

New Park Village Tenant Management Co-operative



Company Rules

CONTENTS

		Rules	What The Rule Means
1	Name	3	15
2	Objects	3	16
3	Powers	3	16
4	Trading	3	16
5	Registered Office	4	16
6	Share Capital	4	16
7	Membership	4	17
8	Application for Membership	4	17
9	Termination of Membership	4	17
10	Expulsion from Membership	5	18
11	Death or Bankruptcy of a Member	5	18
12	General Meeting	5	18
13	Quorum	6	18
14	Voting	6	18
15	Annual General Meeting	6	19
16	Management by General Meeting	6	19
17	Management Committee	7	19
18	Powers of Committee	7	19
19	Nominations for Committee	7	19
20	Elections of Committee	8	19
21	Removal of Committee Members	8	20
22	Vacancy on Committee	8	20
23	Size and Quorum of Committee	8	20
24	Co-options to Committee	8	20
25	Subcommittees	8	20
26	Election of Chair by Committee	8	20
27	Election of Secretary and Treasurer	9	20
28	Proceedings of Committee	9	21
29	Declaration of Committee Member's Interest	9	21
30	Officers	9	21
31	Payment to Officers and Committee	9	21
32	Borrowing Powers	9	21
33	Investment	10	21
34	Payment to Members	11	22
35	Surpluses	11	22
36	Audit	11	22
37	Annual Returns	11	22
38	Minutes and Records	11	22
39	Seal	11	22
40	Disputes	12	23
41	Amendment of Rules	12	23
42	Transfer of Engagements : Dissolution	12	23
43	Interpretation	12	24

SIX CO-OPERATIVE PRINCIPLES

Co-operative Principles as defined by resolution of the 24th congress of the International Co-operative Alliance at Hamburg in September 1969.

1. Membership of a Co-operative society should be voluntary and available without artificial restriction or any social, political, racial or religious discrimination, to all persons who can make use of its services and are willing to accept the responsibilities of membership.
2. Co-operative societies are democratic organisations. Their affairs should be administered by persons elected or appointed in a manner agreed by the members and accountable to them. Members of Primary societies should enjoy equal right of voting (one member, one vote) and participation in affecting their societies. In other than primary societies the administration should be conducted on a democratic basis in a suitable form.
3. Share capital should receive only strictly limited rate of interest, if any.
4. The economic results arising out of the operations of a society belong to the members of that society and should be distributed in such a manner as would avoid one member gaining at the expense of others.

This may be done by decisions of the members as follows:

- a) by provision for development of the business of the Co-operative;
 - b) by provision of common services; or
 - c) by distribution among members in proportion to their transaction with the society.
5. All Co-operative societies should make provision for the education of their members, officers and employees, and of the general public in the principles and techniques of the co-operation, both economic and democratic.
 6. All Co-operative organisations, in order to best serve the interest of their members and their communities should actively co-operate in every practical way with other co-operatives at local, national and international levels.

RULES

NAME AND STATUS

1. a) The Name of the Society shall be
NEW PARK VILLAGE MANAGEMENT CO-OPERATIVE LIMITED
(referred to in these Rules of the Co-operative)
- b) The Co-operative shall be a bona fide co-operative within the meaning of section 1 (2) of the Industrial and Provident Societies Act 1965 and by virtue of its registration under the Act the liability of its members shall be limited to the extent of their shareholding.

OBJECTS

2. The objects of the Co-operative shall be as provided below. In carrying out these objects the Co-operative shall work towards the elimination of discrimination based on race, ethnic origin, nationality, gender, disability, sexuality (lesbians/gay men), age, class, appearance, religion, responsibility for dependents, unrelated criminal convictions, the fact that a person is HIV positive or has AIDS or any other matter which causes any person to be treated with injustice.
 - a) The provisions, construction, conversion, improvement, or management on the Co-operative Principles of dwellings exclusively for letting to members of the Co-operative (or to other persons) under the terms of a tenancy granted to them by the Co-operative or another landlord body.
 - b) The provision and improvement on the Co-operative Principles of land, buildings, amenities, or services for the benefit of the members, either exclusively or in conjunction with other persons.
 - c) The provision of housing management services to members of the Co-operative and to the occupants of dwellings that are the subject of a management agreement under which the co-operative is acting as managing agent for the landlord body.

POWERS

3. The Co-operative shall have the power to do all things necessary or expedient for the fulfilment of its objects and for the support and development of bodies which are concerned with the provision and management of Co-operative housing or with the promotion of Co-operatives, or which have objectives supported by the Co-operative. If the Co-operative is or becomes a registered Housing Association under Section 5 of the Housing Associations Act 1985, its power under this rule shall be limited so as to conform to the requirements of the said Act.

TRADING

4. The Co-operative shall not trade for profit.

Registered Office.

5. The registered office of the Co-operative shall be at **Ellerton House, Ellerton Walk, New Park Village, Wolverhampton. WV10 OUH.**
The office may be changed by resolution of a general meeting. Notice of any change shall be sent to the Registrar of Friendly Societies within fourteen days of such change or within such other times as may be required by the Treasury Regulations and in the manner and the form thereby prescribed.

Share Capital

- 6 (a) The share capital of the Co-operative shall consist of shares of the nominal value of £1 each issued to members of the Co-operative upon admission to membership.
- (b) Shares shall be neither withdrawable nor transferable, shall carry no right to interest, dividend or bonus, and shall be forfeited and cancelled upon cessation of membership from whatever cause and the amount paid up thereon shall become the property of Co-operative.

Membership

- 7 (a) The Members of the Co-operative shall be those persons signing the application for the registration of the Co-operative and those persons whose names are entered in the register of members.
- (b) The register of members shall include the address of each member; it shall be the responsibility of the member to advise the Co-operative of any change. Any requirement in the Act or in the Rules of the Co-operative that a notice be served on the member shall be satisfied if notice has been delivered to the address given in the register.
- (c) Only persons aged 18 or over are eligible to become members.
- (d) A member shall hold only one share in the Co-operative. Shares shall not be held jointly.
- (e) Membership shall be open only to tenants and prospective tenants.

Application for Membership

- 8 Any application for membership shall be considered under the procedure laid down by the general meeting from time to time. An application for membership by a tenant of residential property provided or managed by the Co-operative shall not be unreasonably rejected. If an application is approved, the Co-operative will issue the applicant with one share upon payment of £1.

Termination of Membership

9. A member shall cease to be a member if:
- (a) they die; or
 - (b) they resign either in writing to the Secretary or in person at a general meeting; or
 - (c) they are expelled from membership by a general meeting; or
 - (d) they cease to occupy the dwelling provided or managed by the Co-operative, unless they are accepted as a prospective tenant; or
 - (e) they are prospective tenants and have either notified the Co-operative that they no longer require accommodation, or have failed to respond in writing within 28 days to a written request, sent to their address in the register of members, to confirm that they still require accommodation.

Expulsion from Membership

- 10 (a) A member can be expelled by a resolution carried by the votes of two-thirds of the members present and voting at a general meeting of the Co-operative of which notice has been duly given, provided that a complaint, in writing, or conduct detrimental to the interests of the Co-operative has been sent to them by order of the Co-operative not less than 28 days before the meeting. Such complaints shall contain particulars of the conduct complained of and shall call upon the member to answer the complaint and attend the meeting. At the meeting the members shall consider the evidence in support of the complaint and such evidence as the member may wish to place before them. If on due notice the member fails to attend the meeting without due cause the meeting will proceed in their absence.
- (b) No person who has been expelled from membership shall be readmitted except by a resolution carried by the votes of at least two-thirds of the members present and voting at a general meeting of which due notice has been given.

Death or Bankruptcy of a Member.

- 11 (a) A member may, in accordance with the Act, nominate a person or persons to whom any of their property held by the Co-operative, other than share capital, shall be transferred at their death.
- (b) Upon a claim being made to any property held by the Co-operative by the personal representatives of a deceased member or the trustees in bankruptcy of a bankrupt member, the Co-operative shall pay or transfer any property to which the representative of trustee has become entitled.

