

1. INTERPRETATION

In these rules, unless the context otherwise requires:

- a) “the Act” means the Co-operatives Act 1992;
- b) “active member” means a member who is in active membership within the provisions of rule 12;
- c) “alter” or similar word or expression used in relation to a rule amendment, includes add to, substitute, and rescind;
- d) “Approvals Officer” means an Officer of the Cooperative authorised by the Board on such conditions as it considers appropriate to approve or reject applications for membership and/or shares;
- e) “banking account” includes an account with an authorized deposit-taking institution within the meaning of the Banking Act 1959 (Cth);
- f) the “Board” means whole or any number of the Directors assembled at a meeting of the Directors or transacting business in accordance with rule 50 not being less than a quorum;
- g) “business day” means a day that is not a Saturday, Sunday, public holiday or bank holiday in New South Wales.
- h) “Chairperson” means the Director elected by the Board as chairperson of the Board;
- i) “Cooperative” means The Australian Wine Consumers Co-operative Society Limited (ARBN 068 836 699);
- j) “Deputy Chairperson” means the Director elected by the Board as deputy chairperson of the Board;
- k) “Director” means any Director of the Cooperative for the time being;
- l) “Directors Code of Conduct” means the code of conduct from time to time adopted by the Board as the code by which the Directors will conduct themselves.
- m) “financial year” means the financial year of the Cooperative as specified in rule 59;
- n) “Independent Director” means a Director who is qualified as such under rule 43(b);
- o) “Independent Person” means a person who is neither an officer of the Cooperative (other than the auditor) nor a spouse of such an officer, nor a relative of such spouse or officer;
- p) “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;
- q) “member” means a member of the Cooperative;
- r) “Member Director” means a Director who is not an Independent Director;
- s) “month” means calendar month;
- t) “prescribed” means prescribed by the Act or under the Act by Regulation;
- u) “the Registrar” means the Registrar of Co-operatives or any person to whom the Registrar’s functions are delegated from time to time;
- v) “Regulations” means regulations made under the Act;

- w) “rules” means the registered rules of the Cooperative as amended from time to time and reference to particular rules has a corresponding meaning;
- x) “shall” or 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;
- y) “share” means a share in the share capital of the Cooperative;
- z) “special resolution” means a resolution of the type referred to in rule 41;
- za) “the State” means the State of New South Wales;
- aa) “writing” includes printing, typing, lithography, electronic and other modes of representing or reproducing words in a visible form and “written” has a corresponding meaning;
- ab) words importing one gender include other genders;
- ac) words importing persons include corporations;
- ad) words in the singular include the plural, and vice versa;
- ae) words or expressions used have the same meanings as those given to them by the Act and the Regulations;
- af) headings are for convenience only and so do not affect the interpretation of these rules;
- ag) a reference to any legislation or to any section or provision of any legislation includes any statutory modification, replacement or re-enactment of it or any statutory provision substituted for it, any ordinances, by-laws, regulations and other statutory instruments issued under it and any determination, exemption or modification made pursuant to it.

2. RULES

2.1 Rules Constitute a Contract

The rules of the Cooperative have the effect of a contract under seal:

- (a) between the Cooperative and each member;
- (b) between the Cooperative and each Director, the principal executive officer and the secretary of the Cooperative; and
- (c) between a member and each other member.

2.2 Effect of Contract

Under the contract, each of those persons agrees to observe and perform the provisions of the rules as in force for the time being so far as those provisions are applicable to that person.

2.3 Alteration of Rules

- (a) The rules may be altered by a special resolution, by a resolution of the Board in accordance with section 112 of the Act or as otherwise permitted by the Act.
- (b) An active membership resolution cannot be proposed at a meeting except in accordance with section 124 of the Act.
- (c) Resolutions altering the rules shall be lodged with the Registrar in accordance with section 113 of the Act.
- (d) No alteration to these rules takes effect until it is registered by the Registrar.

(e) If the rules are altered by the Board pursuant to section 112 of the Act, the Cooperative must cause the alteration to be notified in writing to the 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 following the taking effect of the alteration.

2.4 Copying And Inspecting Rules

Any member shall be entitled on demand to a copy of the rules upon payment of a sum not exceeding \$2.00 or such other amount not exceeding the fee prescribed by the Regulations for obtaining a copy of the rules from the Registrar as the Board may from time to time determine. Any person may inspect a copy of these rules free of charge at the registered office during ordinary business hours.

3. NAME

3.1 The Australian Wine Consumers' Co-operative Society Limited - The Wine Society

The name of the Cooperative shall be The Australian Wine Consumers' Co-operative Society Limited PROVIDED THAT the Cooperative may use the abbreviation "The Wine Society" subject always to section 257 (e) of the Act and to any conditions which the Registrar may impose on the Cooperative under that section.

3.2 Change of Name

The Cooperative may change its name in accordance with section 259 of the Act.

4. REGISTERED OFFICE

The Cooperative shall have a registered office at such place as the Board may determine from time to time, the address of which is recorded in the public register maintained by the Registrar. The Board shall notify the Registrar of any change of address of the registered office within 28 days after the change, and on the form approved by the Registrar.

5. JOINING AN ASSOCIATION

The Cooperative, with the approval of a majority of a general meeting, of which special notice stating the nature of the business has been given, may join with any other Cooperative or Cooperatives of the same kind to form an association.

6. POWERS & OBJECTS

6.1 Powers of a Natural Person

The Cooperative shall have, both within and outside the State, the legal capacity of a natural person and have all the powers allowed by or under the Act.

6.2 By-Laws

The Board shall have power to make by-laws, not inconsistent with the Act, the Regulations or these rules, relating to the conduct of members or to the operations

of the Cooperative. A breach of a by-law shall be deemed to be an infringement of the rules for the purposes of fines

6.3 Power to Raise Finance

The powers of the Cooperative to:

- (a) obtain financial accommodation ; or
- (b) give security for the repayment of money, shall be exercised, subject to the Act, but otherwise unlimited by the rules.

6.4 Objects

The objects of the Cooperative are:

- (a) To make available a broad quality selection of wines and other beverages to members at the best possible prices;
- (b) To advance wine appreciation and knowledge;
- (c) To promote and support excellence in the wine industry;
- (d) To be the recognised independent authority on wine matters in Australia;
- (e) To further develop a viable business enterprise that supports these objectives in the interests of members.

6.5 Non-trading Cooperative

The Cooperative is a non trading co-operative within the meaning of section 15 of the Act and shall not give any returns or distributions of surplus to members.

7. PURCHASE OF SHARES AND REPAYMENT OF CAPITAL

7.1 Purchases of Members' Shares

Subject to section 172 of the Act, the Cooperative may:

- (a) purchase any share of a member at the request of the member; and
- (b) repay a member, with the member's consent, the whole or any part of the amount paid up on any share held by the member when the sum repaid is not required for the activities of the Cooperative.

Section 172 of the Act does not apply to any member who has been expelled or had their membership cancelled under rule 13.

7.2 Cancellation of Purchased Shares

The Cooperative shall cancel any share purchased or repaid in full by the Cooperative.

7.3 Conversion of Funds

If, in the opinion of the Board, a payment under rule 7.1 would adversely affect the financial position of the Cooperative, the Board may exercise any of the following options instead of payment to the member:

- (a) apply the amount as an interest bearing deposit by the member with the Cooperative; or
- (b) allot or issue debentures or Cooperative capital units ("CCUs") to the member in satisfaction of the amount.

7.4 Restrictions on Deposits, Debentures, CCU's issued under rule 7.3

A deposit, debenture or CCU issued pursuant to rule 7.3 shall:

- (a) bear interest during any period as determined in accordance with section 173 of the Act; and
- (b) be repaid to the member as soon as repayment would not, in the opinion of the Board, adversely affect the financial position of the Cooperative, and in any case, within 10 years.
- (c) be transferable but except as provided in these rules, the Cooperative shall not register a transfer unless a proper instrument of transfer has been delivered to it. Nothing in this sub-rule shall preclude the registration of a person as a holder that has had the deposits, debentures, CCUs devolved upon him by operation of law.

7.5 Deposit/Debenture/CCU Holder is/becomes Member

If the holder of deposits, debentures or CCUs issued pursuant to rule 7.3 is or becomes qualified for membership, he may, upon application to and at the option of the Board at any time subscribe for paid-up shares in the Cooperative to the value of those deposits, debentures or CCUs and such deposits, debentures or CCUs shall thereupon be redeemed by the issue of such shares.

7.6 Cancellation of Inactive Members' Shares

Nothing in this rule 7 affects or restricts rule 13.2 or sections 134 or 135 of the Act.

8. DEALINGS OF MEMBERS WITH COOPERATIVE

8.1 Contracting with Members

The Cooperative may, in accordance with section 78 of the Act, make a contract with a member requiring him or her to have specified dealings with the Cooperative for a fixed period.

8.2 Compulsory Contracts - Special Resolution

Without limiting rule 8.1 the Cooperative may, by special resolution, from time to time require members to enter into such contracts as may be determined by such special resolution and within the time therein specified.

8.3 Failure to enter Compulsory Contracts

Neglect by a member to enter a contract, referred to in rule 8.2, shall be deemed to be conduct detrimental to the Cooperative and he or she shall be liable to expulsion as provided in these rules.

8.4 Contents of Contracts

The provisions of a contract referred to in a rule 8.1 or 8.2 may, without limitation, require a member:

- (a) to sell products through or to the Cooperative; or

(b) to obtain supplies or services through or from the Cooperative; or
(c) to pay to the Cooperative specified sums as liquidated damages for any failure to comply with a requirement authorised by this rule,
and shall be binding upon the Cooperative and the relevant members notwithstanding that, but for the Act, the contract would be invalid as being in restraint of trade.

8.5 Liquidated Damages, and Security therefor

The sum, if any, specified as liquidated damages is to be considered as a debt due to the Cooperative and in respect of such debt, the Cooperative has, pursuant to section 80 of the Act, a charge on the share or interest in the capital and the credit balance and deposits of the member or past member.

8.6 Nature of Security

The charge referred to in rule 8.5 shall be enforced in accordance with Section 80 of the Act and rule 24.

9. SEAL

9.1 Description of Seals

The Cooperative shall, as required by section 258(1)(a) of the Act, have the name of the Cooperative inscribed in legible characters on its common seal and on any official seal.

9.2 Custody of Seal

The common seal shall be kept at the registered office in such custody as the Board shall direct.

9.3 Official Seals

The Cooperative may have, pursuant to section 49 of the Act, 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.

