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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

NO. R. 591

18 APRIL 2019

**AGRICULTURAL PRODUCT STANDARDS ACT, 1990
(ACT No. 119 OF 1990)****AMENDMENTS TO THE REGULATIONS RELATING TO THE GRADING, PACKING AND
MARKING OF BREAD WHEAT INTENDED FOR SALE IN THE REPUBLIC OF SOUTH
AFRICA****INVITATION FOR PUBLIC COMMENTS:**

I, Senzeni Zokwana, Minister of Agriculture, Forestry and Fisheries, acting under section 15 of the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990), hereby-

- (a) make known that I intend to amend the Regulations Relating to the Grading, Packing and Marking of Bread Wheat intended for sale in the Republic of South Africa;
- (b) invite all interested parties to submit comments and any representations concerning the proposed regulations in writing within five (5) weeks from the date of publication of this Notice to the following address:

Executive Officer: Agricultural Product Standards
Department of Agriculture, Forestry and Fisheries
Private Bag X343, Pretoria, 0001
30 Hamilton Street, Harvest House Building, Arcadia, Room 152
Tel. no. 012 319 6171; Fax no. 012 319 6265
Email: VictorMa@daff.gov.za ; and

- (c) the proposed new regulations are available on the Department's website at the following link:<http://www.daff.gov.za/daffweb3/Branches/Agricultural-Production-Health-Food-Safety/Food-Safety-Quality-Assurance/Draft-Legislation-for-Comments>, or can be forwarded via electronic mail or posted to any person upon request.

Mr. Senzeni Zokwana
Minister of Agriculture, Forestry and Fisheries

DEPARTMENT OF LABOUR

NO. R. 592

18 APRIL 2019

LABOUR RELATIONS ACT, 1995

**NATIONAL BARGAINING COUNCIL FOR THE ELECTRICAL INDUSTRY OF
SOUTH AFRICA: EXTENSION OF NATIONAL PENSION AND PROVIDENT
FUNDS COLLECTIVE AGREEMENT TO NON-PARTIES**

I, **MILDRED NELISIWE OLIPHANT**, Minister of Labour, hereby in terms of section 32(2) read with section 32(8) of the Labour Relations Act, 1995, declare that the provisions of the collective agreement which appears in the Schedule hereto, with the exclusion of clauses 1(1)(a) and 2 thereof, which was concluded in the **National Bargaining Council for the Electrical Industry of South Africa** and is binding in terms of section 31 of the Labour Relations Act, 1995, on the parties which concluded the agreement, shall be binding on the other employers and employees in that Industry, with effect from the date of publication of this agreement and for the period ending 31 May 2023.

..........
M N OLIPHANT
MINISTER OF LABOUR
DATE: *20/08/2019*

UMNYANGO WEZABASEBENZI**UMTHETHO WOBUDLELWANO KWEZABASEBENZI KA - 1995**

**UMKHANDLU KAZWELONKE WOKUXOXISANA PHAKATHI
KWABAQASHI NABASEBENZI EMBONINI KAGESI ENINGIZIMU
AFRIKA: UKWELULWA KWESIVUMELWANO SEZIKHWAMA
ZOMHLALAPHANSI EZINGUZWELONKE SELULELWA KULABO
ABANGEYONA INGXENYE YESIVUMELWANO**

Mina, **MILDRED NELISIWE OLIPHANT**, uNgqongqoshe Wezabasebenzi lapha ngokwesigaba 32(2) sifundwa kanye nesigaba 32(8) soMthetho Wobudlelwano Kwezabasebenzi ka-1995, ngazisa ukuthi isiVumelwano sabaqashi nabasebenzi esitholakala kwiSheduli yesiNgisi exhunywe lapha, kukhishwa imishwana 1(1)(a) kanye no nombolo 2 esenziwa, kuMkhandlu Kazwelonke Wokuxoxisana phakathi kwabaQashi Nabasebenzi Embonini kaGesi eNingizimu Afrika futhi ngokwesigaba 31 soMthetho Wobudlelwano Kwezabasebenzi ka 1995, esibopha labo abasenzayo sizobopha abanye abaqashi nabasebenzi kuleyoMboni, kusukela ngosuku lokushicilelwa kwalesisaziso kuze kube isikhathi esiphela mhlaka 31 kuNhlaba 2023.


.....
UNGOQONGQOSHE WEZABASEBENZI
MN OLIPHANT, MP
USUKU: *20/03/2019*

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OF SOUTH AFRICA****NATIONAL PENSION AND PROVIDENT FUNDS COLLECTIVE
AGREEMENT.**

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SCHEDULE**NATIONAL BARGAINING COUNCIL FOR THE ELECTRICAL INDUSTRY
OF SOUTH AFRICA****NATIONAL PENSION AND PROVIDENT FUNDS COLLECTIVE
AGREEMENT**

in accordance with the provisions of the Labour Relations Act, 66 of 1995 made
and entered into by and between the

Electrical Contractors' Association (South Africa)

(hereinafter referred to as the "employers" or the "employers organisation"), of
the one part,

and the

South African Equity Workers' Association (SAEWA),

(hereinafter referred to as the "employees" or the "trade union"), of the other
part, being the parties to the National Bargaining Council for the Electrical
Industry of South Africa.

1. SCOPE OF APPLICATION

- (1) The terms of this Agreement shall be observed –
 - (a) by all employers and employees in the Electrical Industry who are members of the employers' organisation and the trade union, respectively,
 - (b) and who are engaged or employed in the Industry.
 - (c) throughout the whole of the Republic of South Africa, excluding the Magisterial District of Kimberley, within a radius of 20 kilometers from the General Post Office, Kimberley.
- (2) Notwithstanding the provisions of sub-clause 1(1), the terms of this Agreement shall apply to apprentices only in so far as they are not inconsistent with the provisions of the Skills Development Act, 1998, or any conditions prescribed or any notices served in terms thereof.
- (3) For the purposes of this Agreement, the "rate of remuneration" of learners prescribed under the Skills Development Act, 1998, shall be taken to be the weekly wage of such employees, and the "hourly rate" shall be the weekly wage calculated as above, divided by the number of ordinary hours worked in the establishment concerned.
- (4) Notwithstanding the provisions of sub-clause (1), the terms of this Agreement shall-
 - (a) apply to employees engaged by employers in the categories specified in clause 8(4), 9(3)(a) and 10(3)(a), of this Agreement as may be amended from time to time; and
 - (b) not apply to any employee who at the date of coming into operation of this Agreement is, or thereafter becomes, a participant in or a member of any other electrical contracting industry fund providing benefits, which fund was in existence on the said date and in which the employer of that employee was on the said date a participant, or to the employer of that employee during such period only as such other fund continues to operate and both employer and employee participate therein, and upon application for exemption, if in the opinion of the Council the benefits of such other fund are, on the whole, not less favorable than the benefits provided by this Fund: and which in respect of the pension/provident funds, provides solely for payment of benefits on death in which case such fund shall not be deemed to be a pension or provident fund for purposes of this agreement.

- (5) In the event of the expiry of the Main Agreement by the effluxion of time or cessation for any other cause during the currency of this agreement the classes of work and minimum rates of pay prescribed in the said main agreement shall be deemed to be the classes of work and minimum rates of pay for purposes of this Agreement.
- (6) The following categories are also excluded:
- (i) Working employers
 - (ii) Administrative staff – Non Electrical Workers
 - (iii) Managerial Employees

2. PERIOD OF OPERATION OF AGREEMENT

This Agreement shall come into operation on a date to be fixed by the Minister of Labour to be the effective date from which the agreement shall be extended to become binding on non - parties, or the date on which the Minister declines to extend the Agreement to non-parties, and the Agreement shall remain in force until such time as it is amended, amplified or replaced by a new Collective Agreement.

3. INDUSTRIAL ACTION

No person bound by the provisions of this Agreement shall engage in or participate in a strike or a lockout or any conduct in furtherance of a strike or a lockout in respect of any matter regulated by this Agreement for its duration.

4. DEFINITIONS

Any expressions used in this Agreement which are defined in the Labour Relations Act, 1995, shall have the same meaning as in the Act, and any reference to an Act shall include any amendment of such Act ; further, unless inconsistent with the context -

“Act” means the Labour Relations Act, 1995 (Act No. 66 of 1995) as amended;

“apprentice” means an employee serving under a written contract of apprenticeship registered with **the relevant SETA**;

The definitions of the different stages of apprenticeship, as originally published under the Conditions of Apprenticeship under the repealed Manpower Training Act 1981 are the following:

“Stage 1” – Wage equals 38% of wage of electrician

This stage shall not exceed 4 months and the apprentice shall attend M0 – M3 and pass the test based on these modules.

“Stage 2” – Wage equals 45% of wage of electrician

This stage shall not exceed 58 weeks. It commences on the day following successful completion of modular test based on M0 – M3, as referred to above, and ends on successful completion of Trade Test “A”.

“Stage 3” – Wage equals 50% of wage of electrician

This stage shall not exceed 65 weeks and commences on the day following successful completion of Trade Test “A”, as referred to above, and ends on successful completion of modular test based on M4 – M6 as well as Phase Test “B”.

“Stage 4” – Wage equals 70% of wage of electrician

This stage shall include a minimum of 17 weeks' practical on the job experience in M4 – M6, demonstrating practical competence in each module, successful completion of the NTC Part II (N2) and commences on the day following successful completion of Phase Test “B” and ends within 14 days of successful completion of Trade Test “B”.

“Area A” means the Magisterial Districts of Alberton, Benoni, Boksburg, Brakpan, Bronkhorstspuit, Carletonville, Cullinan, Delmas, Germiston, Heidelberg, Johannesburg, Kempton Park, Krugersdorp, Kwamhlanga, Mkobola Nigel, Oberholzer, Pretoria, Randburg, Randfontein, Roodepoort, Sasolburg, Soshanguve, Soweto, Springs, Vanderbijlpark, Vereeniging, Westonaria, Witbank and Wonderboom;

“Area B” means the Magisterial Districts of Amersfoort, Balfour, Bethal, Bochum, Brits, Ermelo, Garankuwa, Highveld Ridge, Klerksdorp, Kriel, Malamulela, Mankwe, Mhala, Middelburg (Mpumalanga), Mmabatho, Mokerong, Moretele, Nelspruit, Nsikazi, Phokwani, Pietersburg, Piet Retief, Pongola, Potchefstroom, Rustenburg, Seshego, Standerton, Thabamooop, Themba, Thohoyandou, Volksrust, Wakkerstroom, and White River;

“Area C” means the Magisterial Districts of Barberton, Bela–Bela (Warmbaths) Belfast, Bloemfontein, Bloemhof, Bolobedu, Botshabelo, Carolina, Christiana, Coligny, Delareyville, Dzanani, Eerstehoek, Elias Motsoaledi (Groblersdal) Giyani, Koster, Lephalale (Ellisras) Letaba, Lichtenburg, Lulekani, Lydenburg, Madikwe, Mapulaneng, Marico, Mbibana, Mdutjana, Moutse, Musina(Messina), Namakgale, Naphuno, Nebo, Nkomazi, Pilgrim's Rest, Phalaborwa, Potgietersrus (only the district north of the Melk River), Schweizer-Reneke, Ritavi, Sekgosese, Sekhukhuneland, Soutpansberg, Swartruggens, Thabazimbi, Ventersdorp, Vuwani, Waterberg, Waterval Boven and Wolmaransstad;

“Area D” means the Magisterial Districts of Bethlehem, Harrismith, Hennenman, Kroonstad, Odendaalsrus, Parys, Ventersburg, Virginia, Welkom and Witsieshoek;

“Area E” means the Magisterial Districts of Barkly West, Bethulie, Boshof, Bothaville, Brandfort, Britstown, Bultfontein, Carnarvon, Clocolan, Colesberg, De Aar, Dewetsdorp, Edenburg, Excelsior, Fauresmith, Ficksburg, Fouriesburg, Frankfort, Fraserburg, Gordonia, Hanover, Hartswater, Heilbron, Herbert, Hoopstad, Jacobsdal, Jagersfontein, Kenhardt, Kimberley (outside a 20 km radius from the General Post Office), Koffiefontein, Koppies, Kudumane, Kuruman, Ladybrand, Lindley, Marquard, Noupoort, Petrusburg, Philippolis, Philipstown, Prieska, Postmasburg, Reddersburg, Reitz, Richmond (Northern Cape), Rouxville, Senekal, Smithfield, Theunissen, Trompsburg, Victoria West, Viljoenskroon, Vrede, Vredefort, Vryburg, Warrenton, Wepener, Wesselsbron, Williston, Winburg and Zastron;

“Area F” means the Magisterial Districts of Port Elizabeth and Uitenhage;

“Area G” means the Magisterial Districts of Albany, Alexandria, Bathurst, Beaufort West, Calitzdorp, George, Humansdorp, Joubertina, Knysna, Ladismith, Mossel Bay, Oudtshoorn, Riversdale and Uniondale;

“Area H” means the Magisterial Districts of Aberdeen, Adelaide, Albert, Aliwal North, Barkley East, Bedford, Bizana, Butterworth, Cala, Cathcart, Centani, Cofimvaba St Marks, Cradock, Elliot, Elliotdale, Engcobo, Flagstaff, Fort Beaufort, Glen Grey, Graaff-Reinet, Hankey, Herschel, Hewu, Hofmeyer, Idutywa, Indwe, Jansenville, Keiskammahoek, King Williams Town, Kirkwood, Komga, Kwabhaca, Lady Grey, Libode, Lusikisiki, Maclear, Mdantsane, Middelburg (Eastern Cape), Middelburg, Molteno, Mount Ayliff, Mount Fletcher, Mount Frere, Mqanduli, Murraysburg, Ngqeleni, Nqamakwe, Ntabethemba, Pearston, Peddie, Prince Albert, Qumbu, Queenstown, Seymour (Mpofu), Somerset East, Sterkstroom, Steynsburg, Steytlerville, Stutterheim, Tabankulu, Tarka, Tsolo, Tsomo, Umtata, Umzimvubu (Port St Johns), Venterstad, Victoria East, Willowmore, Willowvale, Wodehouse; and Zwelitsha.

“Area I” means the Magisterial Districts of Bellville, Cape, Goodwood, Kuils River Mitchell's Plain, Simonstown, and Wynberg

“Area J” means the Magisterial Districts of Camperdown, Chatsworth, Durban, Inanda, Kranskop, Kwa Mapumulu, Lions River, Lower Tugela, Ndwedwe, New Hanover, Pietermaritzburg, Pinetown, Richmond, Umbumbulu, Umlazi, Umvoti, and Vulindlela, inclusive of any former self-governing territories located therein.

“Area K” means the Magisterial Districts of Alfred, Babanango, Bergville, Dannhauser, Dundee, Emnambithi, Emzombe, Enseleni, Eshowe, Estcourt, Ezingolweni, Glencoe, Hlabisa, Hlanganani, Impendle, Ingwavuma, Inkanyezi, Ixopo, Kliprivier, Lower Umfolozi, Mahlabatini, Moorivier, Mount Currie, Msinga, Mtonjaneni, Newcastle, Ngotshe, Nkandla, Nongoma, Nqutu, Okhahlamba, Ongoye, Paulpietersburg, Polela, Port Shepstone, Simdlangentsha, Ubombo, Umzinto, Underberg, Utrecht, Vryheid, Vulamehlo

and Weenen, inclusive of any former self-governing territories located therein; and Umzimkulu in the Eastern Cape.

“Area L” means the Magisterial District of East London;

“Area M” means the Magisterial Districts of Gordon's Bay, Malmesbury, Paarl, Somerset West, Stellenbosch, Strand and Wellington;

“Area N” means the Magisterial Districts of Calvinia, Clanwilliam, Hopefield, Morreesburg, Namaqualand, Piketberg, Sutherland, Vanrhynsdorp, Vredenburg and Vredendal,

“Area O” means the Magisterial Districts of Bredasdorp, Caledon, Ceres, Heidelberg, Hermanus, Laingsburg, Montague, Robertson, Swellendam, Tulbagh and Worcester.

Note: The above Magisterial Districts are defined in terms of the 2001 demarcations.

In the event of any Magisterial District being omitted from the above, the Council shall determine under which Area such district should be placed.

“artisan” means an employee who has completed his training in terms of the Manpower Training Act, 1981, or is in possession of a certificate issued by a relevant SETA or by the former Electrical Contracting Industries Training Board recognising that he has received training sufficient to entitle such an employee to work as an artisan in the Industry;

“Building Industry” without in any way limiting the ordinary meaning of the expression, means the industry in which employers and their employees are associated for the purpose of erecting, completing, renovating, repairing, maintaining or altering buildings and structures and/or making articles for use in erecting, completing or altering buildings and structures, whether the work is performed, the material is prepared, or the necessary articles are made on the sites of the buildings or structures or elsewhere, and includes all work executed or carried out by persons who are engaged in the trades, activities or subdivisions in the Building Industry excluding the Electrical Industry.

“Collective Agreement” means any collective agreement concluded by the parties to the Council and published by the Minister of Labour.