General Meeting

- 12 General meetings of the Co-operative may be attended by any member, and all members present shall be entitled to speak and vote. Each member shall be given at least seven days notice of the date, time and place of each general meeting, and of the issues upon which decisions are to be taken. The Secretary shall call a general meeting as required by the Co-operative's Rules of policies or decisions or at the written request of not less than three members or one-tenth of the members of the Co-operative, whichever ever is the greater, who may proceed to call the meeting if the Secretary does not do so within fourteen days of the receipt of the request.

Quorum

13. No business shall be transacted at any general meeting unless one-third of the Co-operative's members or 25 of them, whichever is the less, are present throughout the meeting. If no quorum is present within half an hour of the time appointed for the meeting, the meeting shall stand adjourned. It shall be reconvened on the same day in the next week at the same time and place, or such other time and place as shall be agreed at the meeting and notified to the members; and if at the reconvened meeting a quorum is not present within half an hour of the time appointed for the meeting then the members present shall be a quorum.

Voting

- 14 Every member present in person at a general meeting shall have one vote. Except where otherwise specified in these Rules, resolutions shall be decided upon a majority vote of members present and voting. Votes shall be taken openly unless, before a motion is put to the vote, a secret ballot is demanded by not less than one-tenth of the members present. Voting shall be conducted under the direction of the Chair in accordance with procedures agreed by the Co-operative. A motion on which voting is tied shall be deemed to have fallen.

Annual General Meeting

- 15 The Annual General Meeting shall be held within six months of the closure of the financial year of the Co-operative and it shall:
- (a) consider the frequency of general meetings during the coming year,
 - (b) consider an annual report o the business of the Co-operative during the previous financial year;
 - (c) receive the accounts and balance sheet for the previous financial year;
 - (d) appoint an auditor.

Management by General Meeting

- 16 Until such time as a Committee is elected following a resolution under Rule 17:
- (a) the management of the Co-operative shall be undertaken by general meetings (at least one in every three months);
 - (b) a general meeting shall constitute the Committee of Management and have all the powers of the Committee under these Rules;
 - (c) a general meeting shall have the power to appoint, replace, and remove individuals, members, or groups of members delegated to exercise certain powers on behalf of the Co-operative;
 - (d) the Annual General Meeting shall elect a Chair from among the members of the Co-operative to hold office until the following Annual General Meeting unless removed or replaced by a general meeting. All members must receive at least seven day's notice of any motion to remove the Chair.
 - (e) the Annual General Meeting shall elect a Secretary and Treasurer who shall hold office until the following Annual General Meeting unless removed or replaced by a general meeting. They shall be responsible to the general meeting for the proper performance of their duties...

Management by Committee

- 17 (a) A committee to manage the Co-operative may be set up by a resolution carried by the votes of two-thirds of the members present and voting at a general meeting. The resolution shall take effect at the next Annual General Meeting unless the resolution specifies that it shall take effect at a Special General Meeting to be held before the next Annual General Meeting in accordance with Rule 17b. Except as provided for in Rule 17b, the result of elections to the Committee shall be declared at Annual General Meetings and elected Committee members shall enter upon their duties at the conclusion of the Annual General Meeting at which their election is declared.
- (b) If a Special General Meeting is required by a resolution passed under Rule 17a, the election of the Committee shall take place in accordance with Rule 19 and 20 except that references to the Annual General Meeting in those rules shall apply to the Special General Meeting at which the results of the election shall be declared and at the conclusion of which the Committee members shall enter upon their duties.
- (c) Subject to rule 17b, until such time as a committee is declared Rules 18 to 29 shall not apply

Powers of Committee

- 18 (a) the committee shall have power to do everything necessary to manage the Co-operative except to determine those issues specifically designated under these Rules as the responsibility of a General Meeting

- (b) The General Meeting shall retain responsibility for the adoption of regulations and procedures governing the election and composition of the Committee and the term of office of Committee members. The general meeting may adopt a resolution delegating some or all of this responsibility to the Committee, and may revoke such delegations.
- (c) The Committee shall report on the affairs of the Co-operative to each general meeting and shall submit an annual report to the Annual General Meeting.

Nominations for Committee

- 19 (a) only members of the Co-operative are eligible to be nominated for election to the Committee.
- (b) Nomination of candidates for election to the Committee may be accepted at the Annual General Meeting unless a general meeting has passed a resolution requiring nominations to be in writing and signed by the member nominated and handed to the Secretary or delivered to the registered office of the Co-operative a specified number of days, being not less than three nor more than fourteen, before the date appointed for the Annual General Meeting.

Election of Committee

- 20 (a) If the number of nominees does not exceed the number of Committee members to be elected, and then each nominee shall be elected by a simple majority vote of members.
- (b) If the number of nominees exceeds the number of Committee members to be elected, then the members to serve on the Committee shall be elected from amongst them by ballot. A general meeting shall make regulations governing the conduct of the ballot, provided each member shall be entitled to one vote for each vacancy to be filled but shall not give more than one vote to any one candidate.

Removal of Committee Members

- 21 A general meeting may remove any one or more of the Committee members by a resolution carried by two-thirds of the members present and voting providing that at least seven days' notice of the motion has been given to all members of the Co-operative. The general meeting may proceed to fill any vacancy thus caused.

Vacancies on the Committee

- 22 (a) Except for Committee members co-opted under Rule 24, any Committee member who ceases to be a member of the Co-operative shall immediately cease to be a member of the committee.
- (b) Except as provided by Rules 20 and 21, any vacancy caused by the death, resignation, disqualification, retirement or removal of any Committee member may be filled from the Committee.

Size and Quorum of Committee

- 23 The Committee shall consist of not less than seven or more than fifteen members as determined by a general meeting. The quorum of the Committee shall be one-third of the number determined as its total membership, unless a general meeting sets a higher quorum.

Co-options to Committee

- 24 The Committee may co-opt any persons to serve as Committee members, subject to any limitation made by a general meeting and providing that there shall always be a majority of elected Committee members on the committee. Co-opted Committee members may be removed by resolution of the Committee or by a general meeting Rule 21.

Subcommittees

- 25 The Committee may establish subcommittees consisting of at least one Committee member and other persons as the Committee shall think fit, provided that a majority of any subcommittee shall be members of the Co-operative. The powers and proceedings of a subcommittee shall be determined by the Committee in written terms of reference.

Election of a Chair by Committee

- 26 The Committee shall, at its first meeting after the Annual General Meeting of the Co-operative, elect a Chair from amongst its numbers to hold office until the first Committee meeting after the following Annual General Meeting unless removed or replaced by the Committee. This person shall be the Chair of the Co-operative and may be removed from that office by the Committee at a meeting called for that purpose of which seven days' notice has been given.

Election of Secretary and Treasurer

- 27 The Committee shall elect a Secretary and a Treasurer who shall serve under its direction until removed or replaced by the Committee.

Proceedings of Committee

- 28 Except where provided otherwise in these Rules, the Committee shall determine issues by a majority of Committee members and voting. If any vote is tied, the proposal shall be deemed to have fallen. The Chair of the Co-operative shall normally preside at Committee meetings; if at any Committee meeting the Chair is absent or declines to act, the Committee shall elect one of its number to chair the meeting.

Declaration of Committee Members Interests

- 29 If any member of the Committee has an interest in a matter under discussion by the Committee they shall disclose the nature of the interest to the Committee and may be required by any Committee member to be absent from the meeting while the matter is determined.

Officers

- 30 The Co-operative's shall be Chair, Secretary, Treasurer, and such others as may be appointed from time to time. The officers shall discharge their powers and responsibilities in accordance with these Rules and such regulations, standing orders, policies and procedures as may be established by the Co-operative consistently with these Rules.
- (a) The chair shall normally preside at all general meetings of the Co-operative. If at any general meeting the Chair is absent or declines to act the members shall elect one of their number to chair the meeting.
 - (b) The Secretary shall ensure that meetings are properly called and minutes kept, that the register of members and officers is maintained, that the use of the seal is recorded, and that the appropriate returns are made to the Registrar of Friendly Societies.
 - (c) The Treasurer shall manage the financial affairs of the Co-operative and ensure that adequate records are kept.