9.4 Restrictions on Affixing Seal

The seal of the Cooperative shall not be affixed to any instrument except by resolution of the Board. One Director 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 purpose.

10. CUSTODY AND INSPECTION OF RECORDS AND REGISTERS

10.1 Records Available to Members and Creditors for Inspection Free of Charge

The Cooperative must have at its registered office, or such other location as specified in section 250 of the Act, and available during normal office hours for inspection by any member or creditor, free of charge, all documents, registers and

records which the Act or Regulations require to be available and open for inspection by members or creditors.

10.2 Record Reproduction

Notwithstanding rule 10.1 but subject to the Act, no person shall be entitled to make a copy of the entries specified in any register required to be kept by the Cooperative unless:-

- a) the person first pays to the Cooperative a fee determined by the Board which fee may be determined by reference to the number of entries sought to be copied; and
- b) the Board is reasonably satisfied that in copying the relevant entries, the person does not intend or propose to contravene section 251A of the Act

10.3 Draft Minutes To Be Available To Members

The Board will send to members within four (4) months of any general meeting draft Minutes of that meeting.

11. QUALIFICATIONS FOR MEMBERSHIP

11.1 Minimum Shareholding

Subject to section 148 of the Act, every member shall, on admission to membership of the Cooperative, hold a minimum of 25 shares.

11.2 Active Membership Prerequisite

A person is not qualified to be admitted to membership of the Cooperative, unless there are reasonable grounds for believing that he or she will be an active member of the Cooperative.

12. ACTIVE MEMBERSHIP PROVISIONS

12.1 Primary Activities

In accordance with Part 6 of the Act, the primary activities of the Cooperative are:

- (a) to sell wine and other beverages;
- (b) to promote wine and other beverages; and
- (c) to conduct wine appreciation and education courses.

12.2 Requirements for Active Membership

(a) For the purposes of participating in a postal ballot a member is an active member if:

- (i) in the preceding 12 month period from the date on which the ballot papers are sent to the member, that member has purchased goods or services with a value of not less than \$250.00 from the Cooperative or any subsidiary of the Cooperative or any entity nominated by the Cooperative; or
- (ii) where the member has been a member for a period in excess of twenty (20) years, and in the preceding 12 month period from the date on

which the ballot papers are sent to the member, that member has purchased goods or services with a value of not less than \$125.00 from the Cooperative or any subsidiary of the Cooperative or any entity nominated by the Cooperative; or

- (b) For the purposes of the voting at any general meeting including the annual general meeting, a member is an active member if:
- (i) in the preceding 12 month period from the date on which the notice of the relevant meeting is sent to the member, that member has purchased goods or services with a value of not less than \$250.00 from the Cooperative or any subsidiary of the Cooperative or any entity nominated by the Cooperative; or
 - (ii) where the member has been a member for a period in excess of twenty (20) years, and in the preceding 12 month period from the date on which the notice of the relevant meeting is sent to the member, that member has purchased goods or services with a value of not less than \$125.00 from the Cooperative or any subsidiary of the Cooperative or any entity nominated by the Cooperative; or
- (c) For any other purpose, a member is an active member if:
- (i) in the preceding 12 month period from the Test Date the member has purchased goods or services with a value of not less than \$250.00 from the Cooperative or any subsidiary of the Cooperative or any entity nominated by the Cooperative; or
 - (ii) where the member has been a member for a period in excess of twenty (20) years, and in the preceding 12 month period from the Test Date the member has purchased goods or services with a value of not less than \$125.00 from the Cooperative or any subsidiary of the Cooperative or any entity nominated by the Cooperative.

For the purposes of this rule 12.2(c) "Test Date" means the date relating to the purpose for which a member is required to be an active member.

13. FORFEITURES AND CANCELLATIONS - INACTIVE MEMBERS

13.1 Cancellation of Membership of Absent or Inactive Members

Pursuant to section 127 of the Act, the Board shall, after giving notice in accordance with section 132 of the Act, declare the membership of a member cancelled if:

- (a) 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 2 years before the date of cancellation; or
- (b) the member is not presently an active member and has not been an active member at any time during the past 2 years immediately before the date of cancellation.

13.2 Forfeiture of Shares

The Board is to declare the shares of a member forfeited at the same time as the membership is cancelled and the amounts due in respect of that cancellation and forfeiture shall be dealt with and repaid in accordance with sections 134 to 136 of the Act.

13.3 Register of Cancelled Members

The Cooperative shall keep a register of memberships cancelled pursuant to rule 13.1 in such manner and containing such particulars as are prescribed by the Regulations.

14. CAPITAL AND SHARES

14.1 Share Capital

The capital of the Cooperative shall be raised by the issue of shares in accordance with section 147 of the Act, which shall have a nominal value of \$2.00 each.

14.2 Variation of Share Capital

The capital shall vary in amount according to the nominal value of shares from time to time subscribed.

14.3 Allotment of Shares - Restrictions

No share is to be allotted unless at least 10% of the nominal value of the share has been paid. A share is not to be issued at a discount or at a premium.

14.4 Maximum Permissible Shareholding

No person, whether or not a member, shall hold or have a relevant interest in more than 20% of the nominal value of issued share capital of the Cooperative except in accordance with section 289 of the Act.

14.5 Shares to be forfeited to remedy contravention of maximum level of share interest

- (a) Where a person (whether or not a member of the Cooperative) contravenes rule 14.4, the Board shall declare to be forfeited sufficient number of the shares in which the person has a relevant interest to remedy the contravention.
- (b) The shares to be forfeited pursuant to this rule are:
 - i) the shares nominated by the person for the purpose; or
 - ii) in the absence of such nomination – the shares in which the person has had a relevant interest for the shortest time
- (c) A declaration of the Board that shares are forfeited operates to forfeit the shares concerned.
- (d) The provisions of sections 134 – 136 (inclusive) of the Act shall apply to and in respect of shares forfeited under this rule as if the shares had been forfeited under rule 13.

14.6 Notice to be given of substantial share interest and substantial change in share interest

Pursuant to section 287 of the Act, a person must give notice in writing to the Cooperative within 5 business days after becoming aware that the person has a substantial share interest in the Cooperative and after becoming aware that a substantial change has occurred in that interest.

14.7 Compulsory Loans

The Cooperative may, in accordance with section 268 of the Act, require members to lend money to the Cooperative, with or without security, in accordance with a proposal approved by the members by special resolution.

14.8 Shares in Exchange for Property

The Cooperative may, in accordance with section 154 of the Act, issue fully paid up shares to active members, the consideration for which is real or personal property of at least the value of the equivalent cash consideration.

14.9 Cooperative Capital Units

- a) The Cooperative may issue Cooperative Capital Units (herein called “CCUs”) pursuant to section 273 of the Act, where:
 - i) the terms of issue have been approved by a special resolution of the Cooperative;
 - ii) the issue is made pursuant to an offer accompanied by a copy of a statement approved by the Registrar for the purposes of the issue;
 - iii) the Registrar approves the terms of issue;
 - iv) the statement approved by the Registrar sets out:
 - (1) the terms of issue of the CCUs;
 - (2) the rights of the holders of the CCUs;
 - (3) the terms of redemption of the CCUs;
 - (4) the manner of transferability of the CCUs.
 - (v) the terms of issue detail whether or not there is any of the following entitlements:
 - (1) entitlement to repayment of capital;
 - (2) entitlement to participate in surplus assets and profits;
 - (3) entitlement to interest on capital (whether cumulative or non cumulative interest);
 - (4) entitlement to priority of payment of capital and dividend in relation to shares in the Cooperative on a winding up.
- (b) In accordance with section 272 of the Act, the following provisions apply to CCUs issued by the Cooperative:
 - (i) each holder of a CCU is entitled to one vote only at a meeting of the holders of the CCUs;
 - (ii) the rights of the holders of CCUs may be varied only in the manner and to the extent provided by their terms of issue, and only with the consent of at least 75% of the holders of the CCUs given in writing or at a meeting;

- (iii) the holder of a CCU has, in that person's capacity as such a holder, none of the rights or entitlements of a member of the Cooperative;
- (iv) the holder of a CCU is entitled to receive notice of all meetings of the Cooperative and all other documents in the same manner as the holder of a debenture of the Cooperative.

15. MEMBERSHIP AND SHARES

15.1 Applications for Membership, Shares, etc

- (a) The Board, or a person authorized by the Board, shall provide applicants for membership of the Cooperative with:
 - (i) the written notice specified in section 76A(2) of the Act; and
 - (ii) a written notice of any intended or prescribed entry or periodic fees that a person or an organization will be liable to pay on becoming a member of the Cooperative.
- (b) Applications for membership, shares or additional shares shall be lodged at the registered office in or to the effect of the form, approved by the Board, together with the amount required to pay the shares fully or, if the shares are to be issued partly paid, a deposit of at least twenty cents (\$0.20) in respect of each share applied for.

15.2 Approval of Applications

Every such application shall be considered by the Board or by an Approvals Officer and if the Board or the Approvals Officer decides, in its/his/her unfettered discretion, to approve the application, the Cooperative shall allot the shares applied for.

15.3 Refusal

The Board or an Approvals Officer may, at its/his/her discretion, refuse any application for membership, shares or additional shares and need assign no reason for such refusal. Upon refusal, the applicant's deposit shall be refunded without interest.

15.4 Registration of Approved Applicants

- (a) If an application is approved, the applicant's name together with the number of shares allotted, date of allotment and any other information required by or under the Act shall be entered in the register of members and the applicant shall then be entitled to the privileges attaching to membership, or to the holding of shares, or additional shares, as is appropriate to the case.
- (b) The Applicant shall be notified in writing of entry in the register within 14 days of the issue.

15.5 Membership Confirmation

Once the successful applicant's name and other details have been recorded on the register of members in accordance with rule 15.4, the Cooperative shall issue a

membership confirmation specifying the number of shares held by the applicant and the amount paid up on the shares. Where the same shares are held jointly by several persons, the Cooperative shall only be required to issue one membership card to any one of them.

15.6 Lost Share Certificates

Where a share certificate has been defaced, lost or destroyed a duplicate may be issued by the Cooperative on payment of a fee, not exceeding \$2.00 and on such terms as to evidence and indemnity as the Board thinks fit.

16. LIABILITY OF MEMBERS TO COOPERATIVE

16.1 Liability for Unpaid Share Capital and Other Charges

A member shall, in accordance with sections 76 and 77 of the Act, be liable to the Cooperative for the amount, if any, unpaid on the shares held by that member, together with any charges, payable by the member to the Cooperative as required by these rules.

16.2 Liabilities on Death of Member

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. The Board shall follow the provisions in Division 3 Part 4 of the Act in dealing with a deceased member's estate.