“Council” means the National Bargaining Council for the Electrical Industry of South Africa;

“domestic appliance mechanic (DAM)” or **“refrigeration mechanic”** means an employee engaged in one or more of the following classes of work:

diagnosing faults in, or directing or executing repairs or adjustments to, or servicing, assembling, erecting and/or installing ranges, refrigerators, washing machines, ironers, air-conditioning units and all other major electrical

appliances, carrying out final tests or supervising of such operations, but does not include an employee engaged in connecting to existing outlets, refrigerators, ranges, or other domestic electrical appliances;

“domestic appliance repairer (DAR)” (Areas J and K only) means an employee engaged in -

- (a) the following operations when performed in the workshops of an establishment in connection with the repair of heating and/or drying and/or personal care appliances of a load not exceeding five amperes, except in the case of domestic heating appliances where the load does not exceed 15 amperes -
 - (i) repairing and/or replacing heating elements on appliances,
 - (ii) repairing and/or replacing ceramic or other insulating spacers, including fixing,
 - (iii) repairing and/or re-assembling heating element containers,
 - (iv) removing and/or replacing motors not exceeding 750 watts at the direction of an artisan, excluding final testing,
- (b) any or all of the operations carried out in connection with the installation of burglar or other similar alarm systems –
 - (i) connecting cables of electromechanical devices;
 - (ii) adjusting vibration contracts to pre-set limits;
 - (iii) soft soldering by hand;
 - (iv) foiling windows.

“driver” means an employee engaged in driving a mechanical vehicle on a public road who is in possession of a valid driver’s licence issued under any Road Traffic Ordinance;

“electrical assistant” means an employee who is engaged in any or all of the following tasks:

- (a) Digging holes and trenches, planting poles and laying cables in trenches,
- (b) chasing and cutting walls and concrete floors for conduit,
- (c) loading or unloading materials,
- (d) stripping redundant installations and equipment incidental thereto from which the supply cables have been removed,
- (e) cleaning office and workshop areas,

- (f) preparing refreshments,
- (g) installing and fixing of flush and surface mounted wireways and ancillary equipment thereto,
- (h) installing cables including the fitting of glands, making off and securing such cables, but excluding the connection thereof,
- (i) assisting with erecting and connecting luminaires;
- (j) assisting with operating a trenching machine once trained,
- (k) assisting a master installation electrician, an installation electrician, an electrical tester for single-phase, an electrician, an artisan, a domestic appliance mechanic, a domestic appliance repairer and an Elconop 1, Elconop 2 or Elconop 3, but not performing any work individually except as set out in (a) to (j) above:

“electrical construction operator level 1” (hereinafter referred to as ‘Elconop 1’) means an employee who has received on-the-job training by the employer and who undertakes any of the following tasks and who may use the tools necessary to perform such tasks:

- (a) installing and fixing of flush and surface mounted wire ways and ancillary equipment incidental thereto
- (b) installing of cables including the fitting of glands, making off and securing of such cables but excluding the connection thereof
- (c) installing and connecting of socket outlets
- (d) erecting and connecting of luminaries
- (e) operating a trenching machine
- (f) performing the work of an electrical assistant and general assistant
- (g) assisting a master installation electrician, an installation electrician, an electrical tester for single-phase, an electrician or artisan and an Elconop 2 or Elconop 3, but not performing any work individually, except as set out in (a) to (f) above;

“electrical construction operator, level 2” (hereinafter referred to as ‘Elconop 2’) means an employee, who has attended the prescribed formal training course at an institutionalised training centre accredited by a relevant Sector Education Training Authority (SETA), has undergone on-the-job training and has successfully passed the examination for Elconop 2 at an institutionalised training centre recognised by the Council and accredited by a

relevant SETA, and who may be engaged in any or all of the following tasks, and may use the tools necessary to perform such tasks: Provided such tasks are carried out only on new installations or on major renovations to structures or buildings from which the power has been disconnected from the main supply, and are carried out under the supervision of a master installation electrician, an installation electrician, an electrical tester for single-phase, an electrician/artisan or an Elconop 3 –

- (a) placing and drawing in of conductors into wireways
- (b) installing and connecting of lighting, cooker, water heater and low voltage systems including systemised and/or innovative wiring systems, the connection of distribution boards
- (c) installing of under floor heating systems
- (d) jointing of cables using epoxy or other approved means, as well as the connection of such cables on installations where the supply has been switched off
- (e) simple arc gas welding
- (f) performing the work of an electrical assistant, general assistant or Elconop 1
- (g) assisting a master installation electrician, installation electrician, electrical tester for single phase, an electrician/artisan and an Elconop 3."

"electrical construction operator level 3" "electrical construction operator level 3" (hereinafter referred to as 'Elconop 3') means an employee who has been employed in the Industry as an Elconop 2 for a continuous period of at least 12 months and has attended the prescribed formal training course at an institutionalised training centre accredited by a relevant Sector Education

Training Authority (SETA), has undergone on-the-job training and has successfully passed the examination for Elconop 3 at an institutionalised training centre recognised by the Council and accredited by a relevant SETA; or who is in possession of a registration card issued by the Council recognising him as an Elconop 3 and who may be engaged in any or all of the following tasks, and may use the tools necessary to perform such tasks:"

- (a) Installing, wiring and assembling main and sub-main distribution boards
- (b) Installation and maintenance of domestic, commercial and industrial installations (tubing, wiring and cables) from incoming mains to completed final circuits

- (c) Wiring and connection of all circuits in domestic, commercial and industrial installations (wiring and connection of all types of lights, socket outlet circuits, stoves, hot water cylinders, pumps, air conditioning circuits, industrial machines etc)
- (d) Installation, maintenance and repairs of single and three phase motor and starter circuits
- (e) Testing of installations under the direct supervision of a registered person
- (f) Connection of transformers and ancillary circuits (such as CT's PT's low voltage lighting etc)
- (g) Where necessary performing the work of an Elconop 1 or Elconop 2

“electrical contractor” means a person who undertakes to perform electrical installation work on behalf of any other person, but excludes an employee of such first mentioned person;

“Electrical Engineering Industry” means the industry concerned with -

- (a) the manufacture and/or assembly from component parts of electrical equipment, namely generators, motors, converters, switch and control gear (including relays, contactors, electrical instruments and equipment associated therewith), electrical lighting, heating, cooking, refrigeration and cooling equipment, transformers, furnace equipment, signalling equipment, radio or electronic equipment, including monitors and other equipment utilising the principles used in the operation of radio and electronic equipment, the latter equipment includes, but is not limited to, television and incandescent lamps, and electric cables and domestic electrical appliances, and further includes the manufacture of component parts of the aforementioned equipment,
- (b) the installation, maintenance, repair and servicing of the equipment referred to in paragraph (a) above, but does not include the activities of the Electrical Industry,

“Electrical Industry” or “Industry” means the industry in which employers and their employees are associated for any or all of the following –

- (a) the design, preparation, erection, installation, repair and maintenance of all electrical equipment forming an integral and permanent part of buildings and/or structures, including any wiring, cable jointing and laying and electrical overhead line construction, and all other operations incidental thereto, whether the work is performed or the material is prepared on the site of the buildings or structures or elsewhere,

- (b) the design, preparation, erection, installation, repair and maintenance of all electrical equipment incidental to the purpose for which a building and/or structure is used, including any wiring, cable jointing and laying and electrical overhead line construction, and all other operations incidental thereto, whether the work is performed or the material prepared on the site of the buildings or structures or elsewhere,
- (c) the design, preparation, erection, installation, repair and maintenance of all electrical equipment incidental to the construction, alteration, repair and maintenance of buildings and/or structures, including any wiring, cable jointing and laying and electrical overhead line construction, and all other operations incidental thereto, whether the work is performed or the material prepared on the site of the buildings or structures or elsewhere,
- (d) the design, preparation, erection, installation, repair and maintenance of all electrical equipment not covered by (a), (b) or (c) above, including any wiring, cable jointing and laying and electrical overhead line construction, and all other operations incidental thereto, whether the work is performed or the material prepared on the site of the buildings or structures or elsewhere,
- (e) the installation and/or maintenance and/or repair and/or servicing of overhead lines and underground cables associated with domestic and/or industrial and/or commercial installations and/or street lighting, and for the purposes of this definition-
 - (i) **electrical equipment** includes:
 - (aa) electrical cables and overhead lines, and
 - (ab) generators, motors, converters, switch and control gear (including relays, contactors, electrical instruments and equipment associated therewith), electrical lighting, heating, cooking, refrigeration and cooling equipment, primary and secondary cells and batteries, transformers, furnace equipment, radio sets and allied electrical apparatus, signalling equipment and other equipment utilising the principles used in the operation of radio or electronic equipment,
 - (ii) design, preparation, erection, installation, repair and maintenance does not include -
 - (aa) the manufacture, installation, repair and/or maintenance of lifts and escalators,

- (ab) the manufacture and/or assembly by the manufacturer of the aforementioned electrical equipment and/or components thereof,
- (ac) the wiring of or installation in motor vehicles of lighting, heating or other equipment or fixtures, whether permanent or otherwise,
- (ad) the manufacture, repair and servicing of motor vehicle batteries, the manufacture of lead-acid batteries and the repair, maintenance and installation of such batteries when performed by the manufacturers thereof, and
- (ae) the sale, and/or repair and/or servicing of manual and/or electrical typewriters and/or electro-mechanical office machines and equipment:

Provided that - the Electrical Industry, as defined above, shall not include the Iron, Steel, Engineering and Metallurgical Industry, the Local Authority Undertaking and the Building Industry as defined in the Council's certificate of registration. ;

“electrical installation” means any machinery, in or on any premises, used for the transmission of electricity from a point of control to a point of consumption anywhere on the premises, including any article forming part of such an installation irrespective of whether or not it is part of the electrical circuit, but excluding -

- (a) any machinery of the supplier related to the supply of electricity on the premises,
- (b) any machinery which transmits electrical energy in communication, control circuits, television or radio circuits,
- (c) an electrical installation on a vehicle, vessel, train or aircraft; and
- (d) control circuits of 50 V or less between different parts of machinery or system components, forming a unit, that are separately installed and derived from an independent source or an isolating transformer.

“electrical tester for single-phase” means a person who has been registered as an electrical tester for single-phase in terms of either the Electrical Installation Regulations 1992 or 2009 made under the Occupational Health and Safety Act, 1993, and who has been approved by the chief inspector for the verification and certification of the construction, testing and inspection of electrical installations supplied by a single-phase electricity supply at the point of control; excluding specialised electrical installations,

“electrical wiring” means the design, installation, alteration, repair or testing of any cable, conductor, fitting, apparatus or conduit used or intended to be

used for purposes integral or incidental to the supply and/or consumption of electricity;

“electrician” means an employee who has completed an apprenticeship in terms of either the former Manpower Training Act, 1981 in a trade relevant to the Industry, or who has received training recognised by a relevant SETA as being sufficient to entitle him to work as an electrician in the Industry;

“employee” means any person employed on any of the classes of work defined in this Agreement and includes a person employed under a contract of apprenticeship recognised by the Council;

“employer” means any person who employs or provides work for any person and remunerates or expressly or tacitly undertakes to remunerate him or who permits any person in any manner to assist him in the carrying on or conducting of his business, and includes temporary employment services as defined in the Act;

“establishment” means any place where the Industry or any part thereof, as herein defined, is carried on, including the place where the employer normally carries on his business and where his wage records are kept.

“fixed term contract” means a contract of employment which terminates on the occurrence of a specified event, the completion of a specified task or project, or on a fixed date other than an employee's normal or agreed-upon retirement age.”

“foreman” means an electrician or artisan who has been appointed by his employer to supervise work defined in this Agreement: Provided that such employee may also be required to undertake electrical installation work himself if so required by his employer;

“general assistant” means an employee who

- (a) is engaged in any or all of the following tasks;
 - (i) Digging holes and trenches, planting poles and laying and pulling cables in trenches,
 - (ii) chasing and cutting walls and concrete floors for conduit, providing no power tools are used
 - (iii) loading or unloading materials,
 - (iv) stripping redundant installations and equipment incidental thereto from which the supply cables have been removed,

- (b) is employed on the following terms and conditions –
- (i) no such employee shall be employed for a total period exceeding 4 months in any calendar year, with the same employer.
 - (ii) the prescribed minimum wage rate of an employee shall not be less than 75% of the prescribed minimum wage rate of an Electrical Assistant,
 - (iii) all general assistants shall be included in the Council's monthly return forms and an employer shall be required to pay all applicable contributions and subscriptions in terms of the Council's collective agreements excluding pension/provident fund, sick pay fund and risk benefits.

“independent appeals body” means any person or persons appointed by the Council in terms of Section 32 of the Labour Relations Act 66 of 1995, as amended, from an accredited institution, to hear and decide any appeal brought against the Council's refusal of a non-party's or a party's application for exemption from the provisions of the collective agreement and the withdrawal of such an exemption by the Council.

“installation electrician” means a person who has been registered as an installation electrician in terms of the Electrical Installation Regulations, 1992 or 2009, made under the Occupational Health and Safety Act, 1993, and who has been approved by the chief inspector for the verification and certification of the construction, testing and inspection of any electrical installation, excluding specialised electrical installations;

“installation work” means –

- (a) the installation, extension, modification or repair of an electrical installation;
- (b) the connection of machinery at the supply terminals of such machinery; or
- (c) the inspection, testing and verification of electrical installations for the purpose of issuing a certificate of compliance

“Iron, Steel, Engineering and Metallurgical Industry” means (subject to the provisions of any Demarcation Determinations made in terms of section 76 of the Labour Relations Act, 1956, and section 62 of the Labour Relations Act, 1995), the industry concerned with the production of iron and/or steel and/or the processing and/or recovery and/or refining of metals (other than precious metals) and/or alloys from dross and/or scrap and/or residues; the maintenance, fabrication, erection or assembly, construction, alteration, replacement or repair of any machine, vehicle (other than a motor vehicle) or article consisting mainly of metal (other than precious metals) or parts or components thereof and structural metal work, including steel reinforcement

work; the manufacture of metal goods principally from such iron and/or steel and/or other metals (other than precious metals) and/or alloys and/or the finishing of metal goods; the building and/or alteration and/or repair of boats and/or ships, including the scraping, chipping and/or scaling and/or painting of the hulls of boats and/or ships; and general woodwork undertaken in connection with ship repairs, and includes the Electrical Engineering Industry;

“Local Authority Undertaking” means the undertaking in which employers and their employees are associated for the introduction, continuation, or completion of any action, scheme or activity undertaken by a local authority: Provided that for the purposes hereof the Electrical Industry as defined above shall not include work performed by a local authority exclusively for local authority purposes, but shall include all work performed on the property of a local authority by a registered electrical contractor or his employees or any other person who is not an employee of a local authority: Provided further that the Local Authority Undertaking shall not include the activities of the Electrical Industry;

“Main Agreement” means the Main Collective Agreement of the National Bargaining Council for the Electrical Industry of South Africa as amended and extended from time to time in which wages and other conditions of service are specified;

“master installation electrician” means a person who has been registered as a master installation electrician in terms of the Electrical Installation Regulations, 1992 or 2009, made under the Occupational Health and Safety Act, 1993, and who has been approved by the chief inspector for the verification and certification of the construction, testing and inspection of any electrical installation;

“member” means an employee for whom membership of the Funds is provided in terms of clauses 7(4), 8(3) and 9(3);

“PFA” means the Pension Funds Act 24 of 1956, as amended from time to time.

“Region A” means the Provinces of Gauteng, Limpopo, Mpumalanga, and North West Province,

“Region A1” means the Free State/Northern Cape Region incorporating the Provinces of the Free State and the Northern Cape but excludes the Magisterial Districts of Calvinia, Namaqualand and Sutherland in the Northern Cape.

“Region B” means the Eastern / Southern Cape Region incorporating the Province of the Eastern Cape and the Magisterial Districts of Beaufort West, Calitzdorp, George, Knysna, Ladismith, Mossel Bay, Murraysburg, Oudshoorn, Prince Albert, and Uniondale in the Western Cape Province but excludes the Magisterial District of Umzimkulu in the Eastern Cape.

“Region C” means the Province of Kwazulu Natal and the Magisterial District of Umzimkulu in the Eastern Cape.

“Region D” means the Province of the Western Cape and the Magisterial Districts of Calvinia, Namaqualand and Sutherland in the Northern Cape but excludes the Magisterial Districts of Beaufort West, Calitzdorp, George, Knysna, Ladismith, Mossel Bay, Murraysburg, Oudshoorn, Prince Albert , Riversdale and Uniondale in the Western Cape .

“the Regional Exemption Committee” means the exemption Committee appointed by the Regional Committee of the Council.

“the Registrar” means the Registrar of Pension Funds.

“Rules” means the rules referred to in clauses 8(7)(a), 9(6) and 10(6)(a) of this Agreement.

“Storeman” means an employee who is engaged in any or all of the following tasks;

- i) Stacking and storage of materials, tools and equipment;
- ii) Issuing and recording of materials;
- iii) Receiving and recording regular stock counts;
- iv) Recording of materials on site;
- v) Control of materials in the store;
- vii) Checking and ascertaining the correctness of materials received; and,
- viii) Issuing of such materials”

“Trustee Board” means the trustee board established in terms of the rules of the respective Pension and Provident Funds.

5 REGISTRATION OF EMPLOYERS

The provisions of the Main Agreement dealing with the registration of employers in the Industry shall be applicable to this Agreement.

6. DESIGNATED AGENTS]

The Council shall request the Minister, in terms of section 33 of the Act, to appoint persons to be designated agents to assist in giving effect to this Agreement. A designated agent shall have the powers conferred upon him in terms of section 33A read with Schedule 10 of the Act.

7. EXHIBITION OF AGREEMENT

Every employer shall keep in his establishment, in a place readily available a legible copy of this Agreement.

8. PENSION AND PROVIDENT FUNDS (Regions A, A1, and B only)

- (1) The Fund established under Government Notice 266 of 15 February 1963, and known as the "Electrical Contracting Industry Pension Fund"

is hereby continued, and the Fund known as the Electrical Contracting Industry Provident Fund (both hereinafter referred to as the "Fund") is hereby continued by the Council.