Payments to Officers and Committee

- 31 The Co-operative shall not remunerate any member of the Co-operative or any member of any Committee established by the Co-operative in respect of service as a member of any such committee or as an officer. This Rule shall not prevent the reimbursement of expenses properly incurred by any person on behalf of the Co-operative.

Borrowing Powers

32. (a) The Co-operative shall have the power to borrow money, including the issue of loan stock, for the purposes of the Co-operative provided that, at the time of borrowing, the sum of the amount remaining undischarged of monies borrowed and the amount of the proposed borrowing shall not exceed £8,000,000 (eight million pounds) and that for the purpose:
- (i) the amount remaining undischarged of any index-linked monies previously borrowed by the Co-operative or on any deep discounted security shall be deemed to be the amount required to repay such borrowing in full if such borrowing became repayable at the time of the proposed borrowing, and
 - (ii) the amount of any proposed borrowing intended to be index-linked or on any deep discounted security shall be deemed to be the proceeds of such proposed borrowing receivable by the Co-operative at the time of the proposed borrowing.

- (b) In the case of a loan from the Co-operative's bankers, the Housing Corporation, Local Authority, or any other public body, or on a mortgage, the Co-operative may pay such rate of interest from time to time as may be negotiated by the Co-operative, but in the case of loans other than a mortgage loans from any other source the Co-operative shall not pay interest at a rate exceeding 1% per annum above Lloyds TSB Banks plc base lending rate for the time being 6 1/2%, which ever shall be the higher.
- (c) The Co-operative shall have power to determine from time to time the terms and conditions upon which money is borrowed or loan stock is issued and vary such terms and conditions subject to the provisions of this Rule.
- (d) The Co-operative shall not receive any money on deposit.
- (e) The Co-operative may receive from any source donations towards the work of the Co-operative.

Investment

- 33 (a) the funds of the Co-operative may, to the extent permitted by law for the time being in force, be invested:
- (i) in any manner expressly authorised by the Act;
 - (ii) in any investments covered by Parts I, II, and III of the First Schedule to the Trustee Investment Act 1961 or any body incorporated overseas to the taking of advice in accordance with the provisions of section 6 of the Trustees Investment Act 1961;
 - (iii) in shares or on security of an Industrial and Provident Society;
 - (iv) in any freehold, feuhold, or leasehold property whatever in the United Kingdom;

but shall not be invested otherwise.

- (b) The Co-operative may, to the extent permitted by law for the time being in force, delegate in writing to a suitable person the exercise of the management or investment of the property for the time being forming part of the property of the Co-operative. A suitable person shall be a person whom the Co-operative reasonably believes to be qualified by ability and experience in the matters delegated, and who is an exempted person for the purposes of Part I of the Financial Services Act 1986 as amended or re-enacted from time to time.
- (c) The Co-operative may appoint any member or members to vote on its behalf at meetings of any other body corporate in which the Co-operative has invested any part of its funds

Payments to Members

- 34 No Portion of the income or the property of the Co-operative shall be transferred either directly or indirectly by way of dividend, bonus or otherwise by way of profit to members of the Co-operative except insofar as the tenancy or lease may provide upon surrender to the Co-operative for payments to be made to the member.

Surpluses

- 35 (a) The Co-operative may apply any surpluses towards carrying out the objects of the Co-operative.
- (b) A general meeting may set aside any part of the surpluses arising in any year to be donated or loaned for any purposes determined by the members in general meeting.
- (c) Any surpluses not applied or set aside shall carried forward

Audit

- 36 The Co-operative shall in accordance with sections 4 and 8 of the Friendly and industrial and Provident Societies Act 1968 appoint each year one or more auditors to whom the accounts of the Co-operative for that year shall be submitted for audit as required by the said Act and shall have all such rights in relation to notice of and audience at general meetings, access to books and the supply of information, and otherwise as are provided by the said Act. Every such auditor shall be appointed by the Co-operative at a general meeting, and in the case of any auditor so appointed who is a qualified auditor under section 7 of the said Act, the provisions of sections 5 and 6 thereof apply to the reappointment, removal or replaced of the said auditor.

Annual Returns

- 37 Every year not later than the date provided by the Act or where the return is made up to the date allowed by the Registrar not later than three months after such date, the secretary shall send the Registrar of Friendly Societies in the form prescribed the Co-operative's annual return relating to its affairs for the period required by the Act together with:
- (a) a copy of the report of the auditor on the Co-operative's accounts for the period included in the return, and
- (b) a copy of each balance sheet made during the period and of the report of the auditor on the balance sheet.

Minutes and Records

- 38 Sufficient records shall be maintained and left at the registered office for the purposes of the Co-operative and to comply with the provisions of the Act.

Seal

- 39 The Co-operative shall have a seal kept in custody of the Secretary and used only by the authority of the Co-operative. Sealing shall be attested by the signatures of the Secretary and two members of the Committee, or the Secretary and two members of the Co-operative if a Committee has not been set up under Rule 17.

Disputes

- 40 (a) Provided that any external disputes procedure established by the Co-operative has been exhausted, any dispute concerning matters governed by these Rules between a member, or any person aggrieved who has not for more than six months ceased to be a member, and the Co-operative or an officer thereof, may at the request of either party be submitted to an arbitrator appointed by the National Federation of Housing Co-operatives whose decision shall be binding and conclusive, and application for the enforcement thereof may be made by either party to the County Court.
- (b) The Cost of arbitration shall be borne as the arbitrator directs, and the complaining party shall before arbitration deposit with the Co-operative's solicitor or the National Federation of Housing Co-operatives the sum of £50 (fifty pounds) which shall be refunded provided that the complaining party complies with the decision reached by the arbitrator.

Amendments of Rules

- 41 Any Rule herein may be rescinded or amended or a new Rule made by resolution of two thirds of the members present and voting at a general meeting, providing that all members of the Co-operative have been supplied with copies of the proposed amendments at least seven days before the meeting at which it is to be determined. No amendments of these Rules is valid until registered by the Registrar of Friendly Societies.

Transfer of Engagements: Dissolution

- 42 (a) A general meeting may agree to accept a transfer of engagements from any Industrial and Provident Society having objects consistent with those of the Co-operative.
- (b) A general meeting may agree a resolution supported by two-thirds of the members present and voting to transfer the Co-operative's engagements to any Industrial and Provident Society whose objects include providing housing.

Interpretation

- 43 In these Rules, unless the subject matter or context are inconsistent therewith:
- (a) words importing the singular or plural shall include the plural or singular respectively;

(b)“the Act” refers to the Industrial and Provident Societies Act 1965 to 1978, or any Act or Acts amending or in substitution for them for the time being in force;

(c) “the Co-operative Principles” refers to the principles adopted at the 23rd and 24th Congresses of the International Co-operative Alliance;

(d)“tenant” shall mean any person other than a body corporate who holds, either individually or jointly, a tenancy entitling them to occupy residential property owned or managed by the Co-operative or in respect of which the Co-operative seeks to negotiate a management agreement;

“tenant” shall mean any person other than a body corporate who holds, either individually or jointly, a tenancy which is not granted at a premium and is a periodic tenancy granted for periods not exceeding one year at a time entitling them to occupy residential property owned or managed by the Co-operative or in respect of which the Co-operative seeks to negotiate a management agreement.

(e)“general meeting” shall mean any meeting of the Co-operative convened under Rule 12, including Annual General Meetings and Special Meetings;

(f)“committee” shall mean a Committee of Management established under Rule 17;

(g)“committee member” shall include any person, weather a member of the Co-operative or not, who is elected, appointed, or co-opted to serve on the Committee.

(h)“interest” in Rule 29 shall mean a direct or indirect benefit to a Committee member, or close relative of theirs, except in their capacity as a member of the Co-operative;

(i)“surpluses” shall mean money remaining after the Co-operative’s expenditures and obligations have been provided for and adequate allowance has been made for the Co-operative’s reasonably foreseeable future requirements;

(j)“Treasury Regulations” shall mean regulations made in accordance with section 71 of the Industrial and Provident Societies Act 1965.