16.3 Fees and Charges for Inactive Members

The Board may, in accordance with section 76 of the Act, impose such fees or charges for administrative time and resources in preparing and dispatching the notifications required under the Act and otherwise in respect of any member who has ceased to be an active member and who has not been an active member at any time during the preceding two (2) years

PROVIDED THAT:-

- a) the amount of the charge in no circumstances shall exceed the lower of:-
 - i) \$50; and
 - ii) the amount paid on the relevant inactive member's shares; and
- b) the Board shall waive payment of any such fees and charges in the event that the inactive member becomes active before cancellation of his/her membership under and in accordance with rule 13.

17. VOTING RIGHTS OF MEMBERS

17.1 Members must be Active Members to Vote

Members shall have the right to vote as specified in Division 1 of Part 8 of the Act.

17.2 One Member One Vote

Except as provided in rule 38.8, an active member of the Cooperative who is

entitled to vote shall have one vote only in respect of any question or motion arising at a general meeting of the Cooperative.

17.3 Right to Vote Not Attached to Share

A member's right to vote is a personal right, and is not attached to, or conferred by, any share held by the member in the Cooperative.

17.4 Relevant interest in shares or voting rights

A member is not entitled to vote if another person (whether or not a member) has a relevant interest in any share held by the member or in the right to vote of the member in accordance with section 178 of the Act.

17.5 Notice of voting interest

Pursuant to section 286 of the Act, a person (whether or not a member) must give notice in accordance with the Regulations to the Cooperative within 5 business days of becoming aware that the person has, or has ceased to have, a relevant interest in the right to vote of a member.

18. JOINT MEMBERSHIP

18.1 Liabilities of Joint Members

The joint members shall be jointly and severally liable in respect of any amount unpaid on their jointly held shares, in respect of any charges referred to in rule 16.1 and in respect of the fees payable under rule 16.2

18.2 Voting Rights of Joint Members

Joint members shall have one (1) vote only between them and that vote may only be exercised (subject to the grant of a power of the attorney) by the joint member whose name appears first in the register of members.

19. CEASING MEMBERSHIP

A person shall cease to be a member in any of the following circumstances:

- (a) if the member's membership is cancelled under Part 6 of the Act (Active membership requirements);
- (b) if the member is expelled in accordance with these rules;
- (c) if the member becomes bankrupt or the member's property becomes subject to control under the law relating to bankruptcy;
- (d) if the member is a corporation or a body corporate, on its [] deregistration;
- (e) on death of the member;
- (f) if the contract of membership is rescinded on the ground of misrepresentation or mistake;
- (g) if the member's shares are sold by the Cooperative under rule 24 and a purchaser is registered as the holder of those shares in the original member's place;
- (h) if the member's shares are transferred to another person and the transferee is registered as the holder of the share in the original member's place;

- (i) if the member's shares are forfeited in accordance with the provisions of the Act or these rules;
- (j) if the member's shares are purchased by the Cooperative in accordance with the provisions of the Act or these rules;
- (k) if the amount paid up on the member's shares is repaid to the member in accordance with these rules.

20. EXPULSION OF MEMBERS

20.1 Grounds for Expulsion

A member may be expelled from the Cooperative by special resolution for:

- (a) failing to discharge the member's obligations to the Cooperative, whether prescribed by these rules or arising out of any contract; or
- (b) conducting themselves in a manner prejudicial or detrimental to the interests of the Cooperative.

20.2 Procedure

- (a) In any case, written notice of the proposed resolution shall be forwarded to the member not less than twenty-one (21) days before the date of the meeting at which the special resolution is to be moved, and he or she shall be given a reasonable opportunity of being heard at the meeting. The notice is to state the date, time and place of the meeting and shall also state the nature of the relevant act or omission.
- (b) At the meeting, the member shall be afforded a reasonable opportunity to be heard. If the member is not able to attend, they may make a written statement for the consideration of members present at the meeting. If the member fails to attend at the time and place mentioned without reasonable excuse, the act or omission shall be considered and the Cooperative may decide on the evidence before it, in spite of the absence of the member. Following such consideration, the members of the Cooperative may decide to expel the member.
- (c) The members shall not make a decision on an expulsion, except by vote by secret ballot. A motion for that decision shall not be deemed to be passed unless two thirds of the members so present and so entitled, vote in favor of the motion.
- (d) If the Cooperative resolves to expel the member, the secretary must, within 7 days after the meeting, cause written notice to be given to the member of the decision.

20.3 Repayment of Share Capital to Expelled Member

The shares of any member expelled shall be cancelled as at the date of expulsion and the cancellation shall be noted in the register of shares. In accordance with section 81 of the Act, and subject to rule 20.4, the Cooperative shall however pay to the expelled member the amount of capital paid up on his or her shares at the time of expulsion less any amounts owed by the expelled member to the Cooperative.

20.4 Meaning and Consequence of a “Deficiency”

Where there is an amount of accumulated loss or deficiency disclosed in the last preceding balance sheet of the Cooperative prior to the date of an expulsion, an appropriate proportion of the loss or deficiency must be deducted from the amount of capital paid back to the expelled member, having regard to the number of shares held by that member in relation to the number of shares in the Cooperative.

20.5 Time of Repayment

Payment to the expelled member shall be made at such time as shall be determined by the Board in its discretion, but not later than twelve (12) months from the date expulsion. However, if the Board considers that repayment within twelve (12) months would adversely affect the financial position of the Cooperative, or the former member consents to such a course in writing:

- (a) the Board may defer payment until a later time determined by the Board; or
- (b) the Cooperative may appropriate the amount as a donation to the Cooperative, but only if the former member consents in writing to the donation.

20.6 Cancellation of Shares

Upon the expulsion of a member, his or her shares shall be cancelled.

20.7 Re-admittance of Expelled Member

An expelled member shall not be readmitted as a member unless such re-admission is approved by special resolution. A member so re-admitted shall not have restored to him or her any shares, which were cancelled on his or her expulsion.

20A SUSPENSION OF MEMBERS

20A.1 Grounds for suspension

A member may be suspended by a resolution passed by the Board, for a period not exceeding six months, for any of the following:

- i) infringing any of the rules or by-laws of the Cooperative; or
- ii) failing to discharge obligations to the Cooperative, whether prescribed by these rules or arising out of contract; or
- iii) conducting themselves in a manner prejudicial or detrimental to the interests of the Cooperative

20A.2 Procedure

- (a) Where the Board receives a complaint that a member has committed any act referred to in rule 20A.1, the Board may meet within 21 days of the occurrence of the act to consider the complaint.
- (b) Where the Board is to meet pursuant to rule 20A.2(a), the following procedure shall apply:
 - i) at least 7 days written notice stating the date, time and place of the Board meeting shall be given to any member against whom a

- complaint has been received. The written notice shall also state the nature of the complaint;
- ii) at the meeting, the member shall be afforded a reasonable opportunity to be heard. If the member is not able to attend, they may make a written statement for the consideration of the Board. If the member fails to attend at the time and place mentioned without reasonable excuse, the complaint shall be considered and the Board may decide on the evidence before it, in spite of the absence of the member. Once the complaint has been considered, the Board may decide to suspend the member;
 - iii) a resolution on the complaint or on a suspension shall not be deemed to be passed unless two-thirds of the Board members so present vote in favour of the resolution.
- (c) If the Board resolves to suspend the member, the secretary must, within 7 days after the meeting, cause written notice to be given to the member of the decision and of the member's right to appeal.
 - (d) The suspension does not take effect:
 - i) until the expiration of the period within which the member is entitled to appeal against the Board's decision; or
 - ii) if within that period the member exercises the right of appeal, unless and until the Cooperative confirms the Board's decision; whichever is the later.

20A.3 Right of appeal of suspended member

- (a) A member who has been suspended by resolution of the Board may appeal to the Cooperative in general meeting within 7 days after notice of the decision is served on the member, by lodging a notice of appeal with the secretary.
- (b) On receipt of the notice of appeal, the secretary must notify the Board, which is to convene a general meeting of the Cooperative to be held within 28 days after the date on which the secretary received the notice of appeal, to consider a special resolution to confirm the Board's decision to suspend the member.
- (c) At the general meeting of the Cooperative convened under rule 20A.3(b):
 - i) no business other than the question of appeal is to be transacted; and
 - ii) the Board and the member must be given the opportunity to state their respective cases orally or in writing, or both; and
 - iii) the members present are to vote by secret ballot on the question of whether the Board resolution should be confirmed.
- (d) If the special resolution confirming the Board's decision to suspend the member is passed, the member's suspension shall take effect from that time. If the special resolution confirming the Board's decision to suspend the member is not passed, the Board's decision is revoked.

20A.4 Rights of suspended member

A member who has been suspended shall not be entitled to the rights of membership and use of the Cooperative's facilities but remains liable for all their obligations as a member under these rules and the Act.

21. CALLS AND ALLOTMENT OF SHARES

21.1 Making Calls

The Board may from time to time make calls upon the members in respect of any moneys unpaid on their shares provided that no call shall exceed one-quarter (1/4) of the nominal amount of the shares or be payable at less than one month from the last call. A call is not valid unless the Board gives at least fourteen (14) days' notice to the members, specifying the time or times or payment.

21.2 Payment of Calls

Each member shall pay to the Cooperative at the time or times specified by the Board the amount called on his or her shares.

21.3 Joint Holders

The joint holders of a share shall be jointly or severally liable to pay all calls in respect of that share.

21.4 Interest on Unpaid Calls

If a sum called in respect of a share is not paid before or on the day appointed for payment, the person from whom the sum is due shall pay interest upon the sum at a rate determined by the Board from the day appointed for the payment to the time of actual payment. However, the Board shall be at liberty to waive payment of that interest wholly or in part.

21.5 Discriminating Between Shareholders

With respect to the issue of shares, the Board may arrange for a difference between the shareholders in the amount of calls to be made and in the times of payment.

21.6 Advance Payment of Calls

The Board may, if it thinks fit, receive from any member willing to advance it, all or any part of the money uncalled and unpaid upon any shares held by that member. Upon all or any of the money advanced, the Board may pay interest to cover the time between the advancement and the time that the money would otherwise have been payable on the shares. The rate of interest can be agreed between the member and the Board.

22. DEFAULT IN PAYMENT OF SHARES

22.1 Demands for Unpaid Calls

If a member fails to pay any call or installment of a call by the day appointed for payment, the Board may, while any part of the call or installment remains unpaid, serve a notice on the member requiring payment of the unpaid amount together with any interest which may have accrued.

