

- (n) Each ballot paper must be initialled by the returning officer. The returning officer must, at least 21 days before the day fixed for closing the ballot, transmit by post or otherwise deliver to every member entitled to vote in a ballot, one set of the following material—

- (i) 1 ballot paper;
- (ii) an unsealed envelope (the "outer envelope") addressed to the returning officer;

- (iii) a smaller envelope (the “middle envelope”) in which the voter must enclose the envelope containing the ballot paper, the reverse side of which must be printed in or to the following effect—

.....

(full name)

.....

(address)

.....

(signature)

*Please use capital letters.*

*If the vote is being cast on behalf of a cooperative or other corporate body also indicate the name of such cooperative or corporate body.*

- (iv) a small envelope (the “inner envelope”) into which the ballot paper is enclosed;
- (v) a copy of the statement (prepared by the board) of the details of the proposal on which the decision of the members is to be sought.
- (o) Every member desiring to vote in the ballot should complete the details on the reverse side of the middle envelope and after marking their vote on the ballot paper according to the instructions on the ballot paper, seal the ballot paper in the inner envelope. The inner envelope containing the ballot paper should then be placed in the middle envelope and the middle envelope placed in the outer envelope addressed to the returning officer. The outer envelope should then be posted or personally delivered to the returning officer by the time specified and on the day fixed for closing the ballot.
- (p) The returning officer must provide a ballot box.
- (q) The ballot box must be locked immediately before the ballot papers are delivered under subsection (n) and remain locked until the close of the ballot.
- (r) The returning officer must place the outer envelopes containing the ballot papers in the ballot box by the time specified and on the day fixed for closing the ballot.
- (s) On a member making and transmitting to the returning officer a declaration that the member has not received the ballot paper, or the ballot papers received by the member have been lost, spoilt or destroyed, and the member has not already voted, the returning officer may issue a duplicate set of the material required under subsection (n), having endorsed any duplicate outer envelope with the word ‘duplicate’.
- (t) A member who makes a declaration under this subsection, which is false, in any particular material, contravenes these rules.
- (u) Ballot papers received after the time specified and on the day fixed for closing the ballot must not be taken into account at the ballot.
- (v) As soon as practicable after the time specified and on that date, the returning officer in the presence of the scrutineers the board appoints must open the ballot box and deal with the contents under subsections (w) and (x).
- (w) The returning officer must—

- (i) remove the middle envelope from the outer envelope;
  - (ii) if a duplicate outer envelope has been issued and the original outer envelope is received, reject the original envelope and mark it 'rejected';
  - (iii) according to the information on the middle envelope, mark for each set of voting papers returned, the voter's name on the roll by drawing a line through the name;
  - (iv) if a member's name has already been crossed out on the roll, reject the postal vote and mark it 'rejected';
  - (v) if the middle envelope has not been signed, or if the details shown on the envelope are not enough to disclose by whom the vote is being exercised, reject the envelope and mark it 'rejected';
  - (vi) extract or cause to be extracted the inner envelopes containing the ballot papers from all unrejected middle envelopes, separating the contents from the middle envelopes in such a way that no inner envelope could subsequently be identified with a particular voter; and
  - (vii) when all the middle envelopes have been dealt with, in the above way, cause all the inner envelopes not rejected to be opened and the ballot papers to be taken from them.
- (x) The ballot papers must be scrutinised under the returning officer who should supervise and reject as informal any ballot paper that—
- (i) is not duly initialled by the returning officer; or
  - (ii) is so imperfectly marked that the intention of the voter cannot be ascertained by the returning officer; or
  - (iii) has any mark or writing not authorised by this section which, in the opinion of the returning officer will enable any persons to identify the voter; or
  - (iv) has not been marked as prescribed on the ballot paper itself.
- (y) The decision of the returning officer as to the formality of any ballot paper is final and not open to appeal.
- (z) The returning officer must count votes cast and make out and sign a statement of—
- (i) the number of formal votes cast in favour of the proposal;
  - (ii) the number of formal votes cast against the proposal;
  - (iii) the number of formal abstentions in relation to the proposal;
  - (iv) the number of informal votes and abstentions cast;
  - (v) the number of inner envelopes marked 'rejected'; and
  - (vi) the proportion of the formal votes (other than abstentions) polled which were in the affirmative.
- (aa) On the declaration of the returning officer of the result of the postal ballot the secretary of the cooperative must make an entry in the minute book showing the particulars mentioned in subsection (z)(i) to (z)(iv).