WHAT THE RULES MEAN

Introduction

This section provides an outline of the meaning of the Rules, and it does not carry the endorsement of the Registry of Friendly Societies, the Department of the Environment, or the Housing Corporation. But has been written in good faith in the hope that it will be helpful to co-ops using the NFHC Model: *but only a ruling in Court can ever provide the final word on the meaning of a particular Rule.*

The Co-operative Principles, which are printed on page 2, are fundamental to any co-op. They were agreed in 1969 by the Congress of the International Co-operative Alliance, which includes housing, retail, agricultural, and worker co-operatives from over a hundred countries throughout the world.

The guiding principle has been flexibility; to keep these Rules as free as possible of restrictions and detailed procedures. For instance, Rule 2 (Objects) allows a co-op to have both permanent and short life housing and to own its housing or to act as manager for another landlord: while Rule 17 allows a General Meeting Co-op to become a Committee Co-op. This gives co-ops the maximum scope to decide how they wish to work, and means they can change and develop without having to go through the expensive and time-consuming Rule amendment procedure.

This approach means that co-ops using these Rules should adopt Standing Orders to lay down their procedures. The NFHC supplies a range of sample Standing Orders designed to be used with these Rules: each co-op can choose the Standing Orders which suit it best (or draft its own if it prefers).

There are two alternative versions of the Rules, reflecting the basic distinction between FULLY MUTUAL and NON MUTUAL Co-ops.

- Fully Mutual (FM) Co-ops All tenants of the co-op must be members and all members must be tenants (or prospective tenants). FM Co-ops have a special status under the 1985 Housing Associations Act and the 1985 Housing Act: their tenants are regarded as collective home owners for the purposes of mortgage tax relief; and they do not have security of tenure or the right to buy, unless their tenancy agreement says so.

Each co-op must decide at the outset whether or not it wishes to be FM. If the co-op is certain that it will never have its own property (the obvious example is a Tenant Management Co-op (TMC), which manages, but does not own, the property in which its members live), then full mutuality is not possible since the co-op will never have tenants and therefore cannot have prospective tenants. But some TMCs intend ultimately to take over ownership of the property they are currently managing on behalf of some other landlord, and such a TMC might well prefer to be FM, in which case it should regard the tenants of the present landlord as prospective tenants of the co-op; thus they qualify as members. Meanwhile they remain tenants of another landlord and as such they retain their rights and benefits.

Short life co-ops are normally fully mutual: this is possible because although they do not own the housing, it is by agreement with the co-op (not with the owner) that their members occupy the dwellings. This

is important because otherwise Short life co-ops might create assured tenancies, which would involve commitments the co-ops would be unable to honour.

- Non Mutual (NM) Co-ops NM Co-ops need not restrict their membership to tenants and prospective tenants, and they can have tenants who are not members (but see notes to Rule 1). NM Co-ops are not eligible for mortgage interest tax relief and if they own property their tenants will normally have some form of security of tenure and possibly also the right to buy.

In order to achieve greater flexibility, a few sections of Rules can be omitted. The effects of this are discussed under the relevant Rules, which are, in the FM version, Rules 2a (ii) and 9e (iii); and, in the NM version, Rules 7e and 43d.

However flexible the framework of these Rules provide, there will always be co-ops whose particular circumstances require some special Rule. The NFHC is willing to discuss individual requirements but reserves its right to make a charge, particularly if the amendments are complicated.

These rules do not provide for Founder Member Co-ops. These are co-ops which are set up by a group of people some or all of whom do not intend to be housed. The NFHC has prepared a standard modification which will be available on request for co-ops requiring Founder Member Rules.

Special Note: Tenants and Leaseholders The law is notoriously riddled with jargon: there are any number of words and phrases which have a different meaning to lawyers than they have in everyday English. In writing these Rules an attempt has been made to avoid such terms but it has not been possible to dispense with the word 'tenants'. In normal use this would not include

leaseholders but to lawyers it does; which means that if a FM Co-op owns the freehold of property sold on long lease, then the leaseholder is as much a tenant of the co-op as the weekly tenants are, and must be a member. NM Co-ops, on the other hand, can exclude leaseholders if they wish (since not all tenants need to be members), so the model provides an alternative which defines 'tenant' in a way which excludes leaseholders (see not to Rules 7, 8 and 43). The NFHC will be happy to advise any co-op which is unsure how to treat its leaseholders.

RULE BY RULE

1 NAME

Purpose of Rule: To set out the status of the co-op and give it a name by which it is immediately recognisable, and which cannot be confused with any other organisation.

Comments

The Registrar of Friendly Societies (RFS) can refuse to register a co-op under a name it considers 'undesirable', for instance if the name were the same as or very similar to another co-op or company, or had other misleading implications. The name can be changed by resolution at a general meeting: only a simple majority is needed but notice of the resolution has to be given as if it were a Rule change (Rule 41). The new name does not take effect until it is approved by the RFS.

The name should be clearly printed in full (the word 'Limited' may be shortened to 'Ltd' but apart from that the full name should be used) on the co-op's cheque books, headed paper, share certificates, and any other official documentation.

'Limited liability' means that, if the co-op goes bankrupt, members liability is limited to the extent of their shareholding (in these Rules, £1 each) unless members

have been personally negligent. If members' liability were unlimited, the co-op's creditors could seize members' personal funds and belongings to pay of its debts.

A co-op is, essentially, a group of people who work together for their mutual benefit. Under Rule 1b, any organisation which uses these Rules to register is committing itself *in good faith* ('bona fide' in Latin) to operate as a genuine co-op not a group of members who are providing services to many who are not members (see guidance on rules 2 and 7).

2 OBJECTS

Purpose of Rule: This is arguably the most important Rule in the book. This is the Rule in which the co-op states the reasons for its existence, and the basis on which registration is granted. The co-op has no power to act except in accordance with its rules, so it is essential to have a broadly framed Rule. Your co-op's immediate aims and objectives may of course be much more specific.

Comments

Note that the Rule refers to the benefits the coop will give *to its members*: benefits to others are incidental but allowable. A housing management service counts as a benefit, so NM Co-ops should keep membership in owned or managed properties as high as possible.

The Rule commits the co-op to working to eliminate any form of discrimination which cannot be justified objectively. For instance, it would normally be wrong to discriminate against someone because they have difficulty walking. But if it is a question of letting a flat on the fifth floor, with no lift, then it would be reasonable. Similarly, it is wrong to discriminate against single people, or people with children. But a single person would not be allocated a four bedroom house and a

family of five would not be given a studio flat.

Some co-ops may wish to discriminate on specified grounds – some are specifically for the over-60s, or another distinct and definable group. A co-op which wishes to do this should ask the NFHC for advice because it is essential to identify the target group clearly in the objects Rule.

Generally, the principles embodied in the CRE 'Code of Practice on Rented Housing' are a valuable guide to avoiding discrimination, as is the NFHA 'Standards for Housing Management'.

In the FM Rules, Rule 2a (ii) is designed to allow the co-op to sell property on long leases. A co-op which is certain it will never want to do this may only omit Rule 2a (ii).

3 POWERS

Purpose of Rule: This Rule empowers the co-op to achieve its objects as set out in Rule 2. The same general principle applies: every act of the co-op, however trivial, must be based on the powers stated in this Rule. Co-ops which are registered with the Housing Corporation have their hands somewhat tied by s4 of the Housing Associations Act 1985 which, as amended by s48 of the Housing Act 1988, imposes certain obligations. Generally, the effect of these provisions is that the co-op *must* have among its objects the provision of houses available for letting or of houses for occupation by members or of hostels and *may* have additional objects specified in the Act.

4 TRADING

Purpose of Rule: To exclude commercial organisations whose purpose is to make profits.

Comments:

This Rule does not prevent the co-op from having an excess of income over expenditure (a surplus). The disposal of such a surplus is governed by the Rules.

5 REGISTERED OFFICE

Purpose of Rule: This is the co-op's official address. All official communications – by the RFS, for instance, or the Inland Revenue – will be sent to the Registered Office.