22.2 Contents of Demand

The notice shall name a further day (not earlier than 14 days from the date of the notice) by which the payment required by the notice is to be made. The notice shall also state that if there is no payment by that time the shares for which the call was made may be forfeited.

22.3 Forfeiture

If the requirements of the notice are not complied with by the member, then any share for which the notice has been given, may at any time afterwards (but before the payment required by the notice has been made), be forfeited by a resolution of the Board.

23. FORFEITED SHARES

23.1 Consequences of Forfeiture

A person whose shares have been forfeited pursuant to these rules shall cease to be a member in respect of the forfeited shares. However, that person shall nevertheless remain liable to pay to the Cooperative all moneys which (as at the date of forfeiture) were payable by him or her to the Cooperative in respect of the shares in addition to the calls in default.

23.2 Evidence of Forfeiture

A statutory declaration in writing by a Director of the Cooperative stating that a share in the Cooperative has been forfeited on a date stated in the declaration, shall be conclusive evidence of that fact as against all persons claiming to be entitled to the share.

23.3 Charge on Paid Up Amounts

The Cooperative shall, pursuant to rule 24, have a charge upon the paid up amounts of the forfeited shares and may appropriate those amounts pursuant to that rule.

23.4 Cancellation of Forfeited Shares

Shares forfeited for default in payment of calls shall be cancelled and a notation of the cancellation entered in the share register.

24. CHARGES ON SHARES

24.1 Charge in Respect of Debts Due from Members

The Cooperative shall, as provided in section 80 of the Act, have a charge upon the share or interest in the capital and upon the credit balance and deposits of a member or past member in respect of any debt due from the member or past member to the Cooperative. The Cooperative may also set off any amount paid on account of that share or otherwise or any amount credited or payable to such member or past member in or towards payment of the debt.

24.2 Enforcement of Charge

The charge may be enforced at any time after seven (7) days notice to the member or past member, via the appropriation by the Cooperative of the capital, interest or deposit subject to the charge. Any share in respect of which capital has been appropriated shall be cancelled.

24.3 Power of Sale

The Cooperative may sell in such manner as the Board thinks fit all or any shares on which the Cooperative has a charge pursuant to section 80 of the Act. However, no sale shall be made unless some sum in respect of which the charge exists is payable at the date of the sale. Also no sale shall be made until the expiration of fourteen (14) days after a notice in writing (stating, and demanding payment of, such part of the amount in respect of which the charge exists as is payable at the date when the notice is given) has been given to the registered holder of the share or the person entitled to it by reason of death or bankruptcy. The notice shall indicate that upon failure to make payment of the sum demanded within the time stipulated the shares will be sold by the Board.

24.4 Selling for Highest Price

Where the highest offer received by the Board is less than the amount paid up on shares to be sold, the Board shall, before accepting the offer, notify the member of the receipt of such offer and the amount of the offer, and of the Board's intention to accept the offer at the expiration of fourteen (14) days if no payment is made before then to the Cooperative of all moneys in respect of which the charge exists.

24.5 Proceeds of Sale - Deductions

From the proceeds of any such sale, the Cooperative may deduct the expenses, if any, associated with the sale and may apply the balance to reduce the liability of the member to the Cooperative. However, if a surplus remains after such deduction the surplus shall be payable to the member whose shares were sold, unless the accounts of the Cooperative disclose a deficiency, in which case, rule 20.4 shall apply as if the reference in that rule to expulsion and to an expelled member were a reference to a sale of shares and to a person whose shares have been sold pursuant to rule 24.3.

24.6 Board Authority to Sell

For giving effect to any such sale, the Board may authorise a person to transfer the shares sold to the purchaser of them.

25. TRANSFER AND TRANSMISSION OF SHARES

25.1 Execution by Transferor and Transferee

The instrument of transfer of any share shall be executed by or on behalf of both the transferor and the transferee.

25.2 Transferor Remains Holder

The transferor shall be deemed to remain the holder of the share until the name of the transferee is entered in the register of members.

25.3 Form of Transfer

Shares shall be transferred in the following form or in a usual or common form, which the Board shall approve:-

THE AUSTRALIAN WINE CONSUMERS' CO-OPERATIVE SOCIETY LIMITED

I,..... of in consideration of the sum of \$..... paid to me by of..... (hereinafter called "the said transferee") do hereby transfer to the said transferee one/..... share/shares in the share capital of The Australian Wine Consumers' Co-operative Society Limited, to hold unto the said transferee, the transferee's executors, administrators, and assigns, subject to the several conditions on which I hold the same at the time of execution hereof; and I, the said transferee, do hereby agree to take the said share (or shares) subject to the conditions aforesaid.

As witness our hands, the day of 19.....

Signed by, transferor. In the presence of, witness.

Signed by, transferee. In the presence of, witness.

25.4 Restrictions on Transfers

A share may not be sold or transferred except:

- (i) with the consent of the Board, and to a person who is qualified to be admitted to membership of the Cooperative under rules 11 and 12; or
- (ii) as otherwise provided by these rules or the Act.

25.5 Refusing to Register Transfers

- (a) The Board may decline to register any transfer of shares:
 - i) to a person of whom they do not approve; or
 - ii) on which the Cooperative has a lien or charge,
- (b) The Board shall not consent to the sale or transfer of shares to a person where it would result in a contravention of rule 14.4.

- (c) If the Board refuses to register a transfer of shares, it shall send notice of the refusal to the transferee within 14 days after the date on which the Board declined to register the transfer.

25.6 Transfer Fee and Evidence of Title Needed

The Board may decline to recognise any instrument of transfer unless-

- (i) a transfer fee of \$2.00 is paid to the Cooperative; and
- (ii) the instrument of transfer is accompanied by the share certificate (if any) in relation to the shares and/or such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer.

25.7 Record of Transfer

The Board shall have a record of all transfers made in the proper books and records of the Cooperative.

25.8 Suspension of Transfers

The Board may suspend the registration of transfers during the 14 days immediately preceding the annual general meeting in each year.

26. EFFECT OF SALE, TRANSFER OR DISPOSAL OF SHARES

A member who has sold or transferred, or disposed of the beneficial interest in, that member's shares, or has agreed to do in any of those things, is not entitled to vote at any meeting of the Cooperative.

27. DEATH OF MEMBER

27.1 Registration of Representative

The Board may register as the holder of a share, a trustee, executor or administrator of the estate of a dead person who was the registered holder of the share in the Cooperative, or where the deceased member is entitled in equity to a share, with the consent of the holder of the share in accordance with section 164 of the Act.

27.2 Transfer to Person Entitled

Subject to section 170A of the Act, the Board shall transfer the deceased member's share in the Cooperative, to such person as the deceased's personal representative may specify, in an application made to the Cooperative within three (3) months after the death of the member.

28. REGISTRATION OF OFFICIAL TRUSTEE IN BANKRUPTCY

28.1 Registration of Official Trustee

Where a member is declared bankrupt, the Official Trustee in Bankruptcy may be registered as the holder of the share held by the bankrupt member in accordance with section 166 of the Act.

28.2 Equitable Interests of Bankrupt Member

The Board may register the Official Trustee in Bankruptcy as the holder of a share in which a bankrupt member has an entitlement in equity, with the consent of the holder of the share in accordance with section 165 of the Act.

29. REGISTRATION AS ADMINISTRATOR OF ESTATE ON INCAPACITY OF MEMBER

A person appointed under a law of a State or Territory to administer the estate of a person who, through mental or physical infirmity, is incapable of managing his or her affairs, may be registered as the holder of a share held by the person whose estate the appointed person is administering in accordance with section 165 of the Act.

30. ENTITLEMENTS AND LIABILITIES OF PERSON REGISTERED AS TRUSTEE, ADMINISTRATOR ETC.

30.1 Entitlements of Representatives Prior to Registration

A person becoming entitled to a share by reason of the death, bankruptcy or the incapacity of the holder shall be entitled to the advantages to which that person would be entitled, if he or she were the registered holder of the share. However, before being registered as a member in respect of the share, the person shall not be entitled to exercise any right conferred by membership in relation to meetings of the Cooperative.

30.2 Liabilities of Representatives

A person registered pursuant to rules 27, 28 and 29 is, while so registered, subject to the same liabilities in respect of the share as those to which that person would have been subject if the share had remained, or had been registered in the name of the dead person, incapable person or the bankrupt.

31. ANNUAL GENERAL MEETINGS

31.1 Timing of Annual General Meeting

A general meeting of the Cooperative to be known as the “annual general meeting” shall, as provided in section 198 of the Act, be held each year on a date and a time determined by the Board as long as it is within five (5) months after the close of the financial year of the Cooperative or within such other period as specified in section 198 of the Act and at such a place as the Board shall appoint.

31.2 Special General Meeting

All general meetings of the Cooperative other than the annual general meeting shall be special general meetings.

31.3 Requisition of Annual General Meeting

If an annual general meeting is not held in accordance with rule 31.1, the Board must convene a general meeting of the Cooperative on requisition by the members in accordance with section 202 of the Act and rule 32.2.

32. SPECIAL GENERAL MEETINGS

32.1 Board Convenes on Own Motion

The Board may, whenever it thinks fit, convene a special general meeting of the Cooperative.

32.2 Board Convenes on Requisition

Subject to section 202 of the Act, the Board must convene a general meeting of the Cooperative on the written requisition by such number of members who together are able to cast at least 20% of the total number of votes able to be cast at a meeting of members. A member is not entitled to be a requisitioning member unless the member is an active member.

33. NOTICE OF GENERAL MEETINGS

33.1 Fourteen Days Notice

Subject to rule 33.4 at least fourteen (14) days written notice (not including the day on which the notice is served or deemed to be served, but including the day for which notice is given) shall be given to every member of any general meeting in the manner stipulated in rule 66.

33.2 Receipt/Non Receipt of Notice

Notice must be given to those persons who are, under these rules entitled to receive such notices from the Cooperative, but the non-receipt of the notice by any member shall not invalidate the proceedings at such general meeting.

33.3 Contents of Notice

The notice must specify the place, the day, and the hour of the meeting and, in the case of special business, the general nature of that business.

33.4 Notice of Special Resolution

In the case of a special resolution, notice specifying the intention to propose the resolution shall be given at least twenty-one (21) days before the general meeting (not including the day on which the notice is served or deemed to be served, but including the day for which notice is given) to the members of the Cooperative, in accordance with section 189 of the Act.