- (bb) The returning officer must forward the statement to the chairperson of the cooperative who must announce the result of the ballot at the next general meeting.
- (cc) The proposal which received the required majority of votes must be declared won.
- (dd) The returning officer must retain all ballot papers (whether formal or otherwise) and rejected outer envelopes and rolls used for the conduct of the ballot, locked in the ballot box until the returning officer has been directed by the board, in writing that they may be destroyed.
- (ee) Notification of the result of the ballot (other than a ballot conducted to alter these rules) must be displayed on the notice board at the registered office of the cooperative.
- (ff) In case of a postal ballot altering the rules, the cooperative must cause the alteration to be notified in writing to its members as soon as practicable after the alteration takes effect and, in any event, not later than the date on which notice is given to the members of the next annual general meeting of the cooperative, following the taking effect of the alteration.

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### **33. Poll at general meetings**

- (a) If a poll is duly demanded it must be taken in a way the chairperson directs. Unless the meeting is adjourned the result of the poll is taken to be the resolution of the meeting at which the poll was demanded.
- (b) A poll demanded on the election of a chairperson, or on a question of adjournment, must be taken immediately.

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### **34. Special and ordinary resolutions**

- (a) A special resolution means a resolution of which notice has been given of the intention to propose the resolution as a special resolution and which is passed either by two-thirds (or three-quarters, in the case of a special resolution to amend these rules under section 3(c)) of the members who vote in person or by proxy or attorney, at a general meeting, or by a two-thirds majority in a postal ballot, or by three-quarters of the members who cast formal votes in a special postal ballot of members. A special resolution may be passed by postal ballot (including a special postal ballot).
- (b) A special resolution has effect from the date it is passed, however a special resolution by special postal ballot shall have no effect until registered by the registrar.
- (c) An ordinary resolution is one passed by a simple majority and has effect from the date it is passed.

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### **35. Board of directors**

- (a) The business and operations of the cooperative are to be managed and controlled by the board of directors, and for that purpose the board has and may exercise the powers of the cooperative as if they had been expressly conferred on the board by a general meeting of the cooperative.
- (b) The board:
  - (i) must have three member directors; and
  - (ii) may have up to two independent directors,

each of whom must be an individual and at least 18 years old.

- (c) The powers of the board are subject to any restrictions imposed by the Act or by these rules.

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## 36. Qualifications of directors

A person is not qualified to be a director of a cooperative unless the person is—

- (a) a member of the cooperative or a representative of a corporation that is a member of the cooperative (**member director**); or
- (b) a person qualified under section 37 of these rules to be an independent director (**independent director**).

---

## 37. Independent directors

- (a) The member directors may nominate up to two persons with special skills for election as independent directors of the cooperative.
- (b) The majority of directors must be member directors.
- (c) Other than as provided in this section, an independent director is subject to all other rules relating to directors.
- (d) Despite any other provisions of these rules no vote may be taken at a meeting of the board of directors unless, at the time of taking the vote, the number of independent directors present is less than the number of other member directors present.
- (e) An independent director is not required to be an active member of the cooperative.

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## 38. Not used

## 39. First and subsequent directors

- (a) The first directors are those who were in office as directors of the cooperative (when it was registered under the Corporations Act) immediately prior to the registration of the cooperative under the Cooperatives Act and are taken to be elected on the date of registration of the cooperative under the Cooperatives Act.
- (b) At the first annual general meeting of the cooperative 1 member director must retire.
- (c) At the annual general meeting in each subsequent year the member directors must retire in rotation of one third of the number of member each year, so that no member director holds office without re-election past the third annual general meeting following their appointment or three years, whichever is the longer. Directors are to be elected by members by,—
  - (i) postal ballot in the way outlined in section 32, with the results of the postal ballot announced at the annual general meeting.
- (d) No independent directors may hold office without re-election past the third annual general meeting following their appointment or three years, whichever is the longer.
- (e) If two or more candidates receive equal number of votes the candidate to be appointed must be decided by lot.
- (f) The member directors to retire in any year must (subject to the provision as to filling casual vacancies) be those who have been longest in office since their last election.