Comments:

The Registered Office can be changed by applying to the RFS on a special form but there is a fee, so it is best not to use, for instance, the home address of the co-op's Secretary since this may often change. If the co-op has a permanent office, use that; otherwise, use the address of a promoting organisation or some other reasonably permanent body which will agree to forward mail.

6 SHARE CAPITAL

Purpose of Rule: The co-op's members are its shareholders: the Rule provides that each member will own one share only, which means that there is complete equality between members. 'Not withdrawable' means that share money does not have to be repaid to a member who leaves and 'not transferable' means that a member cannot give or sell their membership to someone else.

Comments:

In this Rule shares are valued at £1 although higher, or even variable, levels are legally permissible (even if shareholding varies members still have only one vote each: this is one of the key differences between a co-op and a company, in which voting strength usually varies according to shareholding).

Share certificates should be issued to all members: it is usual to seal them (see Rule 39) but this is not a legal requirement.

7 MEMBERSHIP

Purpose of Rule: To define who can and cannot be a member.

Comments:

Societies must have at least 7 members to be registered under the I & P Act, so at least 7 people must sign the Rules to register. They are automatically members (but this doesn't let them off paying their £1s), and as soon as the co-op is registered they should meet together to agree procedures for the admission of further members (even if it isn't intended to admit anyone else for the time being it is as well to have the procedures in place). This meeting will be the first General Meeting of the co-op and should be properly convened and minuted under the Rules.

A register of members must be kept – see notes to Rule 38. Rule 7b has been written to cover co-ops who have been unable to take any action against a member who is no longer at their normal address and cannot be served a notice because their current address is unknown. Rule 7b makes individual members, not the co-op, responsible for ensuring that they can be contacted.

If a FM Co-op owns the freehold of properties sold on long leases, then the leaseholders are tenants and must become members, even if they don't want to be and the co-op doesn't want them. Any long lease granted by a FM Co-op must therefore include the condition that the leaseholder, and anyone who subsequently buys, inherits or otherwise acquires the lease, will apply for membership of the co-op (see Rule 2a (ii) of the FM Rules)...

Although FM Co-ops must admit all tenants, including joint tenants, as members, they do not have to admit prospective tenants (but should be consistent – it would be unfair to admit some prospective tenants but not others). Generally, co-ops should avoid admitting members who receive no benefit from the co-op – see notes on Rules 1 and 2.

Exceptionally, the RFS may allow a FM Co-op which has a very small proportion of tenants who are not members. This might apply, for instance, to a Transferred Ownership Co-op in which a few sitting tenants refused to join. But the RFS would have to be satisfied that the proportion was small and would diminish to zero in time: any co-op in this situation should consult the NFHC about its registration.

NM Co-ops do not have to admit all their tenants (but see Rule 8) so they can, for instance, exclude leaseholders. And if they wish they can admit persons who are neither actual nor prospective tenants – a co-op wishing to do this should delete Rule 7e of the NM Rules. But NM Co-ops must bear in mind that they remain ‘bona-fide co-operatives’ (see Rule 1b) so they should try to avoid admitting non-tenants and in refusing to admit tenants: if the co-op goes overboard in either direction it will lose its co-operative character and the validity of its registration could be queried. As a guideline, if less than 80% of the tenants (or recipients of housing management services) are members, it might be questioned whether the co-op is bona fide. Generally, a co-op should do all in its power to recruit as members all those to whom it provides a benefit.

By law, any member of a Co-op Committee must be at least 18 years old. In a GM Co-op, the whole GM is the Committee (see notes to Rule 16) and,

therefore, all the members must be 18 or over. It would be possible for a Committee-managed co-op to have a Rule allowing 16 year olds to be members, but, of course, Rules 16 and 17 would have to be amended to prevent the co-op from being run by the GM. The NFHC has an alternative wording available if required.

Joint membership is not allowed under these Rules: each member is regarded as a separate individual with one vote each. This means that it is not possible to operate a ‘one vote per household’ system, unless of course there is only one member per household (in a FM Co-op this would mean one tenant per household). There are two reasons for this; first, a co-op is a collection of people, not a collection of houses; second, where joint membership is allowed and two or more members ‘share’ a vote, it tends to be controlled in practice by the traditional (usually male) ‘head of household’ and the views of other adult members of the household are not heard. Nevertheless, the NFHC recognises that some co-ops may need joint membership or household voting and will help to formulate appropriate variations to the Rules (but may have to charge).

8 APPLICATION FOR MEMBERSHIP

Purpose of Rule: To ensure that the co-op adopts a clear procedure for admitting members. The founder members should agree a procedure as soon as the co-op is formed. Note that NM Co-ops cannot reject applications from tenants without a good reason (whereas FM Co-ops must of course enforce membership on all their tenants – neither the tenant nor the co-op has any choice).

9 TERMINATION OF MEMBERSHIP

Purpose of Rule: The purpose of this Rule is to ensure that any member who is no longer in a position to benefit from the co-op's activities will cease to be a member. Because of the special nature of FM Co-ops, their version is longer: it has to make absolutely sure that anyone who ceased to be a tenant (or prospective tenant) loses membership more or less immediately – otherwise the Co-op's FM status might be at risk. NM Co-ops need not be so strict.

Comments:

Prospective tenants (if they are admitted at all) can be removed from membership if they fail to respond to a written request to confirm their continued interest. Tenants are more strongly protected and normally it will be better for the co-op, when it wishes to get rid of a tenant, simply to move towards eviction under standard landlord and tenant procedure available to any landlord: these should be provided for under the tenancy agreement. Once the tenancy has ceased membership lapses automatically under this Rule.

The exception occurs when a FM Co-op wishes to expel a tenant-member as a preliminary to eviction on the grounds of non-membership. FM Co-ops wishing to have this option available should ensure that it is covered by the tenancy agreement: it is no good expelling a member if the tenancy agreement does not make non-membership a ground for possession. Failure to evict a tenant who had been expelled would probably invalidate the expulsion (and there is a chance it might risk the co-ops FM status).

See also notes on the following Rule.

FM Co-ops may omit Rule 9e (iii) if they do not consider they will ever undertake the management of property belonging to another landlord (or if they want to keep leaseholders in such property in membership).

10 EXPULSION FROM MEMBERSHIP

Purpose of Rule: To give the co-op the power to expel members; but, at the same time, to give any member threatened by expulsion a fair opportunity to give his or her side of the argument.

Comments:

Normally members will leave the co-op under the provisions of Rule 9 (see notes above) and hopefully expulsion will be a rare event in most co-ops. A co-op which feels that it has no alternative to expulsion should ensure that it follows the provisions of this Rule *to the letter* because this is one of the Rules which is most likely to be tested in court, especially in FM Co-ops, where expulsion means eviction and possible homelessness. To sum up, the Rule gives the co-op a powerful tool but one to be used only in the last resort and then with the utmost care.

11 DEATH OR BANKRUPTCY OF A MEMBER

Purpose of Rule: None.

Comments:

This Rule is totally irrelevant: it covers situations where share capital is repayable to members or their heirs, nominees, or creditors. Since all such circumstances are precluded by Rule 6, the Rule is redundant. Nevertheless, the RFS feels it is required by the Act and NFHC was unsuccessful in arguing that it could be omitted.

12 GENERAL MEETINGS

Purpose of Rule: To ensure that all members are aware of the date, time, place, and business of GMs: also to protect the right of all members to attend, speak, and vote; also to give members the right to call a GM if the co-op's officers and / or Committee fail to do so.

Comments:

Note that the term 'General Meetings' includes Annual General Meetings, Special General Meetings, as well as ordinary General Meetings.

It is a good idea to adopt standing orders setting out how notice of GMs will be served: generally it is advisable to give each member a written notice of each GM; and if GMs are infrequent or irregular this becomes essential.

13 QUORUM

Purpose of Rule: To prevent thinly attended meetings from taking decisions which commit the whole co-op.