33.5 Members' Business

If a member has a resolution which the member wishes to submit to a general meeting, the member shall give written notice of it to the Cooperative not less than seventy two (72) days prior to the date of the meeting, in which case the Board shall have the resolution inserted in the notice convening the general meeting or at the option of the Board have the resolution submitted to members by way of a postal ballot to be held no later than the day of the general meeting. Any such written notice must contain a statement in support of the resolution signed by no less than ten (10) members.

34. BUSINESS OF GENERAL MEETINGS

34.1 Ordinary Business

The ordinary business of the annual general meeting shall be:

- (a) to confirm minutes of the last preceding general meeting (whether annual or special);
- (b) to receive from the Board, auditors, or any officers of the Cooperative, reports upon the transactions of the Cooperative during the financial year, including balance sheet, income statement, statement of cash flows and the state of affairs at the end of that year;
- (c) to elect or announce the result of an election of Directors;
- (d) to determine the remuneration of Directors;
- (e) to elect the Auditor (if required);
- (f) to allow a reasonable opportunity for the members as a whole at the meeting to ask questions about or comment on the management of the Cooperative and to ask the auditor or their representative, if present, questions relevant to the conduct of the audit and the preparation and content of the auditor's report and the accounting policies adopted by the Cooperative in relation to the financial statements; and
- (g) general business.

34.2 Notice of Special Business

The annual general meeting may also transact special business of which notice has been given to members in accordance with these rules.

34.3 Special Business

All business of a general meeting, other than business of the annual general meeting that is by this rule termed ordinary business, shall be deemed special business.

35. QUORUM AT GENERAL MEETINGS

35.1 Quorum Prerequisite

No item of business shall be transacted at any general meeting, unless a quorum of members is present at the time when the meeting is transacting that item.

35.2 Twenty-five Members are a Quorum

Except where these rules state otherwise, twenty-five (25) active members present in person and entitled to exercise a total of twenty-five (25) votes constitute a quorum.

35.3 Consequences of No Quorum

If within half an hour after the appointed time for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved. In any other case, it shall be adjourned to the same day not less than half an hour after the time appointed for the meeting, and if, at this adjourned meeting, the quorum is not present within half an hour after the time appointed for

the meeting, the members present shall constitute a quorum.

36. CHAIRPERSON AT GENERAL MEETINGS

36.1 Chairperson of Board Presides

The Chairperson is entitled to preside as chairperson at every general meeting of the Cooperative.

36.2 Members Choose Chairperson if Chairperson or Deputy Chairperson of Board Not Present

If there is no 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, then the Deputy Chairperson (if there is one) is entitled to preside at every general meeting of the Cooperative. If there is no Deputy Chairperson or 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, then the members present shall choose someone from their number to be chairperson (until such time as the Chairperson or Deputy Chairperson arrives and is willing to act).

36.3 Adjournment of Meetings

The chairperson of a meeting may, with the consent of the meeting at which a quorum is present (and shall if so 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 shall be given just as in the case of 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.

37. STANDING ORDERS AT GENERAL MEETINGS

The following standing orders shall be observed at the Cooperative's meetings, subject to any suspension of, or amendment of, or addition to, these orders adopted for the purposes of that meeting by the members present at a meeting:

- (a) the mover of a proposition shall not speak for more than 5 minutes. Subsequent speakers shall be allowed 3 minutes, and the mover of the proposition 3 minutes to reply. The meeting may however by simple majority extend in a particular instance the time permitted by this rule;
- (b) Whenever an amendment to an original proposition is proposed, no second amendment shall be considered until the first amendment is disposed of;
- (c) if an amendment is carried, the proposition as so amended shall displace 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 shall be submitted to the meeting for discussion at one time;
- (e) the mover of every original proposition but not of an amendment, shall have the right to reply. Immediately after this the question shall be put

from the chair. No other member shall speak more than once on the same question, unless permission is given for an explanation, or where the attention of the chairperson is called to a point of order;

- (f) propositions and amendments shall be submitted in writing, if requested by the chairperson;
- (g) any discussion on a proposition or amendment 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.

38. ATTENDANCE AND VOTING AT GENERAL MEETINGS

38.1 Members Who Have Had Shares Forfeited May Not Attend

At any meeting of the Cooperative, a member who has been given notice that the member’s shares are required to be forfeited pursuant to rule 13.1 is not entitled to attend.

38.2 Voting by Show of Hands

At any general meeting, a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is demanded in accordance with section 201 of the Act.

38.3 Chairperson’s Declaration in Respect of a Resolution

If no poll is demanded, a declaration by the Chairperson of the meeting 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 shall be conclusive evidence of the fact. No proof is needed of the number or proportion of the votes recorded in favour of, or against, that resolution.

38.4 Voting on a Show of Hands

On a show of hands, only members or representatives of a body corporate pursuant to section 68 of the Act (in either case, not being under the age of 18) who are present in person at a meeting shall be entitled to vote.

38.5 Voting on a Poll

On a poll, every member or representative of a body corporate pursuant to section 68 of the Act (in either case, not being under the age of 18) who is present in person or by proxy shall be entitled to vote.

38.6 Joint Members

In the case of joint membership, the joint members have one (1) vote only between them and that vote may be exercised (subject to the grant of any proxy or

power of attorney), only by whichever of the joint members is the member whose name appears first in the register of members.

38.7 No Voting Contrary to Act

No member shall have a vote, or be entitled or eligible to vote, contrary to the Act.

38.8 Chairperson has Casting Vote

In the case of an equality of votes, 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, shall be entitled to a second or casting vote.

38.9 Special Resolutions at General Meeting

At a general meeting, a special resolution shall be determined by a majority of not less than two thirds of the members voting.

38.10 Ordinary Resolutions

All other resolutions shall be determined by simple majority of the members voting.

38.11 Voting Dis-entitlement

Subject to the Act and these rules, a member shall not be entitled to vote at any general meeting, unless:

- (a) the member is an active member of the Cooperative or a delegate for a body corporate that is an active member; and
- (b) the member holds the minimum number of shares required by rule 11.

38.12 Appointment of Proxies

Any member may appoint a proxy to attend and vote at a general meeting on that member's behalf, PROVIDED THAT:

- (a) subject to section 179 of the Act, no person shall act as a proxy at a meeting unless the person is an active member and is entitled to be present and to vote at the meeting
- (b) no person shall act as proxy for more than ten (10) members on any one occasion;
- (c) the instrument appointing a proxy may specify the manner in which a proxy is to vote in respect of a particular resolution and where an instrument so provides, the proxy is not entitled to vote on the resolution except as specified in the instrument.
- (d) the instrument appointing a proxy shall be in writing under the hand of the appointer or the appointer's attorney, duly authorised in writing;
- (e) the instrument appointing a proxy and the power of attorney or other authority under which the instrument was signed, or a notarially certified copy of the authority (if any) shall be deposited at the registered office of the Cooperative not less than 24 hours before the time for holding the

- meeting at which the person named in the instrument proposed to vote and if this is not done, the instrument shall not be treated as valid;
- (f) an instrument appointing a proxy shall be in the following form or in any other form which the Board may approve; “I..... of..... being an active member of The Australian Wine Consumers Co-Operative Society Limited hereby appoint of as my proxy, to vote for me and on my behalf at the Annual Special General Meeting of the Cooperative to be held on Day of 199..... and at any adjournment of such meeting. If my nominee be prevented through any cause from exercising his/her vote on my behalf, I hereby authorise him to nominate some other member for me in his stead. I am over the age of eighteen (18) years. Signed this Day of 199.....Signature;
- (g) an instrument appointing a proxy shall be deemed to confer authority to demand, or join in demanding, a poll.

38.13 Revocation of instrument appointing a proxy

A vote given in accordance with the terms of an instrument of proxy, or of a power of attorney, is valid notwithstanding 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 commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

39. POLL AT GENERAL MEETINGS

39.1 Chairperson may Direct Poll

If a poll is duly demanded, it shall be taken in a manner, which the chairperson of the meeting directs.

39.2 Adjourned Polls

If a meeting is adjourned and the result of a poll is declared at the adjourned meeting, the result shall be deemed to be the resolution of the meeting at which the poll was demanded.

39.3 Certain Polls to be Held Immediately

A poll demanded on the election of a chairperson of the meeting, or on a question of adjournment, shall be taken immediately.

39.4 Other Polls to be Held at Chairperson’s Direction

A poll determined on any matters other than those set out in rule 39.3 shall be taken at a time, which the chairperson of the meeting shall direct.

39.5 Results of Polls

The result of a poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

39.6 Withdrawal of Poll

A poll demanded may be withdrawn.

40. POSTAL BALLOT

40.1 Board may hold Postal Ballot

The Board may whenever it considers it appropriate submit any matter or proposal to members to be determined by a postal ballot. Any postal ballot is to be conducted in accordance with Schedule 2 of the Regulations.

40.2 Member Requirement of Postal Ballot

The Board must conduct a postal ballot (including a special postal ballot as required by section 194A of the Act) for the passing of a special resolution on the written requisition of such number of members who together are able to cast at least 20% of the total number of votes able to be cast at a meeting of members. A member is not entitled to be a requisitioning member unless the member is an active member.

41. SPECIAL RESOLUTION

41.1 Meaning of Special Resolution

A special resolution means a resolution which in accordance with the Act is proposed as a special resolution and is passed either by a two-thirds majority at a general meeting or by a two-thirds majority in a postal ballot (other than a special postal ballot) of members or by a three quarters majority in a special postal ballot of members.

41.2 Effect and Registration of Special Resolution

A special resolution has effect from the date it is passed except in the following circumstances:

- i) the removal of an auditor;
- ii) the expulsion of a member;
- iii) the alteration of a rule; or
- iv) any matter for which a special resolution is required to be passed by special postal ballot pursuant to section 194A of the Act (other than a special postal ballot in favor of a voluntary winding up);

in which case it has effect from the time it is registered by the Registrar.

42. BOARD OF DIRECTORS

42.1 Minimum of five (5) Directors, maximum of ten (10)

There shall be a Board of no less than five (5) Member Directors and no more than eight (8) Member Directors provided that if having regard to the operation of section 206(3) of the Act the Board nominates one or two persons under either or

both of rules 43(b)(i) or 43(b)(ii) and such person or persons is or are elected as Director(s), the Board shall increase by the number so elected.

42.2 Board may Reduce or Increase Number of Member Directors

- (a) Subject to these rules, the Board may, by resolution, reduce or increase the number of Member Directors.
- (b) The Board may not exercise the power granted to it under rule 42.2(a) without notifying members of the exercise of that power either prior to, or by the same date as, the date on which the notice required under rule 45.1(a) is required to be published.