- (2)(a) The Fund shall, subject to the provisions of sub-clause (7), consist of moneys accruing from contributions prescribed in sub-clause (5) of this Clause.

- (b) The Fund shall also consist of moneys standing to the credit of the members of the Fund at the date of this Agreement.

- (3) The objects of the Fund shall be to provide members with benefits upon withdrawal, disability and retirement from the Industry. The Council will ensure that the Fund provides members with these benefits. In the event that any benefit is not provided for by the Fund the Council will secure these benefits.

The Council will ensure that members are insured for death and funeral benefits.

The death benefits will be distributed in terms of Section 37C of the PFA.

- (4) Membership of the Fund shall be compulsory for all master installation electricians, installation electricians, electrical testers for single phase, electricians, artisans, domestic appliance mechanics, Elconops 3, Elconops 2, Elconops 1, storeman, drivers, electrical assistants, and apprentices.

- (5) (a) Every employer shall pay 15% of the prescribed weekly wage in respect of each category of employee in terms of sub-clause ((4) above to the Regional Manager of the Council, not later than the 15th day of each month for the preceding month, in respect of such employees together with such form as specified by the Council.

- (b) Every employer shall be entitled to deduct 50% of the contribution referred to in sub-clause (5) (a) above, from the weekly wages, excluding overtime, of the employee in respect of whom the contribution is made.

- (c) For the purposes of this clause a week shall constitute not less than three shifts actually worked for one employer in the Industry during any one week from Monday to Friday, (inclusive).

Pension and Provident Fund benefits will be paid for by the Council in terms of its Sick Benefit Fund Rules.

- (d) Contributions to the Pension and/or Provident Funds for any member shall be remitted for a maximum of three weeks during the member's annual leave period as provided for in the Main Agreement. Provided that if the member has been in service for at least five years with the same employer, contributions shall be for a maximum period of four weeks.
- (e) All contributions received by the Council in terms of this clause shall be paid to the Funds administrator.
- (f) Notwithstanding the provisions of any other clause in this Agreement or the Main Agreement the contributions referred to in sub-clause (5)(a) shall be based on a working week of 42½ (forty two and one half) hours.
- (g) Should any amount due in terms of this clause not be received by the Council by the 15th day of the month following the month in respect of which it is payable, the employer shall pay interest on such amount or on such lesser amount as remains unpaid calculated by the funds administrator as prescribed by the Registrar of Pension Funds in terms of Section 13A (7) of the Pension Funds Act, 1956, as amended, until the day upon which payment in cash is actually received by the Council:
- (6)(a) Benefits payable to a member of the Fund shall be as prescribed in the rules of the fund(s).
- (b) Benefits accruing under the Fund shall not be transferable and may not be ceded or pledged unless the PFA provides for otherwise: Provided that any member may nevertheless nominate a beneficiary to receive the proceeds of his policy in the event of his death prior to retirement.
- 7(a) The Fund shall be administered in accordance with Fund Rules approved by the Trustee Board. This Agreement shall not be inconsistent with the rules or the provisions of the PFA nor shall the Fund rules be inconsistent with the Council's collective agreements in so far as members' terms and conditions of employment are concerned. A copy of the rules and any amendments thereto shall be lodged with the Registrar of Pensions and the Registrar of Labour.
- (b) In the event of the dissolution of the Council or in the event of it being unable to perform its duties, the Registrar may appoint trustees to ensure continuity of the funds. The trustees so appointed shall have no powers to change members' terms and conditions of employment that existed immediately prior to dissolution of the Council or as a result of it being unable to perform its duties. Payment (if any) for the services rendered by the trustees shall form a charge against the Funds.

- (c) In the event of the expiration of Council's Main Collective Agreement and this agreement, the funds shall continue to operate in terms of their rules.

9. PENSION FUND (Region C only)

- (1) (a) The Electrical Industry KwaZulu Natal Pension Fund and the Supplementary Scheme (hereinafter referred to as the "Pension Fund" or the "Fund"), originally established in terms of Government Notice No. R.2043 of 13 October 1978, are hereby continued. The Pension Fund has been constituted from the amalgamation of the former Electrical Industry (KwaZulu Natal) Pension Fund and the Supplementary Scheme and further established under Government Notice R.1407 of 6 November 1998, and known as the Electrical Industry KwaZulu-Natal Pension Fund (hereinafter referred to as the "Fund") is hereby continued and shall consist of;
- (b) moneys accruing from contributions prescribed in sub-clause (4) of this Part; and
- (c) any other sum to which the Pension Fund may be or may become entitled.
- (2) The objects of the Fund shall be to provide members with benefits upon withdrawal, death, funeral, disability and retirement from the Industry. The Council will ensure that the Fund provides members with these benefits. In the event that any benefit is not provided for by the Fund the Council will secure these benefits. The death benefits will be distributed in terms of Section 37C of the PFA.
- (3) Membership of the Fund shall be compulsory for all master installation electricians, installation electricians, electrical testers for single phase, electricians, artisans, domestic appliance mechanics, Elconops 3, Elconops 2, Elconops 1, storeman, drivers, electrical assistants, and apprentices.
- (b)(i) Membership of the Fund shall be compulsory for all electrical assistants, and Elconops 1 after 13 weeks service in the Industry: Provided that if an employee can supply proof of previous employment in this Industry, contributions to the Fund shall commence from the date of engagement.
- (ii) However, during the first 13 weeks service, the employees in terms of sub-clause 3(b) (i) above shall be covered for death benefits, the cost of which shall be borne by the employer.

- (c) Any employer may, in respect of his employees employed in the Industry whose wages are not specified in the Main Agreement but who otherwise comply with the provisions of the Agreement, by mutual agreement, apply to the Fund to accept contributions from himself and such employees (or any of them) in accordance with the provisions of sub-clause 4 of this Part. Upon receipt of such application, the Council may agree to receive contributions from that employer and the provisions of

the Agreement shall thereupon *mutatis mutandis* apply to the employer and the employees concerned and be observed by them as though clause 1 of Part 1 applied.

- (4)(a) The Council shall determine and advise every employer of the weekly amount payable to the Pension Fund in respect of each category of employee, which amount shall be calculated at the undermentioned percentage of the prescribed wage payable in terms of the Main Agreement, taken to the next higher 10 cents:

Contribution at percentage of prescribed weekly wage: 15%.

Such contributions shall be calculated based on a 42.5 (forty-two and one half) hour working week.

For the purposes of the clause, a week shall constitute not less than three shifts worked for one employer in the Industry during any one week from Monday to Friday inclusive.

Pension and Provident Fund benefits will be paid for by the Council in terms of its Sick Benefit Fund Rules.

In respect of electrical assistants, and Elconops 1 in the first 13 weeks of service in the Industry, the Council shall determine and advise every employer of the weekly amount payable in respect of the death benefit cover.

- (b) Every employer shall pay the amount determined in terms of sub-clause (a) to the Council in respect of such employees: Provided that the employer may deduct 40 percent of the amount payable from the remuneration of such employees.
- (c) The amount payable each month in terms of this clause shall be forwarded to the Regional Manager of the Council, by not later than the 15th day of the month immediately following, together with a statement in such form as may from time to time be specified by the Council.
- (d) Contributions to the Pension Fund for any member shall be remitted for a maximum of three weeks during the member's annual leave period as provided for in clause 16(1) of the Main

Agreement. Provided that if the member has been in service for at least five years with same employer, contributions shall be for a maximum period of four weeks.

- (e) Should any amount due in terms of this clause not be received by the Council by the 15th day of the month following the month in respect of which it is payable, the employer shall pay interest on such amount or on such lesser amount as remains unpaid

calculated by the funds administrator as prescribed by the Registrar of Pension Funds in terms of Section 13A (7) of the Pension Funds Act, 1956, as amended, until the day upon which payment is actually received by the Council:

- (5)(a) Benefits payable to a member of the Pension Fund shall be as specified in the rules of the Fund.
- (b) Benefits accruing under the Pension Fund shall not be transferable and may not be ceded or pledged unless the PFA provides for otherwise: Provided that any member may nevertheless nominate a beneficiary to receive the proceeds of his policy in the event of his death prior to retirement.
- (6) The Pension Fund shall be administered in accordance with the rules of the fund approved by the Trustee Board. This Agreement shall not be inconsistent with the rules or the provisions of the PFA nor shall the Fund rules be inconsistent with the Council's collective agreements in so far as members' terms and conditions of employment are concerned. A copy of the rules and any amendments thereto shall be lodged with the Registrar of Pensions and the Registrar of Labour.
- (7) In the event of the dissolution of the Council or in the event of it being unable to perform its duties, the Registrar may appoint trustees to ensure continuity of the fund.
The trustees so appointed shall have no powers to change members' terms and conditions of employment that existed immediately prior to dissolution of the Council or as a result of it being unable to perform its duties. Payment (if any) for the services rendered by the trustees shall form a charge upon the Fund.
- (8) In the event of the expiration of Council's Main Collective Agreement and this agreement, the fund shall continue to operate in terms of its rules.

10. PENSION AND PROVIDENT FUNDS (Region D only)

- (1) (a) The Electrical Contracting Industry Provident Fund (Cape) and the Electrical Contracting Industry Pension Fund (Cape) (hereinafter referred to as the "Pension and Provident Funds: or the "Fund") originally established on 20 March 1997 in terms of Government Notice No. R431 and 3 December 1971 in terms of Government Notice No. R2169 respectively, is hereby continued and shall consist of -
- (b) moneys accruing from contributions as prescribed in this Agreement and in terms of the rules of the funds; and
- (c) any other sum to which the Fund may be or may become entitled.
- (2) The objects of the Fund shall be to provide members with benefits upon withdrawal, death, funeral, disability and retirement from the Industry. The Council will ensure that the Fund provides members with these benefits. In the event that any benefit is not provided for by the Fund the Council will secure these benefits.
The death benefits will be distributed in terms of Section 37C of the PFA.
- (3) Membership of the Fund shall be compulsory for all master installation electricians, installation electricians, electrical testers for single phase, electricians, artisans, domestic appliance mechanics, Elconops 3, Elconops 2, Elconops 1, storeman, drivers, electrical assistants, and apprentices.
- (4)(a) Each employer shall each week deduct from the wages of his employees who are members of the Pension and the Provident Funds an amount equivalent to 7,5% of the actual wages earned, excluding overtime. To the amount thus deducted the employer shall add an equal amount and forward it to the Regional Manager of the Council, not later than the 15th day of each month for the month preceding, the total sum together with such form as may be specified by the Council from time to time. Such contributions shall be calculated based on a 40 (forty) hour working week.
Pension and Provident Fund benefits will be paid for by the Council in terms of its Sick Benefit Fund Rules.
- (b) Contributions to the Pension and/or Provident Funds for any member shall be remitted for a maximum of three weeks during the member's annual leave period as provided for in clause 16(1) of the Main Agreement. Provided that if the member has been in service for at least five years with same employer, contributions shall be for a maximum period of four weeks.

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- (c) All contributions received by the Council in terms of this sub-clause shall be paid to the funds administrator.
- (d) Should any amount due in terms of this clause not be received by the Council by the 15th day of the month following the month in respect of which it is payable, the employer shall pay interest on such amount or on such lesser amount as remains unpaid calculated by the funds administrator as prescribed by the Registrar in terms of Section 13A (7) of the Pension Funds Act, 1956, as amended, until the day upon which payment in cash is actually received by the Council:
- (5) Benefits payable to a member of the Pension and the Provident Funds shall be as specified in the rules.
- (6)(a) The Funds shall be administered in accordance with Fund Rules approved by the Trustee Board. This agreement shall not be inconsistent with the rules or the provisions of the PFA nor shall the Funds rules be inconsistent with the Council's collective agreements in so far as members' terms and conditions of employment are concerned. A copy of the rules and any amendments thereto shall be lodged with the Registrar of Pensions and the Registrar of Labour.
- (b) In the event of the dissolution of the Council or in the event of it being unable to perform its duties, the Registrar may appoint trustees to ensure continuity of the funds.
The trustees so appointed shall have no powers to change members' terms and conditions of employment that existed immediately prior to dissolution of the Council or as a result of it being unable to perform its duties. Payment (if any) for the services rendered by the trustees shall form a charge upon the Funds.
- (c) The Trustee Boards shall be appointed in terms of the Rules of the Funds.
- (d) In the event of the expiration of the Council's Main Collective Agreement and this agreement, the funds shall continue to operate in terms of their rules.

11. EXEMPTIONS FOR ALL REGIONS.

- (1) In terms of section 32 of the Act the Council shall consider all applications for exemption from any of the provisions of this Agreement for any good and sufficient reason within 30 days from the date of receipt of such application.
- (2) The Regional Exemption Committees of Council shall consider all applications for exemption from any of the provisions of this Agreement for any good and sufficient reason.
- (3) All applications for exemption shall be in writing (on an application form as provided by the Council) and shall be addressed to the respective Regional Manager of the Council for consideration.
- (4) All applications for exemption shall be substantiated, and such substantiation shall include the following details;
 - a) the period for which the exemption is required
 - b) the Agreement and clauses or sub-clauses of the Agreement from which the exemption is required ;
 - c) proof that the exemption applied for has been discussed by the employer, his employees and their respective representatives. The responses resulting from such consultation, either in support of or against the application, shall be included with the application.
- (5) The Regional Manager of the Council shall place the applications for exemption on the agenda of the next Regional Committee meeting of Council, or the Regional Exemptions Committee for consideration, within 30 days of receipt of the completed exemption application.
- (6) The Regional Managers of the Council shall provide the Committee with details of the applications for exemption.
- (7) The Regional Exemption Committees shall consider and decide on all written applications and, when requested by the applicants or objectors to do so, may interview applicants or objectors at its following meeting: Provided that the Regional Exemption Committee of Council may defer a decision to a following meeting if additional substantiation, information or verbal representations are considered necessary to decide on the application for exemption.
- (8) Once the Regional Exemption Committee has decided to grant an exemption, it shall issue a certificate and advise the applicant(s) within 14 days of the date of its decision.

(9) When the Regional Exemption Committee decides against granting an exemption or part of an exemption requested, it shall advise the applicant(s) within 14 days of the date of such decision and shall provide the reason or reasons for not granting an exemption.

(10) Exemption criteria -

The Regional Exemption Committee of the Council, shall consider all applications for exemption with reference to the following criteria:

- a) The written and verbal substantiation provided by the applicant;
- b) the extent of consultation with and the petition for or against granting the exemption as provided by employers or employees who are to be affected by the exemption if granted;
- c) the terms of the exemption;
- d) the infringement of basic conditions of employment rights;
- e) the fact that a competitive advantage may not be created by the exemption;
- f) the effect of the exemption on any employee benefit fund or training provision in relation to the alternative comparative bona fide benefit or provision, including the cost to the employee, transferability, administration management and cost, growth and stability;
- g) the extent to which the proposed exemption undermines collective bargaining and labour peace in the Electrical Industry;
- h) any existing special economic or other circumstances which warrant the granting of the exemption;
- i) reporting requirements by the applicant and monitoring and re-evaluation processes; and
- j) cognisance of the recommendations contained in the Report of the Presidential Commission to Investigate Labour Market Policy.
- k) Once a notice to attend arbitration proceedings has been issued, no employer or employee may make application for exemption from any provision of the collective agreement to which the arbitration notice relates.
- l) Any exemption applied for after the notice to attend arbitration has been issued shall not stay the arbitration proceedings. The

arbitrator shall be requested to make an appropriate arbitration award.

- (11) In terms of section 32 of the Act, the Council hereby establishes an Independent Appeals body to hear and decide as soon as possible, any appeal brought against-
- (a) the Council's refusal of an application for exemption from the provisions contained in this Agreement;
 - (b) the withdrawal of such exemption by the Council.
- (12) The Regional Manager shall, upon receipt of a written application for an appeal, forward the application together with the original application for exemption and all supporting documents to the Independent Appeal body for a decision.
- (13) The Independent Appeals body shall consider all applications within 14 days of receipt with reference to the criteria set out in sub-clause (10)
- above and shall ensure that the applications are not in conflict with the primary objects of the Act.
- (14) The Independent Appeals Body may defer a decision to a subsequent meeting if additional motivation, information or verbal representations are considered necessary to decide the application for exemption.
- (15) The Independent Appeals Body shall issue a certificate within 14 days of the date of its decision to uphold the appeal and grant exemption. The certificate should specify the terms of the exemption and the reporting requirements by the applicant and the monitoring and re-valuation processes.
- (16) The Independent Appeals Body shall advise the applicant(s) within 10 working days of the date of its decision not to grant exemption or part of an exemption requested and shall provide a written reason or reasons for the decision not to grant exemption.