As between persons who became member directors on the same day those to retire must (unless they otherwise agree among themselves) be decided by lot. The order for retirement must be the order in which the names are withdrawn.

- (g) A retiring director is eligible for re-election.
- (h) At an annual general meeting at which a director retires or a casual vacancy occurs the vacated office must be filled by electing a person to it. Nominations for candidates to fill the vacant positions:
  - (i) as independent directors are determined in accordance with sections 37(a); and
  - (ii) as member directors must be sought in the way the board decides.

The election of directors must be conducted by postal ballot in the way outlined in section 32.

- (i) If at the general meeting the place of the retiring director is not filled the retiring director, who if in agreement, is taken to have been re-elected at the meeting.

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## **40. Removal from office of director**

The cooperative may by special resolution remove a director before the end of the director's term of office, and may by a simple majority appoint another person in place of the director.

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## **41. Vacation of office of director**

A director vacates office if—

- (a) disqualified or otherwise unable to be a director under section 208 of the Act; or
- (b) the director absents himself from three consecutive ordinary meetings of the board without its leave; or
- (c) the director resign the office of director by written notice given by the director to the cooperative; or
- (d) the director is removed from office by special resolution of the cooperative; or
- (e) the person ceases to hold the qualification of which the person was qualified to be a director; or
- (f) an administrator of the cooperative's affairs is appointed under division 5 of part 12 of the Act.

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## **42. Filling of casual vacancies**

- (a) The board may appoint a qualified person to fill a casual vacancy in the office of director until the next annual general meeting.
- (b) For this section, a casual vacancy arises if the office of director is vacated under section 41 or if the number of directors of the relevant type is otherwise less than the maximum permitted under these rules.

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## **43. Remuneration**

- (a) Under section 222 of the Act, a director must not receive remuneration for services as a director other than fees, concessions and other benefits approved at a general meeting of the cooperative.
- (b) All necessary expenses incurred by the board members in the business of the cooperative must be refunded to them.

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## **44. Deputy directors**

- (a) In the absence of a director from a meeting of the board, the board may appoint a qualified person to act as a deputy for the director and to accordingly act in the director's place on the board.
- (b) A deputy director appointed by the board is entitled to notice of meetings of the directors and to attend and vote at those meetings and to sign resolutions and to exercise the powers, authorities and discretions vested in or otherwise exercisable by the director he or she is deputy for.
- (c) A deputy director must vacate office if the director he or she acts in place of as a deputy ceases to be a director or on a majority of the other directors removing him or her from office.
- (d) An appointment or removal under this section must be in writing and notice of it must be served on the deputy director and the appointment or removal takes effect immediately on the service of it. Service of a notice may be affected under section 61.
- (e) The remuneration of a deputy director is payable out of the remuneration payable to the director he or she acts in place of as a deputy and must consist of the part of the director's remuneration agreed between the deputy director and the director. The attendance of the deputy director at a meeting of the board is taken to be attendance by the nominating director.
- (f) For this section, a meeting of the directors includes a meeting conducted under section 46.

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## **45. Proceedings of the board**

- (a) Meetings of the board (including meetings conducted under section 46) are to be held as often as may be necessary for properly conducting the business and operations of the cooperative and must be held at least quarterly.
- (b) Questions arising at a meeting must be decided by a majority of votes.
- (c) If votes are equal, the chairperson does not have a second or casting vote.
- (d) The chairperson or a director may, and the secretary must, if asked by the chairperson or a director at any time, call a meeting of the board.
- (e) 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.

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## **46. Transaction of business outside board meetings**

- (a) The board may under section 210 of the Act transact any of its business—

- (i) by the circulation of papers among all the members of the board, and a resolution in writing by a majority of those members is to be taken to be a decision of the board; or
  - (ii) at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting, can be heard by the other members.
- (b) For this section the chairperson of the board and each member of the board have the same voting rights as they have at an ordinary meeting of the board.
  - (c) A resolution approved under subsection (a)(i) is to be recorded in the minutes of the meetings of the board.
  - (d) The secretary may circulate papers among members of the board for the purposes of subsection (a)(i) by fax or other transmission of the information in the papers concerned.