42.3 Reduction in Number of Member Directors

If the Board resolves to reduce the number of Member Directors the resolution will only take effect on the relevant position or positions becoming vacant within the meaning of rule 47.1 and the operation of rule 47.2 shall not apply to such casual vacancy

42.4 Increase in Number of Member Directors

If the Board resolves to increase the number of Member Directors, the additional position or positions shall be regarded and may be filled as if they were casual vacancies and rule 47 shall apply to the appointment and retirement of any Directors filling the additional position or positions.

42.5 Powers of Management Vested in the Board

The business and operations of the Cooperative are to be managed and controlled by the Board 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.

42.6 Board's Powers Restricted

The powers of the Board are subject to any restrictions imposed by the Act or by these rules.

42.7 Defects in Appointment/Qualification

The acts of a Director are valid despite any defect that may afterwards be discovered in his or her appointment or qualification.

43. QUALIFICATIONS OF DIRECTORS

To qualify as a Director, a person must:

- a) i) be an active member of the Cooperative;
- ii) have been an active member for at least twelve (12) months immediately prior to the date fixed for closure of nominations of candidates for election as directors;
- iii) hold a minimum of twenty-five (25) shares in the Cooperative, not being

- shares required to be forfeited under section 128 of the Act;
- b) in accordance with section 206 of the Act:
- i) be an employee of the Cooperative nominated by the Board for election by the members as a Director; or
 - ii) be nominated by the Board for election by the members as a Director and be a person with such professional, business or general manager or other experience or standing in the community as the Board considers appropriate for a person holding the office of an independent Director of the Cooperative

44. ROTATION OF DIRECTORS

44.1 Member Directors to Retire by Rotation

At the annual general meeting in each year, two Member Directors shall retire, such retirement to take effect upon the annual general meeting being declared closed.

44.2 Order of Retirement

The Member Directors to retire in any year shall (subject to rule 47.3) be those who have been longest in office since their last election PROVIDED THAT at and from the annual general meeting of the Cooperative in 2000, the two Member Directors to retire in any year under rule 44.1 shall be, or include, any Member Directors required to retire under rule 47.3 and, in the event there are no such Directors or there is only one, then the Directors or Director (as the case may be) longest in office since his/her/their last election. Except in the case of a Member Director required to retire under rule 47.3, as between persons who became Member Directors on the same day the person to retire shall (unless they otherwise agree among themselves) be the Member Director that registered the lower vote at the election in which he/she was elected as a Member Director. Where however there was no election and the relevant Directors were declared elected under rule 45.9, the Director that retires shall be determined by lot.

44.3 Member Directors Eligible for Re-election

A retiring Member Director shall be eligible for re-election.

44.4 Member Directors Deemed to have Been Nominated

A retiring Member Director if eligible shall be deemed to have been nominated unless he/she has notified the Cooperative in writing to the contrary.

44.5 Independent Directors to Retire after Three Years

Each Independent Director shall retire at the annual general meeting of the Cooperative three (3) years after his/her appointment, such retirement to take effect upon the annual general meeting being declared closed.

45. PROCEDURE FOR ELECTION OF DIRECTORS

45.1 Nominations of Member Directors

- (a) A notice shall be published not less than eight (8) weeks before the annual general meeting in the Cooperative's newsletter, inviting nominations of candidates for election as Member Directors;
- (b) Nominations for Member Directors (other than in the case of retiring Member Directors) shall be signed by two or more members each of whom have been active members for at least twelve (12) months immediately prior to the date fixed for closure of nominations of candidates for election as Directors. A nomination will not be valid unless accompanied by a notice in writing from the candidate providing details of his/her qualifications and experience and stating that:-
 - (i) he/she agrees to his/her nomination;
 - (ii) he/she will devote such time as is necessary to carry out the duties of a Director of the Cooperative;
 - (iii) he/she has read the Directors' Code of Conduct and agrees to be bound by the Code if elected.
- (c) Nominations must be lodged at the registered office on or before the date and time fixed by the notice.

45.2 Nomination of Independent Director

Nominations (if any) for the Independent Director(s) shall be made by the Board only, by a two thirds majority vote if the Board has 5, 6 or 7 members or by a three quarters majority if the Board has 8 members.

45.3 Ballot Papers

- (a) A printed ballot paper shall be prepared setting out the names of all candidates nominated as Member Directors ("Members Ballot Paper");
- (b) if any candidates are nominated as Independent Directors a separate printed ballot paper shall be prepared setting out the names of all such candidates ("Independents Ballot Paper");
- (c) The order of candidates' names on ballot papers be determined by lot with the first name withdrawn being the first name on the ballot paper and so on;
- (d) The Returning Officer must initial and post each ballot paper to each member entitled to vote, at least twenty-one (21) days before the relevant annual general meeting.

45.4 Marking and Returning Ballot Papers

- (a) Members Ballot papers shall be marked by placing a cross against as many names of the candidates for Member Director as there are Member Directors to be elected (and no more);
- (b) Independent Ballot Papers shall be marked by placing a cross against or leaving blank against the name of the candidate(s) for Independent Director(s);
- (c) Crosses shall constitute formal votes for the candidates crossed;

- (d) Ballot papers must be returned to the registered office on or before the date and time stated on such ballot paper, not being less than twenty-four (24) hours before the annual general meeting.

45.5 Scrutineers

Each candidate may appoint one scrutineer to attend the opening of envelopes and counting of votes.

45.6 Returning Officer

An independent person shall be appointed by the Board to act as returning officer.

45.7 Counting Votes

- (a) After the close of the ballot on the day and at the time and place determined by the Board and notified to each candidate and his/her scrutineer (if any), the returning officer (in the presence of a candidate's scrutineer, if required by the candidate) must open the ballot box, reject the informal ballot papers and count the votes on the ballot papers, not being informal
- (b) A ballot paper is to be rejected as informal:
 - (i) if it is not duly initialled by the returning officer;
 - (ii) if it is not marked clearly in the accordance with rule 45.3.
- (c) The returning officer shall notify the result of the ballot to the chairperson of the annual general meeting

45.8 Declaration of Result

- (a) The candidates for the office of Member Director receiving the highest number of formal votes from members shall be declared elected as Directors by the chairperson.
- (b) In the case of an equality of votes for candidates for the office of Member Director, the result shall be determined by lot and the order in which the names are withdrawn shall determine who is declared elected as Directors;
- (c) The candidate(s) for the office of Independent Director shall be declared elected as Director(s) if he/she/they receive more than 50% of the formal votes cast by members entitled to vote.

45.9 Number of Candidates Equalling Number of Vacancies

Notwithstanding anything to the contrary in rules 45.3 to 45.8, where the number of candidates for an election under this rule 45 is less than or equals the number of vacancies to be filled, the candidates shall be declared elected as Directors.

45.10 Vacancies remaining at end of Annual General Meeting

If any vacancies remain at the end of the annual general meeting, such vacancies shall be casual vacancies and shall be filled in accordance with rule 47.2

45.11 Time of Taking Office

Candidates declared elected as Directors shall take office upon the annual general meeting being declared closed.

46. CASUAL VACANCIES

46.1 Casual Vacancy under Act

A Director vacates office in the circumstances set out in section 218 of the Act.

46.2 Independent Directors

An Independent Director will also vacate office where the Board withdraws its endorsement of the Director by a two thirds majority resolution (where the Board has six (6) or seven (7) members) or by a three quarters majority (where the Board has eight (8) members).

46.3 Code of Conduct

Every Director shall be bound by the Directors' Code of Conduct and shall vacate office in the circumstances (if any) spelt out in the Code.

46.4 Conflict of Interest

- (a) No Director shall hold any office or possess any property whereby, whether directly or indirectly, duties or interests might be created such that there is a real and sensible possibility of conflict with his or her duties or interests as a Director, unless:-
 - (i) the Director declares at a Board meeting the fact of and the nature, character and extent of the conflict; and
 - (ii) (where the Board is of the view that it is unable to ratify or exculpate the Director) the Director seeks ratification or exculpation from members at a general meeting or in a postal ballot following a full and frank disclosure of the relevant conflict to members; and
- (b)
 - (i) Without restricting rule 46.3 where members refuse to ratify or exculpate a Director who seeks members' ratification or exculpation under paragraph (a), the Director shall vacate office;
 - (ii) Without restricting rule 46.3 where a Director, being obliged to do so under paragraph (a) fails to declare a conflict or to give a full and frank disclosure of the relevant conflict to the Board or to members, the Director shall vacate office"
- (c) For the purpose of paragraph (b) (ii) a Director will be deemed not to have given full and frank disclosure where the Board after assessing the nature and extent of the disclosure (if any) is bona fide of the view that the disclosure is materially deficient.

47. FILLING OF CASUAL VACANCIES

47.1 When Does a Casual Vacancy Occur

For the purpose of this rule, a casual vacancy shall arise where the office of a Member Director is vacated in accordance with rule 46 or in the circumstances specified in rule 45.10.

47.2 Filling of Casual Vacancy

Subject to rule 42.3 and rule 51.2, a casual vacancy on the Board is to be filled by appointment by the Board of Directors or in a manner approved by the Registrar or by election by members held:

- (i) at a general meeting of the Cooperative;
- (ii) by means of a postal ballot; or
- (iii) in the manner specified in rule 45.

47.3 Retirement of Director Filling Casual Vacancy

The person who fills a casual vacancy shall retire at the next annual general meeting of the Cooperative, such retirement to take effect upon the annual general meeting being declared closed.

48. REMUNERATION

48.1 Remuneration Generally

The Directors shall receive such fees, concessions and other benefits for their services as shall be determined at a general meeting, and all reasonable expenses incurred by them in carrying out their duties as Directors shall be refunded to them.

The Annual Report shall include details of fees, concessions and other benefits for services made to Directors

48.2 Employee Directors

Any Director who is qualified as such under rule 43(b)(i) may receive a fee under rule 48.1 and, in addition, shall be entitled to such salary for his or her services as an employee as is payable under his or her contract of employment.

49. PROCEEDINGS OF THE BOARD

49.1 Frequency of Meetings

Meetings of the Board, including those conducted in accordance with rule 50, are to be held as often as may be necessary for properly conducting the business and operations of the Cooperative and must in any case be held at least quarterly.

49.2 Majority Vote

Except as otherwise provided by these rules, questions arising at any meeting shall be decided by a majority of votes.

49.3 Chairperson has Casting Vote

In the case of an equality of votes, the Chairperson shall have a second or casting vote.

49.4 Summoning Meetings

The Chairperson or any two (2) Directors may, and the secretary shall, if requested by the Chairperson or any two (2) Directors at any time, summon a meeting of the Board.