Comments:

All a poorly attended GM can do is abandon the meeting and reconvene it. If, at the second time of asking, attendance still fails to reach the quorum, the meeting can go ahead anyway and has full authority to act, the view being taken that in this case absent members have had very fair warning and have only themselves to blame if they dislike the decisions that are taken.

14 VOTING

Purpose of Rule: The Rule establishes some basic principles for voting: these can and should be supplemented by the adoption of appropriate standing orders (sample standing orders are available from the NFHC).

Comments:

Most decisions in most co-ops are taken by general consensus with no need for a formal vote: this Rule is in the book to cover the situation where this is not possible.

Proxy votes are not permitted by these Rules. This is, first, because there are grave dangers in allowing members to take part in a vote without hearing the

discussion, and second, because proxy voting is wise open to abuse unless it is very carefully hedged about with safeguards (and experience indicates that even co-ops which have suitable safeguards do not enforce them properly). Nevertheless, the NFHC would help frame a suitable Rule if a co-op felt that proxy voting was essential (a fee may be charged).

Likewise the Rules require that all members vote equally: they do not allow categories of member to be created, so it is not possible to adopt procedures saying (for instance) that although leaseholders are allowed to join the co-op they are not allowed to take part in certain types of vote. The dangers of categorising members in this way are obvious; but, again, if a co-op has special needs which make it essential, the NFHC would help prepare a suitable Rule.

Voting 'openly' is the normal form of voting in most co-ops, traditionally referred to as voting by show of hands. The term 'open voting' is preferred on equal opportunity grounds as well as being shorter and more accurate.

Members may ask for a vote to be taken by ballot; that is, secretly, by marking papers and placing them in a box. Any proposal for a ballot must be taken before the vote by show of hands: voting by ballot is an alternative to normal voting, not an avenue of appeal for members who has just lost a vote.

The Rules assume that all voting (except, possibly, members may ask for a vote to be taken by ballot; that is secretly, by marking papers and placing them in a box. Any proposal for a ballot must be taken before the vote by show of hands: voting by ballot is an alternative to normal voting, not an avenue of appeal for members who have just lost a vote.

The Rules assume that all voting (except, possibly for the Committee – see Rule 20 and notes) will take place at GMs. There is no problem if a co-op wishes to have an advisory referendum, which would not take effect unless confirmed by a vote at a GM: but a *binding* referendum, which would require a modification to the Rules (again the NFHC will advise).

Note that the Chair does not have a casting vote: if there is a tie, the motion falls.

A phrase is used in the Rule – ‘members present *and voting*’ which crops up in several other places and occasionally causes confusion. It should be emphasised that it means members *voting for or against*: abstentions, even if called for by the Chair and counted as if they were votes, do not count. If at a GM attended by 50 members the vote on some proposal goes 3 for, 2 against, with 25 abstentions, that is a majority under this Rule and the motion has passed. If the motion were one requiring a two thirds majority (under Rule 10 for instance) a vote of 2 for, 1 against, with 45 abstentions, would be sufficient (so would 1 for, 0 against, 49 abstentions!). This may seem unjust but any other interpretation would have the effect of making abstentions virtually the same as votes against and since the members who abstained would, presumably, have voted against the motion if they wanted it defeated, that would be even more unjust.

15 ANNUAL GENERAL MEETING

Purpose of Rule: The AGM is the key meeting of the year: the Rule sets it aside from other GMs and gives it some special jobs. Of course there will be other items on any AGM’s agenda in addition to those listed in this Rule, but these will vary from co-op to co-op. This Rule lists the items which should be on the agenda of every

AGM of any co-op registered under these Rules.

Comments:

The Rules provide that a GM Co-op should hold GMs at least quarterly (Rule 16a) but make no provision about Committee Co-ops, which therefore need hold no GMs other than the AGM. But many co-ops will want to hold GMs more often and each AGM should consider what is best.

In a Committee Co-op, the Committee prepares the Annual Report (Rule 18c): in a GM Co-op, one of the officers should do so (the co-op should adopt a standing order stating which - presumably either the Chair or Secretary).

The AGM is a good time to review any ongoing contracts or arrangements (such as Management Agreements) to which the co-op is a party. It is recommended that the co-op adopt a standing order requiring the ongoing arrangements be reviewed at the AGM if this is not done at some other time.

See Rule 36, and notes for appointing an auditor

16 MANAGEMENT BY GENERAL MEETING

Purpose of Rule: To lay down how a GM Co-op shall conduct its business.

Comments:

Note that by law, every co-op must have a Committee hence Rule 16b, which make the GM the Committee.

Officers, including the Chair, are elected a year at a time.

A GM Co-op can still appoint Committees for specific purposes under Rule 16c.

This Rule and these comments apply to GM Co-ops only and lapse if a Committee is set up under Rule 17.

17 MANAGEMENT COMMITTEE

Purpose of Rule: To enable a GM Co-op to become a Committee Co-op without a Rule change.

Comments:

This Rule is a one-way street: a Co-op wishing to go the other way – from Committee to GM – will need a Rule change. Once the Co-op decides to set up a Committee under this Rule, Rule 16 no longer applies and Rules 18 – 29 (printed in italics) come into effect.

Rule 17b allows co-ops to change to Committee rules between AGMs.

When a Committee is set up under these Rule suitable standing orders should be adopted. See notes to Rules 18, 19,20,22,23 and 24, which explain the points which need to be covered. The NFHC supplies sample standing orders, although co-ops can draft their own if they prefer.

18 POWERS OF COMMITTEE

Purpose of Rule: To give the Committee the powers it needs to carry out its responsibilities.

Comments:

Although the Committee is given comprehensive powers, the position of the general membership is protected in two ways. The Committee has to report regularly; and it does not have the power to control elections. The GM should adopt standing orders laying down the size of the Committee and how it is to be elected, and although the GM is able, under this Rule, to delegate this power to the Committee, it should be very careful about doing so.

Under Rule 26 and 27 the Committee appoints and, if necessary, removes the Co-ops' officers. The NFHC sees this power as an essential part of management: without it the Committee lacks the authority to do its job properly. A co-op which does not want to give the Committee this power should ask itself whether it would not prefer to remain a GM Co-op.

19 NOMINATIONS FOR COMMITTEE

Purpose of Rule: To govern nominations.

Comments:

Under Rule 17 the results of Committee elections will be declared at AGMs and no doubt in most co-ops the election will take place at the AGM as well: in which case nominations will sometimes be taken from the floor of the AGM. But in some Co-ops it is important to know the names of nominees beforehand – for instance, to enable ballot papers to be prepared – hence the option for nominations in advance, even if the election takes place at the AGM. The co-op should adopt a standing order to lay down a procedure.

20 ELECTION OF COMMITTEE

Purpose of Rule: To govern elections.

Comments:

This Rule has been written to allow as much variation as possible in the method of electing the Committee.

Although the result of the election is declared at the AGM, the election could be conducted by ballot beforehand (in which case, of course, nominations would be needed in advance). The term of office of Committee members can also be varied under this Rule, so that it would be possible to have, say, half the Committee elected each year, in which case Committee members would serve for two

years. It would also be possible to provide that Committee members should be drawn from specific categories of membership in given proportions – for instance, equal numbers of men and women (provided that all members have the same say in deciding who shall be elected).

The NFHC has prepared a range of standing orders covering these points, so your co-op can choose whichever system it prefers. If your co-op has special requirements which are not covered by the standard drafts, you should seek advice in preparing a suitable standing order.

It should be noted that electoral constituencies (or ‘wards’) are not permitted by this Rule. They are dangerous because they curtail the right of all members to have a strictly equal vote in elections, but it is acknowledged that in certain circumstances they may be the best option. Again, the NFHC is willing to advise any co-op which feels it need constituency voting.

Under this Rule each member has one vote for each vacancy to be filled. This means that voting systems which involve marking the candidates in order of preference are not allowed. If a co-op feels it must adopt such a system the NFHC will advise.

Note that where an election is unopposed a vote should be taken for and against each candidate. This is to prevent candidates who have no support from being elected unopposed.

21 REMOVAL OF COMMITTEE MEMBERS

Purpose of Rule: To enable the general membership to remove Committee members.