12. RESOLUTION OF DISPUTES.

(1) Procedure to enforce compliance with this agreement:

The Council shall take all reasonable steps necessary to ensure compliance with this agreement. If whether through its own investigations or through any other source, it appears as if the provisions of this agreement have been breached then the following procedure shall apply to enforce compliance:

- (a) The appointed official of Council shall investigate the alleged breach.
- (b) If, upon completion of the investigation, the appointed official of Council has reason to believe that this agreement has been breached, the appointed person may endeavor to secure compliance with the agreement by any or all of the following means:
 - (i) Issue a compliance order requiring any person bound by the collective agreement to comply with the collective agreement within a specified period.
 - (ii) refer the matter to arbitration in terms of this agreement
 - (iii) a designated agent of Council shall have all the powers conferred to him in terms of section 33 read with section 33A and Schedule 10 of the Act.
- (c) Arbitration
 - (i) Upon referral of the unresolved dispute to arbitration, Council shall appoint an arbitrator from its panel to hear and determine the alleged breach of this agreement. The arbitrator shall be independent of the Council.
 - (ii) The Council shall decide the date, time, and venue of the arbitration hearing, but shall give the parties at least 21 days written notice of an arbitration hearing, unless the parties agree to a shorter period.
 - (iii) The Council shall serve notice of the date, time and venue of the arbitration on all parties who may have a legal interest in the outcome of arbitration.
 - (iv) Any party who has a legal interest in the outcome of the arbitration shall have the right to –
 - give evidence
 - call witnesses
 - question the witnesses of the other party

- address the concluding arguments with the arbitrator
 - be represented by a legal practitioner or co-employee or any office-bearer or official of his trade union or employers' organisation and, if the party is a juristic person, by a director or employee thereof.
- (d) The arbitrator shall have the following powers:
- (i) To determine whether there has been a breach of this agreement.
 - (ii) To make any appropriate award that gives effect to the collective agreement and to ensure compliance therewith.
 - (iii) To conduct the arbitration in a manner and form that he considers appropriate in order to determine the dispute fairly and quickly but shall deal with the substantial merits of the dispute with the minimum of legal formalities. Subject to the discretion of the arbitrator as to the appropriate form of the proceedings, a party to the dispute may give evidence, call witnesses, question the witnesses of any other party, and address concluding arguments to the arbitrator.
 - (iv) The appointed arbitrator may at any stage prior to or during the arbitration proceedings, suspend the arbitration proceedings and attempt to resolve the dispute through conciliation with the consent of all the parties to the dispute. If appropriate, the arbitrator may refer the dispute to another conciliator to be conciliated.
 - (v) To adjourn the arbitration proceedings to a later date or to make an award in the absence of a party who is alleged to have breached the agreement, if -
 - such party fails to appear in person or to be represented at the arbitration proceedings, and *prima facie* evidence has been presented to the arbitrator that the party in question has failed to comply with this agreement. Provided that proof is presented that written notification has been forwarded to such party –
 - (a) by registered mail or telegram to such party's last known address or an address chosen by that person to receive service and 21 days have lapsed since such notification has been mailed; or
 - (b) by fax transmission or telexing to such party's last known fax number or telex number; or a fax or telefax number chosen by that person to receive service and 21 days have lapsed since such notification has been faxed; or

- (c) by hand delivery to such party's last known business or residential address; or an address chosen by that person to receive service and 21 days have lapsed since such notification has been hand delivered.
 - (d) by emailing a copy of the document to the person's email or an email address chosen by that person to receive service.
- (e) a document may also be served -
 - (i) on a company or other body corporate by handing a copy to a responsible employee of the company or body at its registered office, its principal place of business within the Republic or its main place of business within the magisterial district in which the dispute first arose;
 - (ii) on an employer by handing a copy of that document to a responsible employee of the employer at the workplace where the employees involved in the dispute ordinarily work or worked;
 - (iii) on a trade union or employers' organisation by handing a copy of that document to a responsible employee or official at the main office of the union or employers' organization or its office in the magisterial district in which the dispute arose;
 - (iv) on a partnership, firm or association by handing a copy of that document to a responsible employee or official at the place of business of the partnership, firm or association or, if it has no place of business, by serving a copy of the document on a partner, the owner of the firm or chairman or secretary of the managing or other controlling body of the association, as the case may be;
 - (v) on a municipality, by serving a copy of the document on the municipal manager or any person acting on behalf of that person;
 - (vi) on a statutory body by handing a copy to the secretary or similar officer or member of the board or committee of that body, or any person acting on behalf of that body or
 - (vii) on the state or a province, a state department or a provincial department, a minister, premier or a member of the executive committee of a province by handing a copy to a responsible employee at the head office of the party or to a responsible employee at any office of the State Attorney.
- (f) if no person identified in (e)(i) to e(vii) above is willing to accept service may be effected by affixing a copy of the document to -

- (i) the main door of the premises concerned; or
- (ii) if this is not accessible, a post box or other place to which the public has access.
- (g) The arbitrator conducting arbitration in terms of this sub-clause has the powers of a Commissioner in terms of section 33A, section 142 and section 138 of the Act, read with the changes required by the context.
- (h) The appointed arbitrator shall have the power to vary, rescind or amend any arbitration award issued by him or by any arbitrator on application by any affected party or on his own accord within 14 days of the date on which the applicant became aware of the arbitration award or ruling or a mistake common to the parties to the proceedings and without limiting the generality hereof shall have this power if -
- the award was erroneously sought or erroneously made in the absence of any party affected by the award.
 - the award is ambiguous or contains an obvious error or omission, but only to the extent of that ambiguity, error or omission.
 - the award was granted as a result of a mistake common to the parties to the proceedings.
- (i) Any award made by the arbitrator, shall be served on all interested parties by the Council and must be made within 14 days after the expiry of the arbitration proceedings.
- (j) The Council may apply to make the arbitration award an order of court in terms of section 143 or section 158(1) of the Act.
- (k) The Council may apply for a writ of execution to enforce the order of court made in terms of section 143(1) of the Act.
- (l) The provisions of this procedure shall apply in addition to any other legal remedy which the Council may apply to enforce a collective agreement. In the event that the Council has to instruct a debt collecting agency or a legal practitioner to collect and or to litigate in respect of any amount due to it by the defaulter in terms of any arbitration award, the defaulter shall also be liable in terms of this clause for payment of any commission and any other litigation costs incurred in the enforcement and collection thereof."
- (m) If the arbitrator finds that any party to the dispute has failed to comply with a provision of Council's collective agreements which are binding on that party, then the arbitrator shall, in addition to

any other appropriate order, impose a fine on the non-compliant party in accordance with Section 29 (2) of Schedule 7 of the Act, read with Section 33A of the Act. An arbitrator shall also include in an order, any interest that is due in terms of clause 27 of the Council's Main Collective Agreement and an arbitration fee of R500, 00.

- (n) Notwithstanding the provisions of this clause, the Council may utilise section 33A, section 142 and Schedule 10 of the Act to monitor and enforce compliance with its collective agreements.
- (o) Despite the provisions of this clause, a Council agent may not issue a compliance order in respect of any amount payable to an employee as a result of a failure to comply with any provision of this agreement if -

That amount has been payable by the employer to the employee for longer than 12 months before the date on which a complaint was made to the Council by or on behalf of that employee or, if no complaint was made, the date on which a Council agent first endeavored to secure compliance.
- (p) Despite the aforesaid, if the non-compliance relates to unpaid Pension and or Provident Fund contributions, the Council must issue a compliance order to secure compliance.

(2) Procedure for Disputes about the Interpretation and/or Application of this Agreement

- (a) If a dispute is referred to the Council by any party to Council, or any legal entity or person who falls within the registered scope of Council, it shall attempt to resolve the dispute through conciliation and if the dispute remains unresolved after conciliation, the Council shall appoint an arbitrator from its panel to arbitrate the dispute unless otherwise agreed to between all parties to the dispute. The arbitrator shall be independent of the Council.
- (b) Any party or legal entity or person wishing to lodge such a dispute shall notify the Council in writing setting out all the details of the dispute. A copy of such notification shall be served on all parties to the dispute in accordance with Rule 5 of the Rules for the Conduct of Proceedings before the CCMA.
- (c) The Council shall arrange a conciliation meeting of the parties to the dispute within 14 days of the date it received the completed referral. However, the parties to the dispute may agree to extend the 14-day period.

- (d) In conciliation proceedings a party to the dispute may appear in person or be represented only by a director or employee of that party and if a close corporation also a member thereof, or any member, office bearer or official of that party's registered trade union or registered employers' organisation.
- (e) (i) The Council may appoint a conciliator from its panel to attempt to resolve the dispute.
(ii) Any conciliator appointed in terms of this sub-clause shall have all of the powers conferred to him in terms of section 33A, section 142, section 138 and section 142A of the Act.
(iii) Any conciliator appointed in terms of this clause shall determine a process to attempt to resolve the dispute which may include –
- mediating the dispute, or
 - conducting a fact finding exercise, or
 - making a recommendation to the parties, which may be an
 - advisory award.
- (f) (i) When conciliation has failed, or at the end of the 30 day period or any further period agreed to between the parties, the conciliator must:
- issue a certificate stating whether or not the dispute has been resolved and -
- (ii) serve a copy of that certificate on each party to the dispute or the person who represented a party in the conciliation proceedings; and
- (iii) the original certificate must be filed with the Council
- (g) If the dispute is not resolved at the conciliation meeting referred to in sub-clause (2) (c) above, it shall be referred to arbitration, unless otherwise agreed to between the parties to the dispute.
- The Council shall appoint an arbitrator who is available to commence the arbitration within 21 days from the date the dispute was not resolved at conciliation, unless otherwise agreed to between the parties to the dispute. The powers of the arbitrator shall be the same as in clause 12(1) (d) above read with the changes required by the context
- (h) In arbitration proceedings, a party to the dispute may appear in person or be represented only by a legal practitioner, a director or employee of that party and if a close corporation also a member thereof or any member, office bearer or

official of that party's registered trade union, or registered employers' organisation,

- (i) The arbitrator shall make a determination within 14 days of the completion of the hearing unless otherwise agreed to between the parties to the dispute.
Any party to the dispute who alleges a defect in the arbitration proceedings may apply to the Labour Court for an order setting aside the arbitration award in terms of section 145 of the LRA.
- (j) Any party to the dispute may apply to make the arbitration award an order of court in terms of section 143 or section 158(1) of the Act.
- (k) The arbitrator may on his/her own accord or on the application of any affected party, vary or rescind an arbitration award or ruling in terms of Section 144 of the LRA read with Rule 31 and Rule 32 of the CCMA Rules.

**SIGNED AT JOHANNESBURG, AS AUTHORISED FOR AND ON BEHALF
OF THE PARTIES TO THE COUNCIL, THIS 27... DAY OF November.....
2018.**



D. VAN DEVENTER – NATIONAL CHAIRMAN



M MPHAKOE – NATIONAL VICE-CHAIRMAN

DEPARTMENT OF SMALL BUSINESS DEVELOPMENT

NO. R. 593

18 APRIL 2019

**CO-OPERATIVES ADMINISTRATIVE REGULATIONS, 2016
AND PRINCIPLES OF GOOD GOVERNANCE**

DEPARTMENT OF SMALL BUSINESS DEVELOPMENT

**CO-OPERATIVES ACT, 2005 (ACT NO. 14 OF 2005)
AS AMENDED BY CO-OPERATIVES AMENDMENT ACT, 2013 (ACT NO. 6 OF 2013)****REGULATIONS FOR CO-OPERATIVES AND PRINCIPLES OF GOOD GOVERNANCE**

I, Ms L Zulu, Minister of Small Business Development, in terms of section 95 of the Co-operatives Act, 2005 (Act No. 14 of 2005) as amended by Co-operatives Amendment Act No. 6 of 2013) hereby make Co-operative Regulations and Principles of Good Governance as set out in the schedule hereto.



Ms L Zulu (MP)
MINISTER OF SMALL BUSINESS DEVELOPMENT
DATE: 26/03/2019

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CHAPTER 1: CO-OPERATIVE REGISTRATION AND SUPPORT

PART 1: CO-OPERATIVE REGISTRATION, GOVERNANCE AND MAINTENANCE

1. Repeal of previous Regulations

The Regulations provided for in section 95 of the Act and promulgated under Government Notice 366 of 30 April 2007 are hereby repealed.

2. Definitions

(1) In these regulations, unless the context otherwise indicates, the definitions of the Act apply, and –

“**access code**” means the unique identification particulars, whether alphanumeric, biometric or otherwise, enabling the CIPC system to identify a person;

“**annual report**” means a report prepared by the Board containing financial statements, a social report and management decision report. (Only applicable to Category A1 and category A2 primary co-operatives.)

“**annual return**” means annual submission of Form CO-OP 08 together with the co-operative’s audited report, or independently reviewed report or annual report;

“**the Act**” means the Co-operatives Act, 2005 (Act 14 of 2005), as amended by Co-operatives Amendment Act, 2013 (Act 6 of 2013);

“**CIPC**” means the Companies and Intellectual Property Commission established under section 85 of the Companies Act, 2008 (Act 71 of 2008), constituting a combined administrative office for the various registration offices established or deemed to be established and registers kept under the Act, the Companies Act, 2008 (Act 71 of 2008), the Close Corporations Act, 1984 (Act 69 of 1984), the Co-operatives Act, 2005 (Act 14 of 2005), the Trademarks Act, 1993 (Act 194 of 1993), the Designs Act, 1993 (Act 195 of 1993), and the Patents Act, 1978 (Act 57 of 1978); PLUS other IP ACTs

“**CIPC customer**” means any person making use of CIPC services, whether electronic services or manual services and includes any person who has been allowed by the Registrar to use electronic services, who is legally entitled to act on behalf of a co-operative and who has thus been allowed to use or provide electronic services or to act as an intermediary in respect of electronic services;

“**CIPC portal**” means the internet website or other electronic portal forming part of the CIPC system;

“**CIPC record retention system**” means the system used by CIPC to store records for subsequent access, whether in paper, microfilm, electronic or other form;

“**CIPC system**” means the computer system, including the CIPC portal, through which CIPC provides electronic services, irrespective of the medium or form of technology underlying or forming part of such services;

“electronic services” means the services provided or made available by CIPC through the CIPC system in terms of regulation 3;

“financial statements” means statements drafted by the Board for a particular financial period and includes (a) a statement of financial position (balance sheet); (b) an income statement (statement of comprehensive income); (c) a statement of changes in membership shares; (d) a statement of cash flows; and (e) notes comprising a summary of accounting policies and other explanatory notes.

“forms” means the prescribed forms contemplated in Schedule 2;

“High Court Rules” means the Rules Regulating the Conduct of the Several Provincial and Local Divisions of the High Court of South Africa, published by Government Notice R48 in Government Gazette 999 of 12 January, 1965, as amended from time to time;

“inspect” includes obtaining access to a record via the CIPC system;

“inspectors” are individuals appointed by the registrar and who exercise their statutory powers and the delegated powers of the registrar;

“lodge” includes the creation of a record on the CIPC system;

“operational requirements” means the requirements provided for in regulation 3(2);

“record” in relation to a co-operative, includes any document and vice versa, accounting records, minutes and registers as contemplated in section 21 of the Act;

“registrar” in the Act and these regulations is the commissioner as referred to in the Companies Act, 2008 (Act 71 of 2008);

“Regulation” includes any Table, Schedule or Form included within or referred to in a Regulation.

3. Electronic services

(1) Any requirement under the Act or these Regulations, including requirements in respect of lodgement of forms, returns, other information, records and payment of fees, may be satisfied in electronic form, subject to the provisions of the operational requirements.

(2) The Registrar may publish operational requirements on the CIPC portal setting out the requirements, processes and procedures in respect of all or certain electronic services, including—

- (a) registration procedures;
- (b) identification, authentication and verification;
- (c) form and format of records;
- (d) manner and form of payment of fees and penalties;
- (e) information security requirements; and
- (f) record retention requirements.

(3) The operational requirements may be published in different forms over different parts of the CIPC portal.

(4) Unless another form of electronic signature is specified in the operating requirements, any signature requirement under the Act or these Regulations in respect of a record to be

accessed from or lodged with CIPC is satisfied by the CIPC customer entering his or her access code on the CIPC system and any record lodged after the CIPC customer having entered the access code shall be deemed to have been duly signed by the person whose signature is required under the Act or these Regulations for purposes of such record.

(5) Where any form under the Act or these Regulations makes provision for a signature and such form is deemed to be signed as provided for in sub-Regulation (4), it shall not be necessary to have recorded on such form that it had been signed.

(6) Unless CIPC receives prior written notification from the holder of an access code to disable such access code, CIPC shall be entitled to accept that the person using electronic services is the person to whom the access code was issued or such person's duly authorized representative acting within the scope of such person's authority.

(7) CIPC may suspend or terminate electronic services at any time without incurring any liability for doing so: Provided that proper notice of such suspension or termination shall be given and that such suspension or termination will not affect existing rights of any person who has been using such electronic services.

4. Seal of Office of the Registrar

The seal of office of the registrar, in manual or electronic format, must bear the title, registrar of co-operatives at CIPC, and must appear on every document, which the registrar registers whether manually or by way of electronic means.

5. Documents

(1) All documents lodged with the Registrar must, unless he or she otherwise directs, be written in block capitals or be typewritten, or printed in legible characters, with deep permanent black ink on one side only of strong white paper of a size approximately 298 millimetres by 207 millimetres (international paper size A4): Provided that the requirements of this Regulation are met if documents have been lodged in accordance with the operational requirements and proof of payment of the prescribed fee, where applicable, has been provided.

(2) The registrar may reject any document which in his or her opinion is unsuitable for purposes of record or which does not satisfy the operational requirements.

(3) All documents lodged with the Registrar must be in one of the official languages of the Republic.

(4) A copy of any document reproduced from the CIPC record retention system, purporting to be certified by the Registrar or an officer or employee contemplated in section 78(2) of the Act, shall without proof or production of the original, upon the mere production thereof in proceedings, whether in a court of law or otherwise, be admissible as evidence in respect of the contents of such document.

(5) All communications to the Registrar may be made, or any document required to be sent to or lodged with the Registrar may be lodged personally or sent through the post or transmitted in such electronic form and by such electronic means as authorized by the Registrar for electronic services under the operational requirements.

6. Preservation of records

(1) Any document lodged with the Registrar or created on the CIPC system in terms of Regulation 3(1) may be stored in such form and format as the Registrar may approve from time to time for the CIPC record retention system.