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## **47. Quorum for board meetings**

- (a) The quorum for a meeting of the board shall be one-half of the number of directors (or if one-half is not a whole number the whole number next higher than one-half) however, the members directors must out number the independent directors by at least one.
- (b) If at any time the number of directors is the same or less than the number of directors required to constitute a quorum of the board—
  - (i) the board may appoint enough directors so the number of directors is one more than a quorum; and
  - (ii) for the purpose only of enabling the board to make such an appointment, the number of directors required to constitute a quorum is the number of directors at that time.

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## **48. Appointment of Secretary**

The board must appoint a secretary of the cooperative.

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## **49. Chairperson of board**

- (a) A chairperson of the board must be elected by the board.
- (b) If no chairperson is elected, or if at a meeting the chairperson is not present within five minutes after the time appointed for holding the meeting, or is unwilling to act as chairperson of the meeting, the directors present may choose one of their number to be chairperson of the meeting until the chairperson attends and is willing to act in that capacity.
- (c) The chairperson may be removed, and a new chairperson elected by ordinary resolution of the board.

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## **50. Delegation and board committees**

- (a) The board may, under section 212 of the Act, by resolution delegate to a director or committee of two or more directors the exercise of the board's powers (other than this power of delegation) specified in the resolution. The cooperative or the board may by resolution revoke all or part of a delegation.

- (b) A power, the exercise of which has been delegated under this section may, while the delegation remains unrevoked, be exercised from time to time under the terms of the delegation.
- (c) A delegation under this section may be made subject to conditions or limitations as to the exercise of any of the powers delegated, or as to time or circumstances.
- (d) Despite any delegation under this section, the board may continue to exercise all or any of the powers delegated.
- (e) If a power is exercised by a director (either alone or with other directors) and the exercise of the power is evidenced in writing, signed by the director in the name of the board or in his or her own name on behalf of the board, the power is taken to have been exercised by the board. This is so whether or not a resolution delegating the exercise of the power to the director was in force when the power was exercised, and whether or not any conditions or limitations mentioned in subsection (c) were observed by the director exercising the powers.
- (f) An instrument purporting to be signed by a director under a delegation as mentioned in section 212 of the Act is to be received in evidence in all courts and before all persons acting judicially as if it were an instrument executed by the cooperative under seal. Furthermore, until the contrary is proved, it is taken to be an instrument signed by a delegate of the board under section 212 of the Act.
- (g) A committee may elect a chairperson of their meetings. If no chairperson is elected, or, if at a meeting the chairperson is not present within five minutes after the time appointed for holding the meeting, the members present may choose one of their number to be chairperson of the meeting.
- (h) A committee may meet and adjourn as it considers appropriate. Questions arising at any meeting must be decided by a majority of votes of the members present and voting and if the votes are equal the chairperson has a second or casting vote.

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## 51. Other committees

- (a) The board may by resolution appoint committees consisting of members or other persons or both, to act in an advisory role to the board and to any committees of directors.
- (b) Section 50(g) and 50(h) apply to committees appointed under this section, with any changes approved of by the board.
- (c) The quorum for any meeting of the committee is half (or if half is not a whole number the whole number next higher than half) the number of members in the committee.

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## 52. Minutes

- (a) The board must have minutes of meetings made in books provided for the purpose, and, in particular—
  - (i) of all appointments of officers and employees made by the directors; and
  - (ii) of the names of the directors present at each meeting of the board and of any committee of the board; and
  - (iii) of all resolutions and proceedings at all meetings of the cooperative and of directors and of committees of directors.
- (b) Minutes must be recorded in the minute book within 28 days of the date of the meeting to which they relate or within such other time as permitted by the Act.

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## **53. Financial year**

The financial year of the cooperative ends on 30 June.

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## **54. Seal**

- (a) The cooperative must, as required by section 247(l)(a) of the Act, have the name of the cooperative appear in legible characters on its common seal and on any official seal. The common seal must be kept at the registered office in the custody the board directs.
- (b) The cooperative may, under section 48 of the Act, have for use in place of its common seal outside the State, one or more official seals. Each of the additional seals must be a facsimile of the common seal with the addition on its face of the name of the place where it is to be used.
- (c) The seal of the cooperative must not be attached to an instrument other than by resolution of the board. Two directors and the secretary must be present and must sign all instruments sealed while they are present. (The board may appoint some person other than the secretary for this).
- (d) The person attaching the official seal must certify in writing on the instrument to which it is attached, the date and place at which it is attached.