Comments:

This Rule applies to co-optees under Rule 24 as well as to elected Committee members.

22 VACANCIES ON COMMITTEE

Purpose of Rule: To allow vacancies to be filled.

Comments:

If Committee members are elected for a term of office longer than one year, the NFHC suggests that a standing order should be adopted saying that any appointment under this Rule (except of co-optees under Rule 24) should last only until the following AGM, even if the term of office of the replaced Committee member would have extend beyond that.

23 SIZE AND QUORUM OF COMMITTEE

Purpose of Rule: To lay down how the size and quorum of the Committee shall be established.

Comments:

The quorum (unless the GM increases it by standing order) is one-third of the total **potential** membership of the Committee whether or not there are vacancies. Note that co-optees under Rule 24 count as Committee members.

24 CO-OPTIONS TO COMMITTEE

Purpose of Rule: To allow the Committee to co-opt members if permitted by the GM.

Comments:

When the GM sets up a Committee under Rule 17, it should adopt a standing order making it clear whether the Committee can co-opt, and, if so, subject to what restrictions. These restrictions can be of three kinds:

- a) **The type** of person who can be co-opted; for instance, that co-optees should be members of the co-op, or should be persons put forward by, say, the local Council.
- b) **The number** of co-optees the Committee is allowed to appoint. This number can be zero if the GM does not want co-options.
- c) **The powers** of co-optees to vote can be restricted if the GM thinks fit; for instance, they might be forbidden to vote on procedural issues (indeed, they might not be allowed to vote at all).

It must be emphasised that in these Rules the term 'co-optees' applies **only** to Committee members appointed under this Rule.

Committee members appointed under Rule 22 to fill a vacancy in the elected places do not count as co-optees.

The Committee is free to invite anyone it wishes to attend meeting without voting rights.

25 SUBCOMMITTEES

Purpose of Rule: To set out procedures for establishing subcommittees.

Comments:

If subcommittees are set up, their terms of reference should include a provision requiring their members to declare any conflict of interest – see Rule 29 and notes.

26 ELECTION OF CHAIR BY COMMITTEE

Purpose of Rule: To provide for the election of the Chair in Committee Co-ops.

27 ELECTION OF SECRETARY AND TREASURER

Purpose of Rule: To provide for the election of the Secretary and Treasurer in Committee Co-ops.

Comments:

Note that (unlike the Chair) the Secretary and Treasurer do not have to be members of the Committee, or indeed of the co-op. In addition, they are allowed to continue in office until specifically removed. In most co-ops this will be done in an annual election of officers at the first Committee meeting after each AGM: but the Rule has been drafted to allow these to be paid appointments if thought fit. Whichever system is used, a suitable standing order should be adopted to specify the method of election and the term of office.

28 PROCEEDINGS OF COMMITTEE

Purpose of Rule: To make general provision for the operation of the Committee.

Comments:

Again no casting vote for the Chair.

29 DECLARATION OF COMMITTEE MEMBER'S INTERESTS

Purpose of Rule: To avoid conflicts of interest.

Comments: Of course all Committee members have general interests in the success and good management of the co-op. But this Rule is intended to cover situations in which they have interests in other capacities than as tenants. To take an obvious example, it would not be proper for a Committee member to take part in deciding whether a close relative should be given a building contract. If in doubt, it is best to declare the interest so as to avoid any possible suspicion.

30 OFFICERS

Purpose of Rule: To specify who the officers are and give some indication of their duties.

Comments:

The Act is unclear in its use of the term 'officer': this Rule attempts to define who are the officers.

Although the co-op must have a Chair, Secretary and Treasurer, it can create as many other officer ships as it wishes. Obvious possibilities are Vice-Chair, Maintenance Officer, Lettings Officer, and so on; each co-op can decide for itself what posts are necessary. The co-op should adopt standing orders clearly setting out the duties of all its officers: these may add to, but must not contradict, the provisions of the Rules (including this Rule).

If officers are to be given individual powers – the most common example being 'Chair's Action' – these should be governed by standing orders which make it absolutely clear what is and is not allowed. If an officer, in good faith, takes action which proves to have been a mistake or with which the co-op disagrees, it is important to show that it was clearly in accordance with the co-op's agreed procedures.

As soon as the co-op gets access to money, property, and other valuable resources, it should take out fidelity insurance to protect itself against dishonest or reckless behaviour by its officers. This should not be expensive.

Note that anyone can be appointed an officer except that the Chair must be a member of the co-op and of the Committee (if there is one). Many co-ops will require other officers to be co-op members and, where applicable, on the

Committee; this can be done by adoption of a suitable standing order.

The Rule is worded so that (for example) the Secretary need not actually take the minutes himself or herself: but it must be the Secretary's job to see that the minutes are taken by someone. In other words, **the work can be delegated but not the responsibility.**

The Rule requires all officers to act in accordance with co-op policies: this is a new wording and it is hoped that it will strengthen the hand of the maverick officer.

31 PAYMENTS TO OFFICERS AND COMMITTEE

Purpose of Rule: To govern payments.

Comments:

The Rule prevents payments to Committee members for service on the Committee or as officers. In other words, if the Secretary (say) were a paid appointee (see notes to Rule 27), he or she could not be a member of the Committee.

The reimbursement of legitimate out-of-pocket expenses is of course allowed, but since it can cause suspicion it is advisable to adopt clear procedures to govern it.

Co-ops registered with the Housing Corporation should be aware of Section 15 of the Housing Associations Act 1985 which prevents committee members or their families receiving benefits such as financial payments. (GM run co-ops should remember that all members are considered to be committee members).

32 BORROWING POWERS

Purpose of Rule: To allow the co-op to borrow money, and to provide appropriate safeguards.

Comments:

This Rule is specifically designed to allow co-ops to operate under the financial regime brought in by the Government in recent years. The use of technical terms was unavoidable. Co-ops wishing to use these powers should get expert financial advice.

If anyone wants to know, a deep discounted security is a loan which must be repaid, with interest, on an agreed date in the future but on which no payments are required in the meantime (also known as a bullet, because the eventual repayment is usually enormous and will be as fatal as a bullet if not planned for well in advance).

The Act states that the co-op's Rules must lay down how much it can borrow. So it is best to err on the generous side and write into the Rule a much larger figure than is likely to be needed as a protection against inflation. £1,000,000 used to be standard but £5,000,000 is now as common and £10,000,000 not unknown.

The Act also says that the interest rate must be specified, although nowadays the RFS allows common forms of borrowing to be excluded and allows the specified rate to be variable (see the Rule). Any main Bank can be named, but it is usual to specify either the co-op's own bank or the Co-operative Bank plc.

33 INVESTMENT

Purpose of Rule: To allow the co-op to invest its money.

Comments:

This is the counterpart to the previous Rule. If the co-op wishes to take advantage of the new forms of investment permitted under this Rule, it should seek qualified financial advice.

"Feuhold", by the way, is a form of Scottish land tenure.

34 PAYMENTS TO MEMBERS

Purpose of Rule: To ensure that the co-op does not operate so as to provide personal profits for its members (whilst co-ownership schemes, which often require their members to put up money as a condition of joining, are allowed to repay it when the member leaves).

35 SURPLUSES

Purpose of Rule: To govern the disposal of surplus.

Comments:

The co-op's power to act under this Rule must be read in conjunction with Rules 2 and 3.

Note that the power to allocate surpluses rests with the GM, not with officers or Committee.

36 AUDIT

Purpose of Rule: One of the most important requirements of the Act is that the co-op's accounts be audited annually. There are various conditions which apply to this.

Comments:

Note that the references are to the Friendly and Industrial and Provident Societies Act 1968, not to the Industrial and Provident Societies Act 1965. The 1968 Act goes into great detail about the appointment and removal of auditors. Attempting to summarise as briefly as

possible, it says that a Society's auditor is automatically reappointed from year to year unless the Society specifically appoints someone else. But it can only do so if a motion to that effect has been submitted 28 days before the GM at which it is to be considered, in which case the retiring auditor must be informed at once and invited to make written representations. If he or she takes up this right, the members must be informed when they receive the seven days' notice of the GM under Rule 12 and copies of the representations must be given to members on request. All this is without prejudice to the retiring auditor's right to attend the GM to make oral representations, or to have the written representations read out at the GM, or to do both. After all this, the co-op may then, finally, proceed to elect another auditor.