(2) Any document lodged with the Registrar or any record in the CIPC record retention system may, subject to the provisions of any law, be moved to other locations, stored in another form, or be destroyed, as the case maybe.

(3) All co-operatives must retain and securely archive all accounting records, after the expiration of the five-year period as envisaged in section 21(2), for historical purposes. Documents may be archived in a suitable electronic form and must be stored in a place or manner that will ensure its safety.

7. Checking and verification of correctness of documents

When any person considers the registration of any document and submits a draft thereof to the Registrar for the verification of correctness, or requires the checking of any document or draft for any other reason, the fees mentioned in Schedule 1 in respect of such checking, shall be payable.

8. Office hours

The office of the Registrar shall be open to the public from Mondays to Fridays from 08:00 to 15:00, except on the following days or times:

- (a) all days proclaimed public holidays in terms of any law; and
- (b) days of which notice may from time to time be given by means of displaying a notice in a conspicuous place at the said office or in such other manner as the Registrar may think fit.

9. Forms, fees and penalties

(1) The forms contained in Schedule 2 to these Regulations must be used in all cases to which they apply and may be modified as directed by the Registrar to meet other cases or as circumstances may require.

(2) The fees to be paid in terms of the Act and these Regulations are those set out in Schedule 1 to these Regulations.

10. Manner, proof and date of payment

(1) The payment of all prescribed fees, additional fees and other moneys payable to the Registrar in terms of the Act, these Regulations or in relation to any form prescribed in these Regulations, must be effected in such manner, including such electronic form of payment, as the Registrar may direct.

(2) Proof of payment of such fees, additional fees or other moneys shall be furnished in accordance with the Registrar's requirements for such payment or, if such payment is electronically effected through the CIPC system, in accordance with the operational requirements.

- (3) The date of payment of fees, additional fees or other moneys referred to in sub-Regulation (1), shall be the date, as the case may be –
- (a) on which a payment was made in a manner contemplated in sub-Regulation (1); or
 - (b) as indicated on the electronic billing system when the electronic transaction on the billing system was performed.

11. Inspection of documents

(1) Any person who personally applies to inspect any document or to obtain a copy of any document kept by the registrar under the Act, must complete Form CO-OP 14, provided by the office and pay the appropriate fee set out in Schedule 1.

(2) Any person who does not personally, at the Registrar's Office, inspect a document, kept by the Registrar under the Act, or uplift a copy or extract thereof, may apply in writing to the Registrar for any information relating to the document or for a copy of or extract from any such document and the Registrar must upon payment of the fee set out in Schedule 1, provide the information requested, in such format as he or she is able to provide.

(3) Copies of documents, kept by the Registrar under the Act, or information in relation thereto or extracts thereof, may also be obtained through the CIPC electronic services upon payment of the fee set out in Schedule 1.

(4) The fee set out in Schedule 1 shall be payable in respect of inspection of documents relating to any one co-operative and in respect of copies of documents the fee shall be payable in respect of each document.

(5) Any person who, whilst inspecting any document at the office, knowingly and without the consent of the registrar-

- (a) removes any document from the custody of the Registrar or the office;
- (b) makes or causes to be made any entry on such document;
- (c) destroys or mutilates any such document; or
- (d) alters or causes to be altered any entry on such document, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

12. Name reservation

(1) Any person who intends to form a co-operative or any co-operative which intends to change its name must, on Form CO-OP 5 and on payment of the fee set out in Schedule 1 and together with such evidence as envisaged in sub-regulation 3 hereof, apply to the Registrar for the reservation of a name.

(2) A reservation contemplated in sub-regulation (1) shall be valid from the date of approval by the registrar for a period not exceeding six months.

(3) If the proposed co-operative name contains any word, or combination of words, in any language that constitute –

- (a) a registered trade mark; or
- (b) a mark in respect of which an application has been filed in the Republic for registration as a trade mark; or

- (c) a well-known trade mark as contemplated in section 35 of the Trade Marks Act, 1993 (Act No 194 of 1993);

the application or notice filed to reserve or use that name must include satisfactory evidence that the applicant or the co-operative to use that name is entitled to use that word or combination of words. Satisfactory evidence shall consist of:

- (i) the result of a search conducted by the Registrar of Trade Marks in terms of regulation 47 of the Trade Marks Regulations in accordance with the Trade Marks Act, 1993 (Act 194 of 1993); or
- (ii) a certified copy of an entry in the Register of Trade Marks as provided for in section 22(5) of the Trade Marks Act, 1993.

If such evidence is proved through either (i) or (ii) as stated above, the Registrar will accept on face value that no trade mark name will be infringed.

13. Registration of primary, secondary and tertiary co-operative and the national apex co-operative

(1) The following documents must be lodged for the registration of a primary, secondary, tertiary co-operative and the national apex co-operative:

- (a) Form CO-OP 1 containing the application for registration of a co-operative;
- (b) the proposed constitution of the co-operative complying with the provisions of section 13 of the Act and duly signed by at least such number of founding members as are required to form a co-operative of that particular form;
- (c) Form CO-OP 5 containing particulars of the name reserved;
- (d) if Form CO-OP 1 and the constitution is not signed by a founder member personally, a power of attorney signed by the founder member in favour of the person signing on his or her behalf; and
- (e) certified copies of the identity documents of the directors and the founder members who have signed the constitution.

(2) Proof of payment of the registration fee contemplated in section 6(2)(d) of the Act must be submitted with the documents referred to in sub-regulation(1).

14. Certificate of registration and registration number

(1) After registration and allocation of a registration number to the co-operative, the Registrar must issue a certificate of registration in the format of Form CO-OP11 and provide the co-operative with a copy of the certificate of registration with CIPC electronic seal and signed constitution.

(2) The Registrar may change or amend the registration number of any co-operative allocated either in terms of section 7 of the Act, any repealed law or in terms of any administrative ruling, in order to rectify duplications of such numbers or to achieve any other objective which he or she considers necessary or expedient in order that the purposes of the Act in respect of the register of co-operatives may be achieved: Provided that if the registration number is so changed or amended, the Registrar must issue the co-operative concerned with a certificate confirming such change or amendment.

15. Amendment of constitution (Section 18), Form CO-OP 6.1

(1) A special resolution for the amendment of the constitution of a co-operative must be lodged for registration on Form CO-OP 6.1 and must be accompanied by a copy of the notice of the general meeting in terms of section 18 (2) of the Act, which sets out the proposed amendment.

(2) If the co-operative has changed its name by such special resolution, the registrar must issue the co-operative with a certificate of change of name in the format of Form CO-OP 12 with the CIPC electronic seal.

16. Notice of registered office of co-operative

(1) Notice of the registered office of a co-operative, its postal address, electronic address, telephone and fax numbers and any change thereof, must be given on Form CO-OP 3.

(2) Form CO-OP 3 must be lodged upon registration of the co-operative and within fifteen days of any change of the particulars referred to in sub-regulation (1).

17. Returns relating to directors and register of members

(1) A co-operative must notify the Registrar of the particulars of its directors and Board of directors required in terms of section 39 of the Act, and any change to those particulars, on Form CO-OP 2 within fifteen days after any appointment has been made or any change has occurred.

(2) Certified copies of the identity documents, passports or birth certificates of all the directors must be submitted with Form CO-OP 2, unless the Registrar otherwise directs.

(3) The list of members contemplated in section 21 (1) (d) of the Act must be kept in the form of a register at the office of the co-operative.

18. Reserves for Co-operatives

(1) The indivisible and other reserves of a co-operative must be separately recorded in the financial records of the co-operative.

(2) A co-operative must use its reserves only in accordance with the manner and for the purposes contemplated in its constitution. The purposes for which the indivisible reserve, which must be indivisible amongst members, may be used, may include -

- (a) to sustain the co-operative during periods of financial crisis;
- (b) to finance capital expenditure; and
- (c) to finance training and capacity building.

(3) A co-operative must report fully on all its reserves as well as on the use of these reserves in its financial statements.

19. Monetary thresholds for primary co-operatives

The monetary thresholds for the co-operative's annual revenue as per its financial statements or projected annual revenue to categorise primary co-operatives for purposes of sections 15A and 47 of the Act are as follows:

- (a) Less than R1 Million constitutes a Category A1 Primary co-operative which is a very small primary co-operative;
- (a) At least R 1 Million but less than R10 Million constitutes a Category A2 primary co-operative which is a small primary co-operative;
- (b) At least R10 Million but less than R25 Million constitutes a Category B primary co-operative which is a small to medium primary co-operative; and
- (c) R25 Million or more constitutes a Category C primary co-operative which is a medium to large co-operative.

20. Submission of audited report, independent reviewed report or annual report (sections 47 and 48)

(1) The Board of directors of a co-operative must submit a copy of the audited report, independent reviewed report or annual report (Forms CO-OP 15.1 or CO-OP 15.2) of the co-operative including the financial statements compiled in accordance with regulation 30, as well as the management decision and social reports within fifteen (15) days of the discussion and consideration thereof by the annual general meeting under cover of Form CO-OP7 to the registrar.

(2) In the event that the annual general meeting resolves to delay submitting the said audited report, independent reviewed report or annual report and the financial statements to the registrar, the chairperson of the Board or the person who acted as chairperson at the general meeting, must within 15 days of the resolution notify the registrar of the decision to delay the submission of the audited report, independently reviewed report or annual report, the reasons for the delay and the action the co-operative proposes to take to address the situation under cover of Form CO-OP 7.

21. Annual submission of information to the registrar (annual return) with duly completed Form CO-OP 8 (section 26A)

(1) Every co-operative must submit an annual submission to the registrar (hereinafter referred to as the annual return) in accordance with section 26A of the Act and this regulation on Form CO-OP 8.

(2) The annual return must reflect the annual information pertaining to the co-operative as requested in Form CO-OP 8 as accurately as possible and must be accompanied by payment or proof of payment of the annual fee payable in terms of section 26A of the Act, as set out in Schedule 1.

(3) The annual return must be submitted together with the submission by the co-operative of its audited report, independent reviewed report or annual report including the financial statements in terms of regulation 30 as well as the management decision and social reports. If the general meeting resolves to delay submitting the audited report, independent reviewed report or annual report to the registrar, the chairperson of the Board or the person who acted

as chairperson at the meeting must notify the registrar in writing within 15 days of the resolution to delay as well as the reasons for such delay and the action the co-operative intends taking in order to address the situation: Provided that should a co-operative fail to submit the return within 30 days from the original due date the prescribed annual fee would increase to the amount indicated in Schedule 1.

22. Notice of error or misstatement in financial statements

Notice of any error or misstatement in the financial statements of a co-operative must be given on Form CO-OP 7 and lodged together with a copy of the revised financial statements.

23. Special resolution for voluntary winding up

A special resolution for the voluntary winding up of the co-operative in terms of section 71A of the Act, must comply with all the requirements of a special resolution and must be lodged for registration on Form CO-OP 10 together with a copy of the notice of the general meeting in terms of section 18 (2) of the Act.

24. Functions of the national apex co-operative.

The functions of the national apex co-operative are as follows:

- (a) A national apex co-operative may establish relations with other co-operative organisations at national and international level.
- (b) A national apex co-operative may perform the following functions—
 - (i) provide professional advice to its members;
 - (ii) establish a guarantee fund to be used by its members in order to acquire funds to carry out economic activities;
 - (iii) set up a solidarity fund, that may be used as capital by its members in times of financial distress;
 - (iv) assist its members in order to improve their effectiveness, efficiency and sustainability;
 - (v) assist, and provide on an annual basis information in respect of its members to the Co-operative Development Agency as contemplated in section 94A as regards all matters relating to the establishment and effective functioning of co-operatives in the Republic of South Africa;
 - (vi) conduct and participate in awareness campaigns;
 - (vii) undertake research relevant to the needs and growth of the co-operative movement;
 - (viii) play an advocacy role by lobbying, and representing the interests of its members, to government by participating in the establishment of an appropriate policy, regulatory and administrative framework that promotes the co-operative movement;
 - (ix) advise its members on developments, both nationally and internationally, relating to, or impacting on, its members in particular, and the co-operative movement in general;
 - (x) provide training to its members;
 - (xi) provide legal and other related services to its members;
 - (xii) maintain membership information in respect of its tertiary co-operative members and where applicable, secondary co-operative members and their membership information; and

- (xiii) monitor the operational and economic status of the co-operative movement in South Africa and its contribution to the national and sectoral gross domestic product.
- (xiv) the creation of a fund to assist members to comply with financial reporting requirements

25. Application for exemption from labour legislation in respect of employees of worker co-operatives

(1) Any worker co-operative bound by a collective agreement with a bargaining council or a sectoral determination in terms of the Basic Conditions of Employment Act, 1997, or other labour law requirement may apply for exemption of such requirement in terms of item 6 of Part 2 of Schedule 1 of that Act.

(2) All applications must be in writing and fully motivated in terms of the grounds listed in regulation 26 and sent to the office of the bargaining council for the area in which the applicant is located or to the Minister of Labour where there is no bargaining council with jurisdiction over the sector within which the co-operative operates.

(3) Where additional and/or outstanding information is requested in respect of an exemption application and such information is not received within a period of 90 days the applicant shall be informed that the application will lapse.

(4) In scrutinising an application for exemption the bargaining council or the said Minister must consider the views expressed by the co-operative and its members, together with any other representations received in relation to that application.

(5) The worker co-operative must consult with its members and must include the views expressed by its members in the application. Where there are differing views the reasons for the views expressed must be submitted with the application. Where an agreement between the co-operative and its members is reached, the signed written agreement must accompany the application. Alternatively a special resolution sanctioning the application for exemption by the workers co-operative must be submitted.

(6) The exemption must not contain terms that would have an unreasonably detrimental effect on the fair, equitable and uniform application of the labour laws in the Industry in which the worker co-operative operates or terms that would give an unfair business advantage to the co-operative in relation to other businesses in that industry.

26. Grounds for exemption of worker co-operatives from labour laws

The bargaining council or the Minister of Labour must consider all applications for exemption with reference to all or any of the following grounds:

- (a) The extent of consultation between the worker co-operative and its members as well as its employees and the petition for or against granting the exemption;
- (b) the specific requirements from the collective agreement, sectoral determination or labour legislation and scope for which exemption is requested and the terms thereof;

- (c) any special economic or other circumstances that exist and make a material difference in the viability of the business of the worker co-operative warranting the granting of the exemption;
- (d) the fairness¹ to the worker co-operative, its members and employees;
- (e) the assistance with economic hardship and the saving of unnecessary job loss;
- (f) the *bona fide* representation of the members on the Board of directors of the worker co-operative, the election of Board members by the members and filling of vacancies on the said Board. Minutes of the general meeting of members where the directors were elected, other resolutions for appointment of directors and the provisions of the constitution of the worker co-operative dealing with the rights of members to appoint directors, must accompany the application.
- (g) the limiting of the exemption to a period of agreement or operation of the sectoral determination in the applicable sector.

27. Certificate of exemption of workers co-operative from labour legislation

(1) Subject to regulation 1 (3) the application for exemption must be considered as soon as possible but not later than 30 days after the application has been received.

(2) Upon granting of the exemption the bargaining council or Minister, as the case may be, must issue a certificate of exemption setting out –

- (a) the applicant's name;
- (b) the provisions for which the exemption has been granted; and
- (c) the period of the exemption.

PART 2: FINANCIAL REPORTING FRAMEWORK FOR CO-OPERATIVES

28. Interpretation of regulations on financial reporting

For purposes of this Part of the regulations –

- (a) "IFRS" means the International Financial Reporting Standards as issued from time to time by the International Accounting Standards Board or its successor body;
- (b) "IFRS for SMEs" means the International Financial Reporting Standards for Small and Medium-sized Entities, as issued from time to time by the International Accounting Standards Board or its successor body; and
- (c) "ISRE 2400" means the International Standard for Review Engagements to Review Historical Financial Statements (ISRE) 2400 (revised), as issued from time to time, by the International Auditing and Assurance Standards Board, or its successor body.

¹ Not in contravention to the Act or the worker co-operative's objectives as stipulated in its constitution in that unfairness would materially disadvantage the worker co-operative.

29. Financial year and accounting records

(1) A co-operative must notify the registrar of a change in its financial year end by filing Form CO-OP 9: Provided that a co-operative may only extend or shorten the period of its current financial year once by a maximum of six months subject to section 29 (1) (b) of the Act. Provided further that the newly established financial year end must be later than the date on which the Registrar is notified of the change.

(2) A co-operative must keep accounting records as necessary to provide an adequate information base sufficient to—

- (a) enable the co-operative to satisfy all reporting requirements applicable to it; and
- (b) provide for the compilation of financial statements, and the proper conduct of an audit, or independent review, of its financial statements, as applicable for the particular co-operative.