49.5 Notice of Meetings

Except in special circumstances determined by the Chairperson, at least 48 hours' notice shall be given to the Directors of all meetings of the Board.

50. TRANSACTIONS OF BUSINESS OUTSIDE BOARD MEETINGS

50.1 Meetings by Circulation of Papers or by Telephone, etc

The Board may in accordance with section 210 of the Act transact any of its business:

- (a) 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;
- (b) 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.

50.2 Directors Have Same Voting Rights as in Ordinary Board Meeting

For the purpose of rule 50.1, the Chairperson and each member of the Board have the same voting rights as they have at an ordinary meeting of the Board.

50.3 Recording of Minutes

A resolution approved under rule 50.1 is to be recorded in the minutes of the meetings of the Board.

50.4 Circulation of Papers - Method

The secretary may circulate papers among members of the Board for the purpose of rule 50.1(a), by facsimile or other transmission of the information in the papers concerned.

51. QUORUM FOR BOARD MEETINGS

51.1 Number for Quorum

The quorum for a meeting of the Board shall be that number which is two less than the number of Directors holding office at the time of the meeting excepting where the number of Directors is eight (8) or more in which event the quorum shall be five (5).

51.2 If no Quorum Exists

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:

- (a) the Board may appoint sufficient Directors so that the number of Directors is one more than a quorum until such time as an election can be held; and
- (b) 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.

52. CHAIRPERSON AND DEPUTY CHAIRPERSON OF BOARD

The Board may elect and determine the period of office of the Chairperson and Deputy Chairperson who are to act as chairperson or deputy chairperson respectively as Board meetings. However, if no such Chairperson is elected, or if at any meeting, the Chairperson is not present within fifteen (15) minutes after the time appointed for holding the meeting, or is unwilling to act as chairperson of the meeting, the Deputy Chairperson shall act as chairperson of the meeting and if no Deputy Chairperson is elected, or if at any meeting the Deputy Chairperson is not present within fifteen (15) minutes after the time appointed for holding the meeting or the Deputy Chairperson is unwilling to act, the Directors present may choose one of their number to be chairperson of the meeting until such time as the Chairperson or Deputy Chairperson arrives and is willing to act in the capacity of chairperson.

53. DEPUTY DIRECTORS

53.1 Deputy Director Appointed by Board

In accordance with section 211 of the Act, any Director (a “nominating Director”) may from time to time nominate, in writing, any active member (other than an employee of the Cooperative, the auditor or the partner or employer or employee of the auditor) to be appointed by the Board as an alternate Director to sit in the nominating Director’s place on the Board in the nominating Director’s absence.

53.2 Powers and Entitlements of Deputy Director

A director appointed by the Board under this rule (a “Deputy Director”) shall be entitled to notice of meetings of the Directors and to attend and vote at those meetings in the absence of the nominating Director and subject to rule 53.3, to sign resolutions and to exercise such powers, authorities and discretion’s as are vested in or would otherwise be exercisable by nominating Director.

53.3 Deputy Director not an Agent

A Deputy Director shall not, for any purpose, be considered to be the agent of the nominating Director and the nominating Director will not be responsible or accountable for any act, neglect or default of the Deputy Director.

53.4 Attendance by Deputy Director Deemed Attendance by Nominating Director
Subject to rule 53.3, the attendance of a Deputy Director at any meeting of the Board shall be deemed to be attendance by the nominating Director.

53.5 Deputy Director Vacates Office
A Deputy Director shall vacate office if the nominating director ceases to be a Director or if a majority of the Directors resolve to remove the Deputy Director from office.

53.6 Appointment or Removal by Notice in Writing
An appointment or removal under this rule must be by notice in writing and served on the Deputy Director, the appointment or removal taking effect upon service.

53.7 Remuneration of Deputy Director
Subject to rule 53.3, the remuneration of a Deputy Director shall be payable out of the remuneration payable to the nominating Director and shall consist of such portion as shall be agreed between the Deputy Director and the nominating Director.

53.8 Meaning of “Directors’ Meetings” in this Rule
For the purposes of this rule, a meeting of the Directors shall include a meeting conducted pursuant to rule 50.

54. DELEGATION AND BOARD COMMITTEES

54.1 Delegation by Resolution of Board
The Board may (in accordance with section 213 of the Act), by resolution, delegate to a Director, or committee of two (2) or more Directors, of the exercise of such of the Board’s powers (other than this power of delegation) as are specified in the resolution. The Cooperative or the Board may, by resolution, revoke, wholly or in part, any such delegation.

54.2 Delegation to be Exercised Within Terms of Delegation
A power, the exercise of which has been delegated under this rule, may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.

54.3 Restriction on Delegations
A delegation under this rule may be made subject to conditions or limitations as to the exercise of any of the powers delegated, or as to time or circumstances.

54.4 Boards Powers on Delegation
Notwithstanding any delegation under this rule, the Board may continue to exercise all or any of the powers delegated.

54.5 Delegation to a Director

Where 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 Directors in the name of the Board or in his or her name on behalf of the Board, then the power shall be deemed 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 referred to in rule 54.3 were observed by the Director exercising the powers.

54.6 Section 214 Instruments

An instrument purporting to be signed by a Director as referred to in section 214(1) of the Act shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Cooperative under seal. Furthermore, until the contrary is proved, it shall be deemed to be an instrument signed by a delegate of the Board under section 213 of the Act.

54.7 Chairperson of Committee

A committee may elect a chairperson of their meetings. If no such chairperson is elected, or, if at any meeting the is not present within five (5) minutes after the time appointed for holding the meeting, then the members present may choose one of their number to be chairperson of the meeting.

54.8 Meetings of Committees

A committee may meet and adjourn, as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present and voting. In the case of an equality of votes, the chairperson shall have a second or casting vote.

55. OTHER COMMITTEES

55.1 Advisory Committees

The Board may, by resolution, appoint committees comprised of members or other persons or both, to act in an advisory role to the Board and to any committees of Directors.

55.2 Meetings of Advisory Committees

The provisions of rules 54.7 and 54.8 apply to committees appointed under this rule and the quorum for a committee meeting shall be one-half (and if not a whole number, the next highest whole number) of the number of members of the committee, subject to any variations approved of by the Board.

56. MINUTES

56.1 Minutes of Meetings

The Board shall have minutes of meetings made and kept by the secretary in books provided for the purpose.

56.2 Particular Details Required in Minutes

Minutes must be taken, in particular, of:

- (a) all appointments of officers and employees made by the Directors;
- (b) the names of the Directors present at each meeting of the Board and of any committee of the Board;
- (c) all resolutions and proceedings at all meetings of the Cooperative and of Directors and of committees of Directors.

56.3 Recording Within 28 days of Meeting

Minutes must be recorded in the minute book within twenty-eight (28) days of the date of the meeting to which they relate.

56.4 Confirmation of Minutes

The confirmation of such minutes shall be taken as the first business at the next succeeding meeting of the Cooperative, Board or committee to which the minutes relate. If it is impracticable for the minutes to be confirmed at that meeting, then the minutes shall be confirmed at the next succeeding meeting.

56.5 English Language

The minutes are to be kept in the English language.

57. OFFICERS

57.1 Appointment of Secretary

In accordance with section 219 of the Act the Board will appoint a secretary who must be an adult who is ordinarily resident in Australia.

57.2 General Power to Appoint

Without prejudice to the general powers conferred on the Board by the Act or these rules, the Board shall have power to appoint and, at its discretion, remove or suspend officers, servants, agents and contractors, and to fix their powers, duties and remuneration

58. INSURANCE

58.1 Insurance for Directors and Officers

The board may effect and maintain policies of insurance for indemnity of the Directors and officers of the Cooperative against any liability that, by law or otherwise, would attach to the Director or officer including in respect of any negligence, default, breach of duty or breach of trust of which the Directors or officer may be guilty in relation to the Cooperative.

58.2 Insurance Required for Fire, Accident Damage, etc

The Board shall arrange insurance against loss, damage to or liability of the Cooperative by reason of fire, accident or otherwise.

58.3 Indemnity

In accordance with section 228(3) of the Act, the Cooperative indemnifies and shall keep indemnified every officer against any liability incurred by the officer

- (a) in defending proceedings (whether civil or criminal) in which judgement is given in favour of the officer or in which the officer is acquitted; or
- (b) in connection with an application in relation to such proceedings in which relief is granted to the officer under section 228 of the Act.

59. FINANCIAL YEAR

The financial year of the Cooperative shall end on 30 June each year.

60. ACCOUNTS

60.1 Accounting Statements & Reports Required

The Board shall have prepared the accounts, statements and Directors' reports, in accordance with the Corporations Act 2001, as applied by the Act and the Regulations.

60.2 Submit to Annual General Meeting

The Board shall submit those accounts, statements and reports together with the auditors' report on those accounts, to the annual general meeting of the Cooperative, in accordance with the Corporations Act 2001, as applied by the Act and the Regulations.

60.3 Annual Financial Reporting to Members

The Cooperative must give notice to members that the reports required to be submitted under rule 60.2 may be inspected at the registered office of the Cooperative and make those reports available for inspection at the registered office of the Cooperative by the earlier of 21 days before the date of the next annual general meeting of the Cooperative after the end of the financial year or 21 days less than 5 months after the end of the financial year.

61. BANKING

61.1 Bank Accounts

The Board shall have a banking account or accounts in the name of the Cooperative, into which all moneys received shall be paid as soon as possible after receipt.

61.2 Cheques, etc - Two (2) Directors to Sign

All cheques drawn on such accounts and all drafts, bills of exchange, promissory notes, and other negotiable instruments for and on behalf of the Cooperative, shall be signed by two (2) Directors or by any two (2) persons authorised by the Board.

62. AUDIT

62.1 Auditors Generally

One or more auditors shall be appointed, hold office, be remunerated, be removed and have duties and responsibilities as provided in this rule, or as otherwise provided in, or permitted by the Corporations Act 2001 as applied by the Act and the Regulations or any order made by the Registrar pursuant to those Regulations.

62.2 Replacement of Auditor

An auditor must not be replaced except in accordance with procedure set out in the Corporations Act 2001 as applied by the Act and the Regulations.

63. COOPERATIVE FUNDS

63.1 No Income or Property to be Distributed to Members

The income and property of the Cooperative howsoever derived shall be applied solely towards the promotion of the objects of the Cooperative and no portion thereof shall be paid or transferred directly or indirectly by way of dividend or bonus to the members of the Cooperative.

63.2 Certain Payments Permissible

Payment may 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.