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

- (a) The cooperative must have at its registered office and available during normal office hours for inspection by any member free of charge the following—
  - (i) a copy of the Act and the regulation;
  - (ii) a copy of the rules of the cooperative and any attachments under section 337 of the Act;
  - (iii) a copy of the last annual report of the cooperative under section 242 of the Act;
  - (iv) the register of directors and members;
  - (v) the register of names of persons who have given loans or deposits to or hold securities or debentures given or issued by the cooperative;
  - (vi) the register of memberships cancelled under part 6 of the Act, required to be kept under section 237(1)(e) of the Act;
  - (vii) the register of notifiable interests required to be kept under section 278 of the Act;
  - (viii) a copy of the minutes of each general meeting;
  - (ix) such other registers as are required by the Act or the regulation to be open for inspection.
- (b) A member may make a copy of an entry in a register mentioned in subsection (a) during normal office hours, on payment of the maximum amount specified in the regulations from time to time.

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## 56. Accounts

- (a) The board must have a financial institution account or accounts electronic or otherwise in the name of the cooperative, into which all amounts received must be paid as soon as possible after receipt.
- (b) All cheques drawn on the accounts and all drafts, bills of exchange, promissory notes, and other negotiable instruments for and on behalf of the cooperative, must be signed by two directors or by any two persons authorised by the board.

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## 57. Safe keeping of securities

Debentures, charges and any other certificate of or document or duplicates of them pertaining to securities must be safely kept by the cooperative in the way and with the provision for their security the board directs.

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## 58. Audit

- (a) One or more auditors must be appointed, hold office, be remunerated, be removed and have qualifications, duties and responsibilities as provided in these rules or otherwise provided in, or permitted by, the Corporations Act 2001 as adopted by section 232 of the Cooperatives Act 1997 or under a regulation under section 232(1)(j) of the Act. Audits must be carried out annually or, if the cooperative is a disclosing entity, every six months.
- (b) Within one month after the day the cooperative is registered, the directors must appoint an auditor of the cooperative, unless the cooperative at a general meeting has already appointed an auditor or an auditor was appointed before the cooperative was registered under the Cooperatives Act (in which case the auditor is that person). An auditor appointed under this section holds office until the first annual general meeting of the cooperative.
- (c) The cooperative must at its first annual general meeting appoint an auditor of the cooperative and at each subsequent annual general meeting, if there is a vacancy in the office of auditor, the cooperative must appoint an auditor to fill the vacancy.
- (d) An auditor appointed under subsection (c) holds office until death or removal or resignation from office or until ceasing to be capable of acting as auditor under the Act or Regulation.
- (e) The board must fill any vacancy in the office of auditor, other than a vacancy caused by the removal of an auditor from office, within one month of the vacancy occurring, unless the cooperative at a general meeting has already appointed an auditor to fill the vacancy. A person or firm appointed as auditor of a cooperative under this subsection holds office, subject to the Act or Regulation until the next annual general meeting of the cooperative.
- (f) While a vacancy in the office of auditor continues, the surviving or continuing auditor or auditors (if any) may act.
- (g) The cooperative or the board must not appoint as auditor a person who has not consented in writing to the appointment or who has withdrawn consent, or a person of whose nomination notice has not been given under the Act or Regulation.
- (h) A person is not qualified to be appointed auditor of the cooperative if—
  - (i) the person is not a registered company auditor, an existing auditor of the cooperative, exempt under section 233 of the Act or approved under a regulation under section 232(1)(j) of the Act; or