(3) The accounting records of that co-operative must include—

- (a) a record of the co-operative's assets and liabilities including, but not limited to –
 - (i) a record of the co-operative's non-current assets, showing for each such asset or, in the case of a group of relatively minor assets, each such group of assets –
 - (aa) the date the co-operative acquired it, and the acquisition cost;
 - (bb) the date the co-operative re-valued it, if applicable, and the amount of the revaluation and, if it was re-valued after the Act took effect, the basis of, and reason for, the re-valuation; and
 - (cc) the date the co-operative disposed of or retired it, once it has been disposed of or retired, and the value of the consideration, if any, received for it and, if it was disposed of after the Act took effect, the name of the person to whom it was transferred;
 - (ii) a record of any loan by the co-operative to a member, director, or employee of the co-operative, or to a person related to any of them, including the amount borrowed, the interest rate, the terms of re-payment, and material details of any breach, default or re-negotiation of any such loan; and
 - (iii) a record of any liabilities and obligations of the co-operative including, but not limited to –
 - (aa) a record of any loan to the co-operative from a member, director, or employee of the co-operative, or from a person related to any of them, including the amount borrowed, the interest rate, and the terms of re-payment, and material details of any breach, default or re-negotiation of any such loan; and
 - (bb) a record of any guarantee, surety ship or indemnity granted by the co-operative in respect of an obligation to a third party incurred by a member, director, or employee of the co-operative, or by a person related to any of them, including the amount secured, the interest rate,

the terms of re-payment, the expiry date, and the circumstances in which the co-operative may be called upon to honour the guarantee, surety ship or indemnity;

- (b) a record of any property held by the co-operative –
 - (i) in a fiduciary capacity; or
 - (ii) in any capacity or manner contemplated in section 65 (2) of the Consumer Protection Act, 2008 (Act No. 68 of 2008);
- (c) a record of the co-operative's revenue and expenditures, including –
 - (i) daily records of all money received and paid out, in sufficient detail to enable the nature of the transactions and, except in the case of cash transactions, the names of the parties to the transactions to be identified;
 - (ii) daily records of all goods purchased or sold on credit, and services received or rendered on credit, in sufficient detail to enable the nature of those goods or services and the parties to the transactions to be identified; and
 - (iii) statements of every account maintained in a financial institution in the name of the co-operative, or in any name under which the co-operative carries on its activities, together with vouchers or other supporting documents for all transactions recorded on any such statement; and
- (d) if the co-operative trades in goods, a record of inventory and stock in trade, statements of the annual stocktaking, and records to enable the value of stock at the end of the financial year to be determined.

(4) In addition to the requirements set out above, a co-operative must maintain adequate records of all revenue received from donations, grants, and member's fees, or in terms of any funding contracts or arrangements with any party.

(5) The accounting records required to be kept by the Act and this regulation must be kept in such a manner as –

- (a) to provide adequate precautions against–
 - (i) theft, loss or intentional or accidental damage or destruction; and
 - (ii) falsification; and
- (b) to facilitate the discovery of any falsification; and
- (c) to comply with any other applicable law dealing with accounting records, access to information, or confidentiality.

(6) If a co-operative keeps any of its accounting records in electronic form, the co-operative must –

- (a) provide adequate precautions against loss of the records as a result of damage to, or failure of, the media on which the records are kept; and
- (d) ensure that the records are at all times capable of being retrieved to a readable and printable form, including by converting the records from legacy to later systems, storage media, or software, to the extent necessary from time to time.

(7) For greater certainty, the requirements of this regulation are in addition to, and not in substitution for, any applicable requirements to keep accounting records set out in terms of any other law, or any agreement to which the co-operative is a party.

30. Financial Reporting Framework

(1) Nothing in this regulation precludes a co-operative –

- (a) that is required to prepare its financial statements to the standards of IFRS for SMEs, from preparing its financial statements to the standards of IFRS instead; or
- (b) that is not subject to any prescribed standards, from preparing its financial statements to the standards of either IFRS or IFRS for SME's:
Provided that the basis of preparation of the financial statements must be disclosed in the financial statements.

(2) For any particular co-operative any financial statements contemplated in this regulation and this Part must comply with the applicable standards for that Category as follows:

Category of co-operative	Financial reporting framework	Level of reporting
Category A Primary Co-operative	Category A1: Only provide an income statement and balance statement (statement of financial position) as per Form CO-OP 15.1.	Annual submission of - <ul style="list-style-type: none"> • Form CO-OP 7; • Form CO-OP 8; and • Form CO-OP 15.1 Form CO-OP 15.1 must be completed by the Board of Directors
	Category A2: The financial reporting framework as per Form CO-OP15.2 or a financial reporting framework as determined by the co-operative, provided that such reporting framework complies with the requirements for financial statements as defined in the Act.	Annual submission of – <ul style="list-style-type: none"> • Form CO-OP 7; • Form CO-OP 8; and • Form CO-OP 15.2 Form CO-OP 15.2 must be completed by the Board of Directors
Category B Primary Co-operative	IFRS for SMEs: Provided that the co-operative meets the scoping requirements outlined in IFRS for SME's. If the co-operative does not meet the scoping requirements outlined in IFRS for SME's the financial reporting framework as per Form CO-OP 15.2 or financial framework as determined by the co-operative provided that such reporting framework complies with the requirements for financial statements as defined in the Act.	. Annual submission of – <ul style="list-style-type: none"> • Form CO-OP 7; and • Form CO-OP 8 The co-operative must appoint an independent reviewer and submit Form CO-OP 4 containing particulars of the appointment
Category C Primary Co-operative	IFRS for SMEs: Provided that the co-operative meets the scoping requirements outlined in IFRS for SME's. If the co-operative does not meet the scoping requirements outlined in IFRS for SME's the financial reporting framework as per Form CO-OP 15.2 or financial framework as determined by	. Annual submission of – <ul style="list-style-type: none"> • Form CO-OP 7; and • Form CO-OP 8 . The co-operative must appoint an auditor and submit Form CO-OP 4 containing particulars of the appointment

	the co-operative provided that such reporting framework complies with the requirements for financial statements as defined in the Act.	
Secondary Co-operative Tertiary Co-operative National Apex Co-operative	IFRS for SMEs: Provided that the co-operative meets the scoping requirements outlined in IFRS for SME's. If the co-operative does not meet the scoping requirements outlined in IFRS for SME's the financial reporting framework as per Form CO-OP 15.2 or financial framework as determined by the co-operative provided that such reporting framework complies with the requirements for financial statements as defined in the Act.	. Annual submission of – <ul style="list-style-type: none"> • Form CO-OP 7; and • Form CO-OP 8 The co-operative must appoint an auditor and submit Form CO-OP 4 containing particulars of the appointment

- (3) All co-operatives must circulate audited report, the independently reviewed report or annual report to all members at least fourteen days prior to the annual general meeting.

31. Audit, independent review and approval of social and management decision reports

(1) For purposes of the audit and independent review of the social report and management decision report the requirements will be met if the auditor or independent reviewer reports that (a) in his/her responsibility to verify that a certificate has been submitted by the co-operative declaring that the Board confirms that to the best of their knowledge and belief, the co-operative has complied with all legal requirements as well as the requirements contained in the co-operative's own constitution and that the social and ethical performance of the co-operative is in relation to its stated vision, mission, goals and code of social responsibility as set out in its constitution, or has not been submitted; or (b) that in his/her responsibility to read the social report and management decision report, and in doing so, consider whether these reports are materially inconsistent with the financial statements or his/her knowledge obtained in the audit or independent review or otherwise appear to be materially misstated, and report any findings in this regard.

(2) The social and management decision reports for a category A1 or and A2 primary co-operative, prepared by the Boards of directors, must be distributed to members, together with the annual report at least fourteen days prior to the annual general meeting for consideration by the members at the annual general meeting.

32. Reporting of reportable irregularity by an independent reviewer or auditor

(1) For purposes of this regulation "reportable irregularity" means any act of omission committed by any person responsible for the management of a co-operative, which -

- (a) unlawfully, has caused or is likely to cause material financial loss to the co-operative or to any member, creditor or investor of the co-operative in respect of his, her or its dealings with that entity; or
- (b) is fraudulent or amounts to theft; or
- (c) causes or has caused the co-operative to trade under insolvent circumstances.

(2)(a) An independent reviewer or auditor of a co-operative that is satisfied or has reason to believe that a reportable irregularity has taken place or is taking place in respect of that co-operative must, without delay, send a written report to the registrar.

The report must give particulars of the reportable irregularity referred to in paragraph (a) and must include such other information and particulars as the independent reviewer considers appropriate.

(4) The independent reviewer or auditor must as soon as reasonably possible but not later than 20 business days from the date on which the report referred to in sub regulation (2) was sent to the registrar –

- (a) take all reasonable measures to discuss the report referred to in sub regulation (2) with the members of the Board of the co-operative;
- (b) afford the members of the Board of the co-operative an opportunity to make representations in respect of the report; and
- (c) send another report to the registrar, which report must include –
 - (i) a statement that the independent reviewer is of the opinion that –
 - (aa) no reportable irregularity has taken place or is taking place; or
 - (bb) the suspected reportable irregularity is no longer taking place and that adequate steps have been taken for the prevention or recovery of any loss as a result thereof, if relevant; or
 - (cc) The reportable irregularity is continuing and
 - (ii) Detailed particulars and information supporting the statement referred to in subparagraph (i).

(5) The registrar must as soon as reasonably possible afford the Board of the co-operative the opportunity to make representations in respect of the report and to rectify the position.

(6) If the matter cannot be resolved to the satisfaction of the registrar he or she may investigate the matter and notify any appropriate regulator in writing of the details of the reportable irregularity.

33. Social Report

(1) The Board of directors for Categories A1 and A2 primary co-operatives, who does not have to appoint independent reviewers or auditors to independently review or audit their annual returns, must prepare a social report to accompany the financial statements, evaluating the social impact and ethical performance of the co-operative in relation to its stated vision, mission, goals and the code of social responsibility of the co-operative as set out in its constitution and must conclude on whether the co-operative complies with the assessment criteria, defined in the co-operative principles.

(2) The social report should, where relevant, cover the following matters:

(a) Voluntary and open membership dealing with the following:

- (i) Confirm that form CO-OP 8 has been completed and submitted to CIPC and the principle of open membership is applied as per the requirements of the co-operative's constitution;
- (ii) Report on obstacles to membership; and
- (iii) The number of membership applications rejected and reasons for rejection.

(b) Democratic member control dealing with the following:

- (i) Confirm that all meetings have been conducted in accordance with legislative requirements as well as the requirements stated in the constitution of the co-operative, that members actively participated in meetings and that quorum requirements were met;
- (ii) The number of general meetings held;
- (iii) Information on the attendance of general meetings;

- (iv) Number of members that actively participate in meetings;
- (v) Reasons for nonattendance of meetings by members;
- (vi) Number of Board meetings held;
- (vii) Number of committee meetings held; and
- (viii) Voting rights applied by members.

(c) Member economic participation

- (i) Confirm that all members contribute economically to the co-operative and that the co-operative has an indivisible reserve that complies with the minimum requirements stipulated in section 46 of the Act and that the indivisible and other reserves are used in accordance with the requirements stipulated in the constitution of the co-operative;
- (ii) Number of members contributing to share capital and savings deposits and the total value of the contributions made;
- (iii) Allocation of patronage refunds to members; and
- (iv) Services and products offered to members

(d) Autonomy and independence

- (i) Confirm that the co-operative is an autonomous, self-help organisation controlled by its members; and
- (ii) Report on decisions that were influenced by non-members, agencies or non-governmental organisations.

(e) Education, training and information

- (i) Confirm that the co-operative ensure that members are informed of their benefits and rights as members of the co-operative and offer appropriate education and training to members, elected representatives or employees;
- (ii) Report on the education and training offered to members, elected representatives and employees; and
- (iii) Report on information made available to members, elected representatives and employees.

(f) Co-operation with other co-operatives

- (i) Report on cooperation with other co-operatives for the mutual benefit of members and initiatives taken to strengthen the co-operative movement;
- (ii) Report on partnerships, cooperation and/or alliances with other co-operatives and civil society formations; and
- (iii) Participation in the co-operative movement, secondary/tertiary/national apex co-operative.

(g) Concern for environment and community

- (i) Report on initiatives to promote community development and social upliftment through policies and initiatives approved by the members of the co-operative;
- (ii) Social and economic development projects undertaken;
- (iii) Environmental protection programs and activities; and
- (iv) Sponsorships and business support

(3) Co-operatives that must appoint independent reviewers or auditors to independently review or audit their annual returns may also complete the social report. If co-operatives that must appoint independent reviewers or auditors to independently review or audit their annual returns prefer not to complete the social report the Board must certify that to the best of their

knowledge and belief, that the social and ethical performance of the co-operative is in relation to its stated vision, mission, goals and code of social responsibility as set out in its constitution.

34. Management Decision Report

(1) The Board of directors of Category A1 and A2 primary co-operatives who does not have to appoint independent reviewers or auditors to independently review or audit their annual returns, must prepare a report to accompany the financial statements that assesses the co-operative's compliance with all legal requirements of any applicable legislation and the requirements contained in its own constitution.

(2) The objective of the management decision report should, where relevant, cover the following matters -

- (a) The achievement of the objectives of the co-operative.
- (b) Whether proper written policies and procedures are in place for staff recruitment and administration, finance, procurement, loans and credit.
- (c) Whether all policies and procedures laid down by the members and the Board have been implemented and are being adhered to.
- (d) Whether Board members are democratically elected.
- (e) How duties and authority are delegated.
- (f) If there is a proper business plan and whether it is realistic and reviewed on a regular basis.
- (g) Whether Board and general meeting decisions are implemented and communicated.
- (h) Whether a register of declarations of interest by staff and Board members is in place and updated regularly.

(3) Co-operatives that must appoint independent reviewers or auditors to independently review or audit their annual returns may also complete a management decision report. If co-operatives that must appoint independent reviewers or auditors to independently review or audit their annual returns prefer not to complete the management decision report the Board must certify that to the best of their knowledge and belief, the co-operative has complied with all legal requirements as well as the requirements contained in the co-operative's own constitution.

PART 3: CO-OPERATIVES TRIBUNAL

35. Interpretation of regulations on the co-operatives tribunal

For purposes of this Part of the regulations –

- (a) "answer" means a document as described in regulation 37 filed by a respondent;
- (b) "applicant" means a person who submits an application to the Tribunal in terms of the Act or these Regulations;
- (c) (d) "application" means a request submitted to the Tribunal in terms of the Act or these Regulations;
- (d) "complaint" means a matter that has been submitted to the Tribunal by either the Minister, Advisory Council, supervisory committee or member of a co-operative;
- (e) "file" or "filing" means to deliver a document to the Tribunal in the manner and form, if any, prescribed for that document;

- (f) "initiating document", means either an application or a complaint;
- (g) "initiating party", depending on the context, means the Commission or the Applicant;
- (h) "intervener" means any person who has been granted standing to participate in particular proceedings before the Tribunal;
- (i) "Inspector" a person appointed by the Tribunal or the Registrar with the powers to carry out inspections on behalf of the Tribunal;
- (j) "Investigator" a person appointed by the Tribunal or the Registrar with the powers to carry out investigations on behalf of the Tribunal;
- (k) "presiding member" means the member designated by the chair to preside over particular proceedings of the Tribunal;
- (l) "prohibited practice" means either-
 - (i) an action or matter inconsistent with the Act; or
 - (ii) an infringement of a person's rights in terms of the Act or a co-operatives constitution or rules.
- (m) "Replying Affidavit" means a document as described in regulation 37 and filed by a respondent;
- (n) "respondent", when used in respect of-
 - (i) an application to review a notice issued by, or a decision of, the Commission, means-
 - (aa) the Commission, and
 - (bb) the person concerned, if that person is not the applicant;
 - (ii) any other application, means the person against whom the relief is sought.

36. Application to Tribunal

(1) A person may apply to the Tribunal for an order in respect of any matter contemplated in the Act or these Regulations by completing and filing with the Commission's Recording Officer –

- (a) an Application in Form CT1; and
- (b) a supporting affidavit setting out the facts on which the application is based.

(2) The applicant must serve a copy of the application and affidavit on each respondent named in the application, within five (5) business days after filing it.

(3) An application in terms of this Regulation must –

- (a) indicate the basis of the application; or
- (b) depending on the context -

- (i) set out the Registrar's or Tribunal's decision that is being appealed or reviewed;
 - (ii) set out the decision of the Tribunal that the applicant seeks to have varied or rescinded;
 - (iii) set out the Regulation in respect of which the applicant seeks condemnation;
- (c) indicate the order sought; and
- (d) state the name and address of each person in respect of whom an order is sought.
- (4) A Form CT1 must be supported by an affidavit setting out in numbered paragraphs -
- (a) a concise statement of the particulars of the application or complaint; and
 - (b) the points of law, or material facts relevant to the application or complaint and relied on by the respondent.

37. Answering and replying affidavits

- (1) Within ten (10) business days after being served with an application for any relief other than condonation, a respondent against whom an order is sought -
- (a) may serve an answering affidavit on the applicant, and on any other person against whom the order is sought; and
 - (b) must file the affidavit with proof of service.
- (2) Within ten (10) business days after being served with an answering affidavit that raises issues not addressed in the application or its supporting affidavit, the applicant may -
- (a) serve a replying affidavit on the respondent, the Tribunal and or any other person against whom the order is sought; and
 - (b) file a copy of the Replying affidavit and proof of service.

38. Amending documents

- (1) The person who filed an application or complaint may apply to the Tribunal by Notice of Motion in Form CT2 at any time before the end of the hearing of that application or complaint for an order authorising them to amend their application or complaint as filed.
- (2) If the Tribunal allows the amendment, it must allow any other party affected by the amendment to file additional documents consequential to those amendments within a time period allowed by the Tribunal.

39. Completion of file

Subject to any order made by the Tribunal, the filing of documents is complete when an answering or replying affidavit has not been responded to within the time allowed.

40. Late filing, extension and reduction of time

(1) A party to any matter may apply to the Tribunal to condone late filing of a document, or to request an extension or reduction of the time for filing a document, by filing a request in Form CT3.

(2) Upon receiving a request in terms of sub-Regulation (1), the recording officer, after consulting the parties to the matter, must set the matter down for hearing at the earliest convenient date.