63.3 Surplus Dedicated to Cooperative's Objects

Any surplus resulting from the Cooperative's operations during a financial year, after providing for depreciation in value of the Cooperative's property or for contingent liability for loss, shall be applied to carrying out the Cooperative's objects.

63.4 Donations

An amount not exceeding ten (10) percent of the surplus may be applied to any charitable purpose.

64. PROVISION FOR LOSS

The Board shall make such provisions for loss, which may result from the transactions of the Cooperative in accordance with accounting standards as the Act or Regulations require or allow.

65. GRIEVANCE PROCEDURE

65.1 Arbitration as a Bar to Litigation

No member or the Cooperative shall be entitled to commence any arbitration or court proceedings with respect to any dispute or difference under these rules unless and until the procedures set out in this rule 65 have been exhausted, except where the person seeks urgent interlocutory relief.

65.2 Notification of Dispute

Before instituting the procedures set out in this rule 65 a member must advise the Cooperative in writing that a dispute or difference under these rules has arisen and specify the nature of the dispute or difference.

65.3 Disputes Between Members

All disputes or differences under these rules arising between any two members shall be decided as follows:-

- (a) Not later than 14 days after notifying the Cooperative that the dispute or difference has arisen, the members must submit the matter at issue to the Board for its decision and the Board shall within 90 days of receiving all relevant submissions give its decision in writing to the members involved in the dispute or difference;
- (b) In deciding a matter under rule 65.3(a), the Board must give each member involved in the dispute or difference an opportunity to make representations in writing to the Board in relation to the matter;
- (c) If both members make a request to appear before the Board and the Board considers that there is reasonable cause for a personal appearance, the members may appear in person or by representation before the Board, in addition to or in lieu of making written submissions to the Board.

65.4 Disputes between a Member and the Cooperative

All disputes or differences under these rules arising between a member and the Cooperative shall be decided as follows:-

- (a) The Cooperative and the member shall within 14 days after the member notifies the Cooperative that the dispute or difference has arisen, agree to appoint an arbitrator to determine the matter;
- (b) If the member and the Cooperative are unable to appoint an arbitrator, an arbitrator appointed by the Cooperative Federation of New South Wales Limited shall decide the matter.
- (c) In deciding a matter under this sub-rule, the arbitrator must give each party involved in the dispute or difference an opportunity to make representations to the arbitrator in relation to the matter in writing, or at the election of the arbitrator, in person or by representation.

65.5 Miscellaneous

Each party involved in a matter under this rule shall:

- (a) keep confidential all information or documents disclosed during the procedures under this clause;
- (b) not use such information or documents except in an attempt to settle the dispute or difference; and
- (c) bear their own costs of resolving a dispute or difference and the parties must bear equally the costs of any third party engaged.

65.6 Application of the Commercial Arbitration Act 1984

Subject to this rule 65, the resolution of any matter at issue by the Board or any arbitrator shall be in accordance with the provisions of the *Commercial Arbitration Act 1984*.

65.7 Definition of Member

For the purpose of this rule 65, a member includes a person who was a member not more than six (6) months before the dispute or difference occurred.

66. NOTICES

66.1 Notice to Members

A notice may be given by the Cooperative to any member either personally or by sending it by post to the member at his or her registered address, or where the member has notified the Cooperative of a facsimile number or e-mail address, by facsimile transmission to the number notified or by e-mail to the email address notified by the Member for the purpose (as the case may be). If the member has no registered address, then the notice can be sent to any address supplied by the member to the Cooperative for the giving of notices to him or her.

66.1A Notice on Wine Society's Website

A notice may be given by the Cooperative to Participating Members by posting the notice on the Cooperative's authorised website at www.winesociety.com.au, subject to the following conditions:

- (a) The Cooperative will send an election form in hardcopy to each member within 8 weeks of the registration of this rule and thereafter at least once a year asking each member whether he or she wishes to receive notices in hard copy (that is whether he/she wishes to make a "Hardcopy Election").
- (b) Any member who makes a Hardcopy Election under paragraph (a) at anytime shall henceforth receive all notices in hardcopy by the post in accordance with rule 66.1 unless and until the member advises the Cooperative in writing that he/she wishes to receive notices as permitted by this rule 66.1A. This sub-rule shall apply notwithstanding that a member who has made a Hardcopy Election does not make a Hardcopy Election under paragraph (a) at any subsequent time.
- (c) All members other than those members who have made a Hardcopy Election under paragraph (a) (unless and until those members advise the Cooperative under paragraph (b) that they wish to receive notices as permitted by this rule

- 66.1A) shall be Participating Members for the purposes of this rule 66.1A.
- (d) The Cooperative will send a member's newsletter in hard copy to all members at least once every six months and such newsletter will provide members with details of:
 - (i) All notices expected to be posted on the website over the following 6 months; and
 - (ii) All notices posted on the website in the preceding 6 months.
 - (e) Any Participating Member may at any time request a hardcopy of any notice posted on the website in the preceding 12 months and the Cooperative will forward the hardcopy within 3 business days of any request.
 - (f) The website must be operational and accessible whenever a notice is posted and the website must have been operational and accessible by Participating Members for the preceding 3 weeks.
 - (g) Whenever a notice is posted on the website, directors must have no reasonable cause for believing that the website will not continue to be operational and accessible by Participating Members in the 6 week period following the posting of the notice.
 - (h) A notice posted on the website will be deemed to have been received by Participating Members within 5 business days of posting.

66.2 Notice by Post - Deemed service

Where a notice is sent by post, service shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice. In the case of a notice of a meeting, service is deemed to be effected at the expiration of twenty-four (24) hours after the letter containing the notice is posted. In every other case, service is deemed to be effected at the time at which the letter would be delivered in ordinary course of post and in proving such service it shall be sufficient to prove that the envelope, containing the notice, was properly addressed and posted.

66.3 Members without Registered Address

If a member has no registered address (and has not supplied to the Cooperative an address for the giving of notices to him or her) a notice addressed to the member and advertised in the newspaper circulating in the neighborhood of the registered office of the Cooperative shall be deemed to be duly given to the member on the date on which the advertisement appears.

66.4 Notices by Facsimile or E-mail - Deemed Service

A notice forwarded by facsimile transmission shall be deemed to have been served, unless the sender's facsimile machine indicates a malfunction in transmission, on the day of transmission if transmitted during a business day, otherwise on the next following business day. A notice forwarded by e-mail shall be deemed to have been served, unless the sender's computer indicates a malfunction in transmission, on the day of transmission if transmitted on a business day, otherwise on the next following business day.

66.5 Notice to Joint Holders

A notice may be given by the Cooperative to the joint holders of a share by giving the notice to the joint holder named first in the register of members and shares in respect of that share.

66.6 Notice to Legal Representatives of Deceased/Bankrupt Members

A notice may be given by the Cooperative to the person entitled to a share in consequence of the death, incapacity or bankruptcy of a member by sending it through the post in a prepaid letter addressed to that person by name. Alternatively, it can be addressed to the person by the title of the representative of the deceased, or incapacitated person, or trustee of the bankrupt, or by any like description. The address should be that supplied for the purpose by the person claiming to be entitled. Alternatively, if no such address has been supplied, the notice can be given in the manner in which it could have been given if the death, incapacity or bankruptcy had not occurred.

66.7 Notice of General Meeting - Recipients

Notice of every general meeting shall be given in the same manner as authorised above, to:

- (a) every member of the Cooperative except those members who have not supplied to the Cooperative an address for the giving of notices to them;
- (b) every person entitled to a share in consequence of the death, incapacity or bankruptcy of a member, who, but for that member's death, incapacity or bankruptcy, would be entitled to receive notice of the meeting;
- (c) every holder of a CCU.

66.8 Persons not Entitled to Notice

Except as provided in this rule 66 and in rule 62.8 no other persons shall be entitled to receive notices of general meetings.

66.9 Meaning of "Registered Address"

For the purpose of this rule, "registered address" means the address of the member as appearing in the register of members and shares.

66.10 Notices Includes Other Material

For the purpose of this rule 66, a notice includes any material which the Cooperative is required to send to members whether under these rules, the Act or otherwise including, in particular, the annual financial report, Directors' report & auditors' report.

67. WINDING UP

- (a) The winding up of the Cooperative shall be in accordance with Part 12 of the Act.

- (b) If on the winding up or dissolution of the Cooperative there remains after the satisfaction of all its debts and liabilities, any property, this shall not be paid to or distributed among the members of the Cooperative, but shall be given or transferred to an organisation:
 - (i) which has objects similar to those of the Cooperative;
 - (ii) whose constitution prohibits the distribution of its property among its members;
 - (iii) which has been chosen by the members of the Cooperative at or before the time of dissolution or in default thereof, as directed by such Court as may have or acquire jurisdiction in the matter; and
 - (iv) which satisfies the relevant sub-section of section 23 of the Income Tax Assessment Act.
- (c) If on the winding up or dissolution of the Cooperative there is a deficiency, members shall be liable to contribute towards this deficiency to the extent of any amount unpaid on the shares held by the member and any charges payable by the member to the Cooperative as required by these rules.
- (d) Former members may also be liable to contribute to the property of the Cooperative in accordance with sections 139 and 331 of the Act and the applied provisions of the Corporations Act 2001.

68. FINES PAYABLE BY MEMBERS

68.1 Maximum

The Board may impose on a member a fine for any infringement of these rules or any by-laws of the Cooperative which does not exceed the amount prescribed by the Regulations.

68.2 Procedure if Fine Exceeds \$20 - Natural Justice Requirements

In accordance with section 79 of the Act, a fine exceeding \$20 shall not be imposed on a member pursuant to rule 68.1 unless:

- (a) written notice of intention to impose the fine and the reason for it has been given to the member; and
- (b) the member has been given a reasonable opportunity to appear before the Board in person (with or without witnesses) or to send the Board a written statement, for the purpose of showing cause why the fine should not be imposed.

69. LICENSING PROVISIONS

Notwithstanding any other provision of these rules:

- (a) a visitor to any of the Cooperative's premises in the State of Victoria must not be supplied with liquor unless in the company of a member;

- (b) the Cooperative shall provide a register at each of its premises which shall be used for keeping a record of visitors to the Cooperative's premises, in the State of Victoria;
- (c) the Cooperative shall ensure that every member who introduces a visitor to the Cooperative's premises, in the State of Victoria, enters the name and address on the register and the name of the member introducing the visitor;
- (d) the Cooperative shall not make any payment of any amount to an officer or servant of the Cooperative by way of commission or allowance from the receipts of the Cooperative for the sale and disposal of liquor

Rules of The Australian Wine Consumers' Co-operative Society Limited

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