This is not a complete statement of a complex bit of law: a co-op which wants to get rid of an auditor who doesn't want to be got rid of should read the 1968 Act carefully.

Why has Parliament given this extraordinary degree of protection to auditors? Essentially it is because it wants the auditor to give a completely frank statement of the co-op's financial position without fearing dismissal if he or she tells the co-op things it doesn't want to hear. Parliament relies upon the auditor to ring the alarm bell if the co-op is abusing the status with which it has been entrusted: therefore parliament wants to protect his or her position.

37 ANNUAL RETURNS

Purpose of Rule: To set out the co-op's legal duty under the Act to report annually to the RFS.

Comments:

The RFS will send the Annual Return form to the co-op's registered office each year.

Co-ops registered with the Housing Corporation have to submit a separate annual return to them.

"The date provided by the Act" for submitting the Annual Return is 31st March and the return must include a balance sheet made up to a point between 31st August and 31st January. Co-ops with financial years ending on 31st March will need to agree a change of date for the annual return with the RFS (unless they wish to produce two balance sheets a year). The RFS will charge a small fee and require a reason for the change; to bring the financial year in line with a funding body is usually acceptable. Permission once given carries on from year to year; it does not have to be renewed for each Annual Return.

38 MINUTES AND RECORDS

Purpose of Rule: To require the co-op to keep proper records.

Comments:

Although the Act has surprisingly little to say about minutes of meetings, it should go without saying that a record should be kept of all GMs and Committee and Sub-Committee meetings. There is no need for an account of everything said at the meeting but all decisions must be recorded. It is also good practice to record attendance at meetings. Master copies of the minutes should be kept in a suitable file or book at the registered office.

Certain other records are specifically required by law. These are:

- a) **Register of Members** (see Rule 7b). This must include members' names and addresses and state their share capital (£1 each) and other property (usually none) in the co-op. It must also state the date on which members join and leave the co-op, and the

names and addresses of co-op officers and Committee members and the dates on which they took and left office. The Register should be kept in such a way that it can be consulted without disclosing the extent of members' shareholding and other property – a fairly nonsensical concern in a co-op in which everyone has the same shareholding and no other property, but nevertheless required by the Act.

- b) **Property Register** This must list all land and buildings owned by the co-op and any mortgages or other charges on them.
- c) **Loan Stock Register** This must state how much loan stock has been issued and to whom and on what terms. It is unlikely that any co-op using these Rules will find itself issuing loan stock: any co-op which does should seek advice.
- d) **Seal Register** See notes on following Rule.

39 SEAL

Purpose of Rule: To meet the requirement of the Act that the co-op must have a seal.

Comments:

The seal must be of the kind which leaves a physical impression on the document to which it is applied and it must include the full name of the co-op (except that "Limited" may be shortened to "Ltd"). A Register should be kept recording each occasion the seal was used and on what authority. Any decision by a GM or the Committee to authorise the use of the seal should, of course, be specifically minuted.

The seal must be used to buy, sell, or mortgage property, or lease it for more than three years, or issue loan stock. Generally it is not required for other transactions but is often used because it is very difficult to forge.

The Secretary is responsible for the safe keeping of the seal. This does not mean it has to be kept in his or her home: it is quite proper to keep it in (for instance) the co-op's office but wherever it is kept it should be under lock and key and no one should be able to gain access to it without the Secretary's agreement. If the seal gets into the wrong hands it could cause the co-op a lot of trouble.

40 DISPUTES

Purpose of Rule: To enable the co-op to resolve disputes.

Comments:

The co-op is free to set up its own disputes procedure. This should be done by adopting a Standing Order which states clearly how complaints and grievances should be raised, who should consider them and the procedures to be followed. If the co-op has a disputes procedure, the remainder of this Rule is not activated until the co-op's procedure has run its course.

Once this Rule is invoked, the outcome is binding on all parties and the County Court will, if applied to, enforce the decision.

The same caution should be applied to this Rule as to Rule 10, and for the same reason: it is one of the likeliest Rule to be examined in Court and if the co-op has not followed it to the letter, it is likely to lose any legal action in which it becomes involved.

According the Act, the decisions properly arrived at under this kind of Disputes Rule cannot be the subject of appeals to the Courts. It seems that this was changed by the Arbitration Act 1979 but the situation is unclear until tested in court.

41 AMENDMENT OF RULES

Purpose of Rules: To enable the co-op to change its Rules.

Comments:

It is hoped that these Rules already permit the activities and structures most co-ops will want. Nevertheless some co-ops may find amendments necessary. Note that members must be supplied with seven days' notice of the *exact wording* of the proposed amendment and it must be put to a properly convened and quorate GM in the precise form supplied to members beforehand (no last minuted alterations at the meeting!). See notes on Rule 14 for comments on the two-thirds majority requirement.

Until the RFS confirms that the amendment has been registered, the co-op should continue to use the unamended version of its Rules.

The RFS will charge a fee for registering amendments, which should be submitted on the appropriate treasury forms, copies of which are available from the RFS or the NFHC.

It is standard practice for co-ops registered with the Housing Corporation to seek Corporation approval of any proposed amendments.

General advice on Rule amendments is available to NFHC members (although if the proposed amendment is particularly unusual or complicated a charge may have to be made).

42 TRANSFER OF ENGAGEMENTS: DISSOLUTION

Purpose of Rule: To enable co-ops to merge and to provide for winding up of the co-op.

Comments:

Procedures under the Act for mergers are extremely complicated so when two Industrial and Provident Societies wish to merge it is much easier for one of them (usually, but not always, the smaller one) to "transfer its engagements" to the other. This has the same effect as a merger. All the members of the transferring society become members of the transferring society, which also becomes responsible for all the transferring society's assets and liabilities.

Note that the transferring society needs a two-thirds majority and the receiving society a straight majority in support of the transfer. The transferring society must confirm its decision at a subsequent GM at least a fortnight, and not more than a month, after the first one. A straight majority is sufficient for the confirmation.

It is assumed that co-ops will only want to absorb the assets of other co-ops as obvious legal and procedural difficulties would arise if a co-op attempted to accept a transfer from another type of organisation. Therefore, Rule 42a requires the incoming body to have compatible Objectives to those of the co-op. However, a co-op might want to or have to transfer its stock to another type of organisation such as a housing association. Therefore, Rule 42b does not require compatible Objects.

The name, registered office, and the Rules of the transferring society will be those of the receiving society. If this is not desired, the receiving society must adopt Rule amendments and make any other necessary changes at the same time as it agrees to accept the transfer.

The transfer does not take effect until the RFS confirms that it has been registered.

If either society is registered with the Housing Corporation, the Corporation's prior written permission is essential.

The Act contains various provisions designed to prevent a co-op from dissolving itself in order to escape its debts and liabilities. Any co-op which is considering dissolution should seek advice on the procedure, and if it registered with the Housing Corporation should also consult them and agree how to proceed.

There is a special form – an ‘Instrument of Dissolution’ – which must be used to wind up a co-op. Copies are available from the RFS or the NFHC.

43 INTERPRETATION

Purpose of Rule: To clarify the meanings of certain terms in the Rules.

Comments:

FM co-ops have no choice over whether or not to accept leaseholder members (see the Introduction) but NM Co-ops do have a choice. Therefore NM Rules contain alternative wording of Rule 43d. The first version gives a standard legal definition of a “tenant” which includes leaseholders. The second, longer version contains a special formula which has the effect of excluding leaseholders. Each co-op seeking to register using NM Rules should delete one or other version of Rule 43d. While a NM Co-op can exclude leaseholders it must remain a ‘ bona-fide’ co-op (see notes on Rules 1 and 7). To take an extreme case a NM Co-op with three quarters of its homes sold on long leases *could not* exclude leaseholders because it would be excluding most of the people benefiting from its services.