41. Pre-hearing conferences

(1) Before, or within twenty (20) business days after, the filing of documents is completed, a member of the Tribunal assigned by the Chairperson may convene a pre-hearing conference on a date and at a time determined by that member with -

- (a) the Tribunal;
- (b) each person who has filed an application or complaint;
- (b) intervenors; and
- (c) the Respondent.

(2) If a point of law has been raised, and it appears to the assigned member of the Tribunal at a pre-hearing conference to be practical to resolve that question before proceeding with the Conference, the member may -

- (a) direct the recording officer to set only that question down for hearing by the Tribunal; and
- (b) may adjourn the pre-hearing conference pending the resolution of that question by the Tribunal, and the Court, if applicable.

(3) The assigned member of the Tribunal may adjourn a pre-hearing conference from time to time.

(4) Pre-hearing conferences may be conducted in person or by telephone or both, need not follow formal Regulations of procedure, and are not open to the public.

42. Other powers of member at pre-hearing conference

(1) At a pre-hearing conference, the assigned member of the Tribunal may -

- (a) establish procedures for protecting confidential information, including the terms under which participants may have access to that information;
- (b) direct the Commission to investigate specific issues or obtain certain evidence; or
- (c) give directions in respect of-
 - (i) technical or formal amendments to correct errors in any documents filed in the matter;
 - (ii) any pending Notices of Motion;
 - (iii) clarifying and simplifying the issues;
 - (iv) obtaining admissions of particular facts or documents;
 - (v) the production and discovery of documents whether formal or informal;
 - (vi) witnesses to be called by the Tribunal at the hearing, the questioning of witnesses and the language in which each witness will testify;
 - (vii) a timetable for-
 - (aa) the exchange of summaries of expert opinions or other evidence that will be presented at the hearing; and
 - (bb) any other pre-hearing obligations of the parties;
 - (viii) determine the procedure to be followed at the hearing, and its expected duration;
 - (ix) a date, time and schedule for the hearing; or
 - (x) any other matters that may aid in resolving the complaint.

(2) At a pre-hearing conference, the assigned member of the Tribunal may require each participant to submit at a date to be determined, but before the hearing, a written statement summarising its argument, if any, with respect to the complaint, and identifying what it believes are the major unresolved issues.

(3) After concluding a pre-hearing conference, the assigned member of the Tribunal must issue an order recording any agreements or rulings arising from matters considered at the pre-hearing conference.

(4) A member of the Tribunal assigned by the Chairperson may schedule a further pre-hearing conference on their own motion, and the provisions of this rule apply to such a conference.

43. Settlement conference

At any time before the Tribunal makes a final order in a complaint proceeding, the Tribunal, on its own initiative or at the request of the participants, may order an adjournment of the proceedings to allow the participants to attempt to reach agreement on any outstanding issue.

44. Initiating consent hearings

(1) If a complaint is to be proceeded with by way of a consent order the person filing the complaint must attach the following documents to it:

- (a) a Notice of Motion in Form CT4, for a consent order to be made;
- (b) a copy of each consent to order filed with the Tribunal in respect of the matter, if any; and
- (c) a draft order in the terms agreed, signed by the parties indicating their consent to the order.

(2) At any time before the Tribunal makes a final order in a complaint proceeding, a party may request the Tribunal to make a consent order by filing a Notice of Motion in Form CT4 with the documents listed in sub-regulation (1)(b).

(3) A party intending to file a Notice of Motion –

- (a) must notify each complainant, in writing, that a consent order may be proposed to the Tribunal; and
- (b) invite the complainant to inform the Tribunal in writing within five(5) business days after receiving that notice –
 - i. whether the complainant is prepared to accept damages under such an order; and
 - ii. if so, the amount of damages claimed.

(4) A draft order filed in terms of this rule must meet the requirements set out by the Tribunal, read with the changes required by context.

45. Consent hearings

(1) Upon receiving a draft consent order, the recording officer must convene a hearing of the Tribunal at the earliest possible date.

(2) If the Tribunal refuses to make a consent order as requested, or requires any changes that a party is unwilling to accept -

- (a) The complainant, may, as of right, amend the complaint and statement of particulars;
- (b) The recording officer must serve each party, and complainant, if applicable, with -
 - (i) a notice that the motion for a consent order has been denied; and
 - (ii) a copy of the complaint and statement of particulars, in their original or amended form, as applicable;
- (c) the Tribunal must proceed to consider the complaint in accordance with these Regulations as they apply to contested complaints generally, after -

- (i) the time for an appeal from the decision of the Tribunal in terms of sub-Regulation (2) has expired; or
- (ii) if an appeal has been noted from that decision, after the Court has decided that appeal; and
- (iii) none of the members of the Tribunal who considered the motion for the consent order may participate in any further proceedings relating to that complaint.

46. Representation of parties

(1) A representative acting on behalf of any person in any proceedings must notify the recording officer and every other party, advising them of the following particulars:

- (a) the representative's name;
- (b) the postal address and place of employment or business; and
- (c) if a fax number and telephone number are available, those numbers.

(2) A person, who terminates their representative's authority to act in any proceedings, and then acts in person or appoints another representative, must notify the recording officer and every other party of that termination, and of the appointment of another representative, if any, and include that representative's particulars, as set out in Sub-Regulation (1).

(3) On receipt of a notice in terms of Sub-Regulation (1) or (2), the address of the representative or the party, as the case may be, will become the address of record for notices to and for service on that party of all documents in the proceedings.

(4) Despite Sub-Regulation (3), a person who, before receiving a notice in terms of sub-regulation (1) or (2), has sent a notice to, or effected service on, a party somewhere other than at the address of record will be deemed to have validly served that item, unless the Tribunal orders otherwise.

(5) A representative in any proceedings who ceases to act for a party must deliver a notice to that effect to that party and every other party concerned.

(6) A notice delivered in terms of Sub-Regulation (5) must state the names and addresses of each party who is being notified.

(7) After receiving a notice referred to in Sub-Regulation (5), the address of the party formerly represented becomes the address for notices to, and for service on, that party of all documents in the proceedings, unless a new address is furnished for that purpose.

47. Joinder or substitution of parties

(1) The Tribunal, or the assigned member, as the case may be, may combine any number of persons, whether jointly, jointly and severally, separately, or in the alternative, as parties in the same proceedings, if their respective rights to relief depend on the determination of substantially the same question of law or facts.

(2) If a party to any proceedings has been incorrectly or defectively cited, the Tribunal or the assigned member, as the case may be, on application and on notice to the party concerned, may correct the error or defect and may make an order as to costs.

(3) If in any proceedings it becomes necessary to substitute a person for an existing party, any party to those proceedings, on application and on notice to every other party, may apply to the Tribunal or the assigned member, as the case may be, for an order substituting that party for an existing party, and the Tribunal or the assigned member, as the case may be, may make an order, including an order as to costs, or give directions as to the further procedure in the proceedings.

(4) An application to join any person as a party to proceedings, or to be substituted for an existing party, must be accompanied by copies of all documents previously delivered, unless the person concerned or that person's representative is already in possession of those documents.

(5) No joinder or substitution in terms of this rule will affect any prior steps taken in the proceedings.

48. Interveners

(1) At any time after an initiating document is filed with the Tribunal, any person who has a material interest in the relevant matter may apply to intervene in the Tribunal proceedings by filing a **Form CT5**, which must –

- (a) include a concise statement of the nature of the person's interest in the proceedings, and the matters in respect of which the person will make representations; and
- (b) be served on every other participant in the proceedings.

(2) No more than ten (10) business days after receiving a motion to intervene, a member of the Tribunal assigned by the Chairperson must either –

- (a) make an order allowing the applicant to intervene, subject to any limitations –
 - (i) necessary to ensure that the proceedings will be orderly and expeditious; or
 - (ii) on the matters with respect to which the person may participate, or the form of their participation; or
- (b) deny the application, if the member concludes that the interests of the person are not within the scope of the Act, or are already represented by another participant in the proceeding.

(3) Upon making an order in terms of sub-Regulation (2), the assigned member may make an appropriate order as to costs.

(4) If an application to intervene is granted–

- (a) the recording officer must send to the intervener a list of all documents filed in the proceedings prior to the day on which the request for leave to intervene was granted; and
- (b) access by an intervener to a document filed or received in evidence is subject to any outstanding order of the Tribunal restricting access to the document.

49. Summoning witnesses

- (1) If the Tribunal requires a witness to attend any proceedings to give evidence it may have a summons issued by the recording officer in Form CT6 for that purpose.
- (2) If a witness is required to produce in evidence any document or thing in the witness's possession, the summons must specify the document or thing to be produced.
- (3) After the summons has been issued, it must be served by the sheriff in any manner authorised by Rule 4 of the High Court Regulations.
- (4) A witness who has been required to produce any document or thing at the proceedings must hand it over to the recording officer as soon as possible after service of the summons, unless the witness claims that the document or thing is privileged.

50. Witness fees

- (1) A witness in any proceedings is entitled to be paid in accordance with the tariff of allowances prescribed by the Minister of Justice and published by notice in the Gazette in terms of section 42 of the Supreme Court Act, 1959 (Act 59 of 1959).
- (2) Despite sub-Regulation (xx, the above Regulation), the Tribunal may order that no allowance or only a portion of the prescribed allowances be paid to any witness.

51. Interpreters and translators

- (1) Before an interpreter may interpret in Tribunal proceedings, the interpreter must take an oath or make an affirmation in the following form before a member of the Tribunal:

"I,(full name) swear/affirm that whenever I am called on to interpret in any proceedings before the Tribunal, I will correctly interpret to the best of my ability from the language I am called on to interpret into one or her of the official languages, and vice versa."

- (2) An oath or affirmation must be taken or made in the manner prescribed for the taking of an oath or the making of an affirmation in the High Court Regulations, read with the changes required by context and a printed copy of the oath or affirmation must be signed by the interpreter.

- (3) Any person admitted and enrolled as a sworn translator of any division of the High Court is deemed to be a sworn translator for the Tribunal.

52. Withdrawals and postponements

- (1) At any time before the Tribunal has determined a matter, the initiating party may withdraw all or part of the matter by-

- (a) serving a Notice of Withdrawal in Form CT7 on each party; and
- (b) filing the Notice of Withdrawal with proof of service.

(2) If the parties agree to postpone a hearing, the initiating party must notify the recording officer as soon as possible.

(3) Subject to any provisions of the Act to the contrary:

- (a) a Notice of Withdrawal may include a consent to pay costs; and
- (b) if no consent to pay costs is contained in a Notice of Withdrawal the other party may apply to the Tribunal by Notice of Motion in Form CT7 for an appropriate order for costs.

53. Set down of matters

(1) If a matter has been postponed to a date to be determined in the future, any party to the matter may apply to the recording officer for it to be re-enrolled, but no preference may be given to that matter on the roll, unless the Chairperson decides otherwise.

(2) The recording officer must allocate a time, date and place for the hearing and send a Notice of Hearing in Form CT8 to each party.

(3) If a matter is postponed to a specific date, the recording officer need not send a Notice of Set Down to the parties.

54. Matters struck-off

(1) The Tribunal member presiding at a hearing may strike a matter off the Roll if the initiating party is not present.

(2) If a matter is struck off the roll, the matter may not be re-enrolled unless –

- (a) that party concerned files an affidavit setting out a satisfactory explanation for the failure to attend the hearing; and
- (b) a member of the Tribunal assigned by the Chairperson, on considering the explanation offered, orders the matter to be re enrolled.

55. Default orders

(1) If a person served with an initiating document has not filed a response within the prescribed period, the initiating party may apply to have the order sought issued against that person by the Tribunal.

(2) On an application in terms of sub regulation (1) the Tribunal may make an appropriate order -

- (a) after it has heard any required evidence concerning the motion; and
- (b) it is satisfied that the notice or application was adequately served.

(3) Upon an order being made in terms of sub regulation (2), the recording officer must serve the order on the person described in sub regulation (1) and on every other party.

56. Conducting a hearing

(1) If, in the course of proceedings, a person is uncertain as to the practice and procedure to be followed, the member of the Tribunal presiding over a matter–

- (a) may give directions on how to proceed; and
- (b) for that purpose, if a question arises as to the practice or procedure to be followed in cases not provided for by these regulations, the member may have regard to the High Court Regulations.

(2) Subject to these regulations, the member of the Tribunal presiding over a matter may determine the time and place for the hearing before the Tribunal.

(3) The Tribunal may condone any technical irregularities arising in any of its proceedings.

57. Record of hearing

(1) The recording officer must compile a record of any proceeding in which a hearing has been held, including—

- (a) the initiating document;
- (b) the notice of any hearing;
- (c) any interlocutory orders made by the Tribunal or a member;
- (d) all documentary evidence filed with the Tribunal;
- (e) the transcript, if any, of the oral evidence given at the hearing; and
- (f) the final decision of the Tribunal and the reasons.

58. Costs and taxation

(1) Upon making an order, the Tribunal may make an order for costs.

(2) Where the Tribunal has made an award of costs, the following provisions apply:

- (a) the fees of one representative may be allowed between party and party, unless the Tribunal authorises the fees of additional representatives;
- (b) the fees of any additional representative authorised in terms of sub-Regulation (1) must not exceed one half of those of the first representative, unless the Tribunal directs otherwise;
- (c) the costs between party and party allowed in terms of an order of the Tribunal, or any agreement between the parties, must be calculated and taxed by the taxing master at the tariff determined by the order or agreement, but if no tariff has been determined, the tariff applicable in the High Court will apply;
- (d) qualifying fees for expert witnesses may not be recovered as costs between party and party unless otherwise directed by the Tribunal during the proceedings;
- (e) the recording officer may perform the functions and duties of a taxing master or appoint any person as taxing master who in the recording officer's opinion is fit to

perform the functions and duties signed to or imposed on a taxing master by these Regulations;

- (f) the taxing master is empowered to tax any bill of costs for services actually rendered in connection with proceedings in the court;
- (g) at the taxation of any bill of costs, the taxing master may call for any book, document, paper or account that in the taxing master's opinion is necessary to determine properly any matter arising from the taxation;
- (h) the taxing master must not proceed to the taxation of any bill of costs unless the taxing master has been satisfied by the party requesting the taxation (if that party is not the party liable to pay the bill) that the party liable to pay the bill has received due notice as to the time and place of the taxation and of that party's entitlement to be present at the taxation;
 - (i) despite sub-Regulation (h), notice need not be given to a party -
 - who failed to appear at the hearing either in person or through a representative; or
 - (ii) who consented in writing to the taxation taking place in that party's absence.
- (j) Any decision by a taxing master is subject to the review of the High Court on application.

PART 4: CO-OPERATIVE DEVELOPMENT AND SUPPORT STRUCTURES

59. Support of different kinds of co-operatives [Section 95(2)]

(1) Co-operatives are sectoral in nature and therefore, where applicable, must be aligned and linked to a corresponding sectoral or line function Department, for example housing, financial, agricultural, workers, etc.

(2) The relevant line function department with the assistance of the central coordinating department, Department of Small Business Development, must ensure that relevant support programmes are designed and implemented to assist with accountability to Parliament by Department of Small Business Development

60. Effective coordination across government [Section 2(i)]

(1) The Department of Small Business Development is the central coordinating department, which must facilitate and ensure effective coordination across government and the private sector.

(2) There must be a reporting mechanism to Parliament through the structures of the Co-operatives Advisory Council and Provincial Coordinating and the Interdepartmental Committees relating to areas of policy change and review, support programme design and implementation.

61. Co-operative development support programmes contemplated in sections 86 (d) and 95(1) (j)

(1) For purposes of this regulation and regulation 62 -

“persons living with a disability” means natural persons who have a long-term or recurring physical or mental impairment, which limits their prospects of entry into, or advancement in, employment, irrespective of race, gender or marital status;

“women” means natural persons of the female gender irrespective of their marital status or race;

“youth” means natural persons in the age group of 18 to 35 years old irrespective of gender or race.

(2) The support programmes for co-operatives must especially target emerging co-operatives that consist of black persons, women, youth, disabled persons and persons in the rural areas and must promote equity and participation by co-operative members.

(3) All government agencies and Departments must design and implement support programmes that will comply with these norms in order to account to the Department of Small Business Development and Parliament in terms of programme impact on the co-operatives sector.

62. Targets for support programmes [section 2]

The support programmes for co-operatives must especially target -

- (a) emerging co-operatives that consist of disadvantaged persons, black persons, women, youth, persons living with a disability and persons in the rural areas; and
- (b) must promote equity and greater participation by the co-operative members.

63. Reporting, Monitoring, Evaluation and Assessment by Institutions established or recognised under the Act.

All institutions established or recognised under the Act and all structures established as a result of any requirement of the Act, must on an annual basis report to the Department on the following matters:

- (a) Type of products and services provided;
- (b) Number of co-operatives supported or serviced by the institution with reference to –
 - (i) type and size;
 - (ii) names and levels of co-operative;
 - (iii) type of service rendered;
 - (iv) cost of service type; and
 - (v) total cost per co-operative;
- (c) Information on geographical spread of co-operatives supported
- (d) Customer satisfaction;
- (e) Number of staff members involved with the support;
- (f) Competency of staff delivering services;
- (g) Training provided to staff delivering services; and

(h) Proposed new products and services

The National Apex Co-operative must on an annual basis report on the status of the co-operative movement, the various levels or forms and kinds of co-operatives and the categories of primary co-operatives.

The Department must evaluate assess and determine the impact of the exercise of powers, the performance of functions, the execution of duties and the operational efficiency of all structures established and recognised in terms of this Act.