- (ii) the person or corporation in which the person is a substantial shareholder, is indebted to the cooperative (or to a subsidiary corporation of the cooperative) for an amount of more than \$5 000; or
- (iii) the person is—
  - A. an officer of the cooperative; or
  - B. a partner, employer or employee of an officer of the cooperative; or
  - C. a partner of an employee of an officer of the cooperative; or
  - D. an employee of an employee of an officer of the cooperative.
- (i) All reasonable fees and expenses of the auditor are payable by the cooperative.
- (j) The board must enable the auditor to have access to all books, accounts, vouchers, securities and documents of the cooperative, and to be given the information and explanation by the board members or any other officers necessary for the performance of the duties of the auditor.
- (k) The auditor may attend any general meeting of the cooperative and is entitled to receive all notices of and other communications relating to a general meeting which any member of the cooperative is entitled to receive. The auditor is also entitled to be heard, at any general meeting which the auditor attends, on any part of the business of the meeting of concerns to the auditor.
- (l) The auditor may be removed from office by resolution at a general meeting.
- (m) Notice of intention to move the resolution must be given to the cooperative at least two months before the meeting at which the resolution is moved, but if, after notice has been given, a meeting is called for a date two months or less after notice has been given, notice is taken to have been properly given.
- (n) If notice of a resolution to remove an auditor is received by the cooperative, it must immediately send a copy of the notice to the auditor and file a copy of the notice with the registrar.
- (o) The cooperative must give notice of a resolution to remove the auditor to persons entitled to be given notice of a meeting of the cooperative at the same time and in the same way as it gives notice of the meeting or, if that is not practicable, must give notice of the resolution to them in any way allowed by these rules at least 21 days before the meeting.
- (p) Within seven days after receiving a copy of the notice, the auditor may make representations in writing, not more than a reasonable length, to the cooperative and ask that before the meeting at which the resolution is to be considered, a copy of the representations be sent by the cooperative at its expense to every member of the cooperative to whom notice of the meeting is sent.
- (q) Unless the registrar on the application of the cooperative otherwise orders, the cooperative must send a copy of the representations in accordance with the auditor's request. The auditor may require that the representations be read out at the meeting and may also speak at the meeting.
- (r) The auditor may, by written notice given to the cooperative, resign as auditor of the cooperative if—
  - (i) the auditor has, by written notice given to the registrar, applied for consent to resign and stated the reasons and, at or about the same time, notified the cooperative in writing of the application; and

- (ii) the auditor has received the consent of the registrar.
- (s) The resignation of the auditor takes effect—
  - (i) on the date (if any) specified for the purpose in the notice of resignation; or
  - (ii) on the date on which the registrar consents to the resignation; or
  - (iii) on the date (if any) fixed by the registrar for the purpose, whichever last occurs.
- (t) Within 14 days after the removal from office of the auditor or after the receipt of a notice of a resignation from an auditor, the cooperative must file with the registrar a notice of the removal or resignation in the approved form and, if there is a trustee for the holders of debentures of the cooperative, give to the trustee a copy of the notice filed with the registrar.

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## 59. Cooperative funds

- (a) The board must retain all of the surplus arising in any year from the business of the cooperative to be applied for the benefit of the cooperative.
- (b) No part of it must be paid or transferred directly or indirectly by way of discount, rebate or otherwise by way of profit to members of the cooperative.
- (c) Except as required by the Act, the Regulations or these rules:
  - (i) there shall be no returns or distributions on surplus to members; and
  - (ii) the assets and income of the cooperative shall be applied solely in furtherance of its primary activities and there must be no distribution directly or indirectly to members, including no return or distribution of any surplus at winding up, except as bona fide compensation for services rendered or expenses incurred on behalf of the cooperative.
- (d) Payment shall be made in good faith of—
  - (i) any commensurate remuneration of any member or servant of the cooperative or other person in return for any services actually rendered to the cooperative; or
  - (ii) reasonable interest on money lent or reasonable or proper rent for property or premises demised, or let by any member to the cooperative.
- (e) The cooperative is a non-trading cooperative within the meaning of section 15 of the Act.
- (f) For this section—
 

**“surplus”** means the excess of income over expenditure after making appropriate allowance for taxation expense, depreciation in value of the property of the cooperative and for future contingencies.

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## 60. Provision for loss

The board must make provision for loss that may result from transactions of the cooperative.

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## 61. Notices

- (a) A notice or other document required under the Act to be given to a member of a cooperative may be given—
- (i) personally; or
  - (ii) by post addressed to the member's registered address; or
  - (iii) subject to section 464 of the Act, by publishing the notice in a newspaper circulating in Queensland or in the area served by the cooperative; or
  - (iv) by fax or email, where the member has given consent and notified the cooperative of the relevant contact details<sup>2</sup>;
- (b) A document may be served on a cooperative—
- (i) by post addressed to the registered office; or
  - (ii) by leaving it at the registered office of the cooperative with a person who appears to be aged 16 years or more.
- (c) If a notice is sent by post, service is taken to be effected by properly addressing, prepaying and posting a letter containing the notice. For a notice of a meeting service is taken to be effected at the end of 24 hours after the letter containing the notice is posted. Otherwise, service is taken to be effected at the time the letter would be delivered in the ordinary course of post and in proving service it is enough to prove the envelope containing the notice was properly addressed and posted.
- (d) A notice or other document directed to a member and advertised in the newspaper is taken to be duly given to the member on the day the advertisement appears.
- (e) A notice given by fax or email is taken to have been served, unless the sender's fax or email indicates a malfunction in transmission, on the day of transmission if transmitted during a business day, otherwise on the next following business day.
- (f) A notice may be given by the cooperative to the joint members by giving the notice to the joint holder named first in the register of members.
- (g) A notice may be given by the cooperative to the person entitled to an interest because of the death, incapacity or bankruptcy of a member by sending it through the post in a prepaid letter addressed to the person by name. Alternatively it can be addressed to the person by the title of representative of the deceased, incapacitated person, trustee of the bankrupt, or by a similar description. The address should be the address supplied for the purpose by the person claiming to be entitled. Alternatively, if no address has been supplied, the notice can be given in the way it could have been given if the death, incapacity or bankruptcy had not happened.
- (h) Notice of every general meeting must be given in same way as authorised above, to—
- (i) every member of the cooperative other than a member who has not supplied to the cooperative an address for the giving of notices to them; and

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<sup>2</sup> Legislation relating to electronic transactions may also be relevant to giving notices and other documents

- (ii) every person entitled to an interest because of the death, incapacity or bankruptcy of a member, who, but for the member's death, incapacity or bankruptcy, would be entitled to receive notice of the meeting.
- (i) Other than as provided in this section and section 58(k) no other person is entitled to receive notices of general meetings.
- (j) For this section—  
  
“**registered address**” means the address of the member as appearing in the register of members.

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## 62. Winding up

- (a) The winding up of the cooperative must be under part 12 of the Act.
- (b) On a winding up or dissolution of the Cooperative, any surplus assets of the Cooperative remaining after the payment of its debts may not be paid or distributed to a member, but will be given or transferred, for no consideration to some other body that:
  - (i) has primary activities similar to or consistent with any or all of the primary activities of the Cooperative; and
  - (ii) has constituent documents that include provisions prohibiting the distribution of income and property, or surplus assets on a winding up, of the body among members except as bona fide compensation for services rendered or expenses incurred on behalf of the Cooperative.
- (c) Such body will be determined by the members at or before the winding up or dissolution, if in default of such determination, by a judge of the Supreme Court of Queensland.

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## **Schedule 1 – Schedule of charges**

Copy book of rules	section 3(e)&3(f)
Inspection of register	section 55(b)
Maximum fine	section 13(a)
Transfer/register of debenture	section 21(e)

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## Schedule 2 - Certification

We the undersigned, certify that this is a copy of the rules which was

presented to the meeting on ..... (date) at ....

..... for registering Eton Irrigation Scheme Ltd (a company currently registered under the *Corporations Act 2001* (Cth) as a cooperative to be known as—

Eton Irrigation Cooperative Ltd

(name of cooperative)

..... Chairperson of Meeting

(signature)

..... Secretary of Meeting

(signature)

*Note: This certification is signed at the meeting which is held after the rules have been approved by the registrar and returned to the sponsors of the proposed cooperative.*

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### Schedule 3 - Instrument appoint a proxy

..... (name of cooperative) .....

I/we ..... (name) ..... of ..... (address) being a member/s of the cooperative appoint ..... (name) ..... of ..... (address) ..... as my/our proxy, to vote for me/us and on my/our behalf at the \*annual general/\*general meeting of the cooperative, to be held on the ..... day of ..... 20 and at any adjournment of that meeting.

#This form is to be used \*in favour/\*against the resolution.

Signed this ..... day of ..... 20

\*Strike out whichever is not applicable.