64. Framework for Intergovernmental relations in respect of co-operatives

Whereas the South African government has prioritized the development of co-operatives to contribute towards poverty alleviation and employment creation in all spheres of the economy; and

Whereas the responsibility of promoting the development of co-operatives and collective entrepreneurship cannot be achieved by the Department of Small Business Development alone, but must involve a wide variety of participants from all levels of government as well as the private sector; and

Whereas all departments at national level have a responsibility and duty to actively promote the development of co-operatives through the formulation of sector specific co-operative strategies, support programmes and institutional arrangements for inclusion into a comprehensive system of support properly aligned with the core principles the co-operative development strategy; and

Whereas all provincial and local governments through their various departments and units responsible for economic development have a responsibility and duty to actively promote the development of co-operatives within their spheres of influence through the formulation of provincial co-operative strategies and municipal co-operative implementation plans within their integrated development plans;

Now, therefore, Government has passed the Co-operatives Amendment Act, 2013 (Act 6 of 2013), providing *inter alia* for the necessary intergovernmental support structures to enable a properly integrated and coordinated approach to achieving these objectives.

64.1 Institutions and structures

The institutions and structures referred to in section 91CC of the Act are in existence, have now been created, or must be created pursuant to the provisions of the Act and their functions are listed in section 91EE. The National Interdepartmental Co-ordinating Committee on Co-operatives must co-ordinate all co-operatives development programmes developed by sectoral national departments

64.2 Administrative and procedural arrangements

Every institution and structure's administrative and procedural arrangements must comply with this framework for intergovernmental relations on co-operatives.

64.3 Guidelines for Managing Joint Programmes

The Guidelines for Managing Joint Programmes issued under the Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005), will apply *mutatis mutandis* to all participating national departments, provincial governments and local governments and other

participating structures in facilitating, co-ordinating in the implementing policy and legislation on co-operatives and must be applied as far as possible.

64.4 The Role of the National Interdepartmental Co-ordinating Committee on Co-operatives

This Committee has primary responsibility for:-

- alignment of the national co-operative policy, Co-operatives Act, 2005 (Act 14 of 2005) as amended, the national co-operative strategy with departmental and agency development strategies;
- the coordination of the various Government institutions dealing with co-operative enterprises in their respective provinces.
- the promotion, provision and management of non-financial and financial co-operative support services; the management of privileges and incentives for co-operatives.
- the reporting, collection, analysis and dissemination of statistics related to co-operative development; facilitation of access to markets; facilitation of access to credit; promotion of the concept and practice of co-operatives.

64.5 The Role of the Inter-Provincial Co-ordinating Committee on Co-operatives

This Committee has primary responsibility for:-

- alignment of the national co-operative policy, Co-operatives Act, 2005 (Act 14 of 2005) as amended, the national co-operative strategy and the provincial growth and development strategies in consultation with a wide range of stakeholders;
- coordination of the various Government institutions dealing with co-operative enterprises in their respective provinces;
- the promotion, provision and management of non-financial and financial co-operative support services, the management of privileges and incentives for co-operatives within the provinces;
- the reporting, collection, analysis and dissemination of statistics related to co-operative development; facilitation of access to markets; facilitation of access to credit; promotion of the concept and practice of co-operatives within the provinces.

64.6 Implementation protocols or memoranda of understanding

The various participating national departments, provincial governments and local governments and other participating structures must, when initiating joint programmes enter into implementation protocols or memoranda of understanding scoping the venture and determining –

- the exact nature of the programme;
- its primary objective;
- its priority status;
- timescales for implementation of the programme; and
- key performance indicators and performance targets for implementing the programme; and

identifying –

- the parties that will participate in implementing the programme;
- the role of each of those participants in implementing the programme; and
- the extent to which each of those participants will be involved in implementing the programme;

The protocol or memorandum must also –

- determine the capacity required for each of those parties to implement the programme;

- determine the estimated cost of implementing the programme, including how and by whom implementation of the programme, or aspects of the programme, is to be funded and budgeted for; and
- identify a department best suited to act as the coordinating department for the programme;
- provide for scoping studies before joint programmes are implemented to determine the scale of and timeframes for the programme;
- provide for the establishment of joint management mechanisms to ensure accountability for a joint programme, including –
 - a joint programme steering committee;
 - a joint Panel of Executive Authorities.

64.7 Intergovernmental structures

An intergovernmental structure established as contemplated in the Act, must –

- submit copies of the approved minutes of all meetings to the Minister, various Members of the Executive Council responsible for economic development and the entities contemplated in section 91CC, of the Act represented in such structure;
- submit quarterly reports regarding their financial and operational performance to the Minister, various Members of the Executive Council responsible for economic development and the entities contemplated in section 91CC of the Act represented in such structure; and
- be financed from money appropriated by the Department and submit annual budgets for approval to the Department.

64.8 Provincial Interdepartmental and Municipal Coordinating Structures

(1) Provincial Interdepartmental and Municipal Coordinating Structures must be established under direction of the Premier's Office and must be chaired by the provincial department dealing with economic development, which will provide secretariat support to the structure.

(2) Provincial Interdepartmental and Municipal Coordinating Structures must develop provincial co-operative development strategies and submit these to the Premier's Office for approval.

(3) Quarterly reports on financial and operational performance of Provincial Interdepartmental and Municipal Coordinating Structures will be submitted to the National Interdepartmental Co-ordination Committee.

(4) Annual reports on progress on the provincial co-operative development strategies will be submitted to the Provincial Legislature and circulated to other relevant provincial and local structures.

64.9 Meetings

Committees must meet at least once every four months. The date for the meeting must be advised by not less than 14 days' notice. The venue for the meeting and catering expenses will rest with **the hosting department or province**.

64.10 Record of meetings

The Department of Small Business Development, unless otherwise indicated, must provide the secretariat to record the salient points/ decisions raised and agreed to at meetings and circulate minutes to members of Committees within 7 days.

64.11 Recommendations and decision makers

Recommendations will be made by consensus by the members of Committees. The Department of Small Business Development may implement the recommendations subject to requisite internal approvals.

64.12 Dispute resolutions

Any dispute that may arise as a consequence of the work done by any Committee must be resolved through mutual dialogue.

64.13 Strategic outcomes of the committees

The strategic outcomes of the committee must be as follows:

- National Departments as well as provincial departments responsible for economic development as well as local governments' co-operatives development strategies must be aligned to the National Integrated Strategy for the Development and Promotion of Co-operatives in South Africa, 2012 – 2022.
- Government policy and strategy across government and agencies on the development of co-operatives must be aligned, coordinated, implemented and monitored.
- Support instruments to promote the development of co-operatives sectorally must be designed and promoted.
- Policy must be articulated
- Gaps must be identified in existing government policy, so as to develop and formulate policy in order to fill the identified gaps against the strategic outcomes.
- Recommendations must be submitted to Minmec and the Co-operative Advisory Council.
- Status of co-operatives must be reported on.

CHAPTER 2. WINDING-UP AND JUDICIAL MANAGEMENT OF CO-OPERATIVES**PART A. WINDING-UP OF CO-OPERATIVES****65. Definitions for Chapter**

For purposes of this Chapter of the regulations –

'contribution' means a contribution to be made by a contributory in terms of a contribution account towards the payment of the debt of the co-operative or any portion thereof;

'contribution account' means an account contemplated in regulation 109;

'contributory' means a member or former member of a co-operative or the estate of any such member or former member who is liable in respect of the debt of the co-operative or any portion thereof by virtue of-

- (a) shares in the co-operative of which he is or was the holder and which are not fully paid up;
- (b) section 40 of the Land Bank Act, 1944 (Act 13 of 1944);

'disposition', in relation to property, means any transfer or waiver of a right to property and includes a sale, donation, exchange, lease, hypothecation or pledge of property, and 'dispose' will have a corresponding meaning;

'distribution account' means an account contemplated in regulation 107;

'liquidator', in relation to a co-operative being wound up, means a person appointed under sub regulation(1) of regulation 78 to carry out the winding-up of the co-operative, and includes a temporary liquidator contemplated in sub regulation (2) of that regulation;

'security', in relation to a creditor's claim, means property over which the creditor has a preferment right for the payment of his or her claim;

'trading account' means an account contemplated in regulation 106.

66. Suspension of certain proceedings pending decision of application for winding-up order

At any time after application is made to a competent court or the Tribunal for a co-operative to be wound up, any action for the recovery of an amount from the co-operative or in connection with an asset of the co-operative, or any execution of a judgement in any such action may on the application of the co-operative or any other interested person be suspended by the court in which that action is under consideration or by which that judgement was given pending the decision of such application.

Provisional winding-up

67. Provisional winding-up order

(1) If a court or the Tribunal in which an application in terms of section 72 or 72 B is under consideration in respect of a co-operative issues a provisional winding-up order in respect of such a co-operative it must appoint a provisional liquidator for such co-operative or direct the registrar to appoint a provisional liquidator.

(2) A provisional liquidator appointed under sub regulation (1) will hold office for as long as it pleases the court, but not after the date of commencement of the winding-up of the co-operative (if the co-operative is wound up thereafter).

(3) The provisions of regulations 79, 81 (1), (3) and (4), 82, 83 (1) 86 (1), and 89 will mutatis mutandis apply in respect of a provisional liquidator appointed under sub regulation (1): Provided that costs referred to in regulation 79 (2) and the remuneration referred to in regulation 81 (1) must be paid by the co-operative concerned.

68. Functions of provisional liquidator

(1) A provisional liquidator appointed under regulation 67 must-

- (a) assume the management of the co-operative concerned and recover and take into his or her possession all the assets of the co-operative;
- (b) continue as far as may be possible to carry out the objects of the co-operative;
- (c) investigate any matter which the court or Tribunal which issued the provisional liquidation order required him to investigate, and report to the court or Tribunal on his or her findings.

(2) A provisional liquidator may subject to the provisions of this Act do anything reasonably necessary for the effective performance of his or her duties, and may in particular exercise any power mentioned in paragraphs (a), (b), (c), (f) and (g) of regulation 90 (1).

(3) Unless the registrar deems it necessary in the interests of the creditors of members of the co-operative a provisional liquidator will not have the power to liquidate any assets of the co-operative.

(4) A provisional liquidator must, at the request of the registrar and within a period determined by the registrar, compile and submit to the registrar an inventory of all assets and liabilities of the co-operative as at the date of this appointment.

69. Effects of provisional winding-up order

During the period for which a provisional winding-up order is in force in respect of any co-operative-

- (a) the functions of the Board of directors of the co-operative will be suspended save in so far as the continuation thereof has been approved by the registrar or the provisional liquidator;
- (b) no judgement in any action against the co-operative for the recovery of an amount or the delivery of anything may be executed;
- (c) the issue, transfer or cancellation of shares in the co-operative will be void.

70. Commencement of winding-up

The winding-up of a co-operative will be deemed to commence-

- (a) in the case of a voluntary winding-up, at the time when the special resolution authorizing the winding-up is registered by the registrar; and
- (b) in the case of a winding-up by an order of the court or the Tribunal, at the time when a final order that the co-operative be wound up is issued by the court or the Tribunal.

71. Effects of winding-up on status of co-operative and on Board of directors

(1) A co-operative being wound up will continue to be a juristic person, but will as from the commencement of its winding-up cease to carry out its objects except in so far as it is necessary for the purposes of its winding-up.

(2) The functions of the Board of directors of a co-operative being wound up will terminate at the commencement of its winding-up except in so far as the continuation thereof has been approved by the registrar or liquidator.

72. Persons responsible for the performance of duties of co-operatives being wound-up

The persons who immediately prior to the commencement of the winding-up of a co-operative hold office as a director, manager or secretary of the co-operative will jointly and severally be

responsible for the performance of a duty to be performed by a co-operative in terms of this Chapter.

73. Effects of winding-up on legal proceedings

After the commencement of the winding-up of a co-operative-

- (a) no civil proceedings to which the co-operative is a party may be instituted or proceeded with until a liquidator has been appointed under regulation 14 (1) (a);
- (b) any attachment or execution put into force against an asset of the co-operative under a judgement given by a court before the commencement of the winding-up will be void.

74. Issue, transfer or cancellation of shares in co-operative being wound up

The issue, transfer or cancellation of shares in a co-operative being wound up will be void.

75. Effects of winding-up on assets of co-operative

Unless the court or the Tribunal giving a final liquidation order or the registrar otherwise directs, the persons referred to in regulation 8 will as from the commencement of the winding-up of a co-operative up to the appointment of a liquidator jointly and severally be responsible for the custody of all the assets of the co-operative under the co-operative's control.

76. Notice of voluntary winding-up to be given to registrar

A co-operative must within 14 days after a special resolution referred to in section 71A was passed by the co-operative send a copy of such resolution to the registrar together with a sworn or solemn statement by the person who acted as the chairperson of the general meeting at which that special resolution was passed-

- (a) that such meeting was held on a date mentioned in the statement;
- (b) that he has satisfied himself that proper notice of the meeting and the object thereof was given to the members of the co-operative; and
- (c) that such special resolution was passed by the requisite majority.

77. Inventory of assets and liabilities to be submitted to registrar by co-operative

(1) A co-operative being wound up must draw up an inventory of all the assets and liabilities of the co-operative as at the date of commencement of the winding-up and submit such inventory to the registrar within 30 days of such date.

(2) The provisions of sub regulation (1) will not apply to a co-operative in respect of which a liquidator is appointed within 30 days of the commencement of the winding-up.

(3) If a co-operative fails to comply with a provision of sub regulation (1) every person referred to in regulation 72 will be guilty of an offence.

Liquidators

78. Appointment of liquidators

(1) (a) The registrar must appoint one or more liquidators in respect of a co-operative being wound up.

(b) If a liquidator ceases to hold office the registrar must, if such liquidator was the only liquidator, or may, if such liquidator was one of a plurality of liquidators, appoint any person to fill the vacancy.

(2) The registrar may appoint any person as the temporary liquidator of a co-operative being wound up until a liquidator is appointed under sub regulation (1)(a) or a vacancy is filled under sub regulation (1)(b).

79. Giving of security by liquidator

(1) A liquidator will not be deemed to be appointed until he has given security to the satisfaction of the registrar for the proper performance of his or her functions as liquidator.

(2) The cost of giving such security to an amount which the registrar considers reasonable will form part of the costs of liquidation of the co-operative concerned.

(3) The registrar may on written request by a liquidator consent to a decrease in the security given by such liquidator.

80. Notice of appointment of liquidator

A liquidator or liquidators appointed under regulation 78 (1) (a) must after his or her or their appointment forthwith publish a notice in the *Gazette* and in a newspaper circulating in the area in which the registered office of the co-operative concerned is situated in which his or her name and address or their names and addresses are given and his or her or their appointment is made known.

81. Remuneration of liquidator

(1) A liquidator will be entitled to the remuneration set out in Schedule 2 for his or her services: Provided that if more than one liquidator is appointed the remuneration must be distributed among them on such basis as may be approved by the registrar.

(2) Unless the registrar otherwise directs the remuneration of a liquidator must not be paid otherwise than in accordance with a liquidation account.

(3) The registrar may decrease the remuneration of a liquidator or disallow such remuneration if in his or her opinion there is good cause for doing so.

(4) No person who employs or is a fellow employee or in the ordinary employment of a liquidator will be entitled, except with the approval of the registrar, to receive any remuneration out of the assets of the co-operative for services rendered in connection with the functions of the liquidator, and no liquidator will be entitled either by him- or herself or his or her partner to receive out of the assets of the co-operative remuneration for his or her services except the remuneration to which he is entitled under these regulations.

82. Plurality of liquidators, liability and disagreement

(1) If two or more liquidators have been appointed they must act jointly in performing their functions as liquidators, and will jointly and severally be liable for every act performed by them jointly.

(2) If such liquidators disagree on any matter relating to the co-operative of which they are the liquidators' one or more or all of them may refer the matter to the registrar, who may thereupon settle the issue or give directions as to the procedure to be followed in settling such issue.

83. Control of registrar over liquidators

(1) A liquidator must perform his or her functions subject to the control and directions of the registrar.

(2) The registrar may at any time require a liquidator to answer any inquiry in connection with the winding-up in which such liquidator is engaged and may examine such liquidator on oath concerning the wind-up.

(3) The registrar may at any time investigate or seize the books and other documents relating to the winding-up of a co-operative.

(4) Any expenses incurred by the registrar in carrying out any provision of this section will form part of the costs of liquidation of the co-operative concerned.

84. Removal from office of liquidator

The registrar may at any time remove a liquidator from office if in his or her opinion there is good cause for doing so.

85. Circumstances under which winding-up may be carried out without liquidator

If the registrar is of the opinion that the value of the assets of a co-operative being wound up is less than R10 000 or such other amount as the Minister may by notice in the *Gazette* determine, he or she may order the winding-up of the co-operative to be carried out, notwithstanding anything to the contrary contained in any law, in such manner and by such person as may be determined by him or her.

Functions of liquidators**86. Inventory of assets and liabilities to be submitted to registrar by liquidator**

(1) A liquidator referred to in regulation 78(1)(a) must draw up an inventory of all assets and liabilities of the co-operative being wound up as at the date of his or her appointment and submit such inventory to the registrar within 30 days of his or her appointment.

(2) The provisions of sub regulation (1) will not apply to a liquidator of a co-operative in respect of which a provisional or temporary liquidator was appointed, if such provisional or temporary liquidator drew up and submitted such an inventory to the registrar.

87. General duty of liquidator

The liquidator of a co-operative must subject to the provisions of this Act forthwith recover and take into his or her possession all the assets of the co-operative, realize those assets and apply the proceeds thereof in accordance with the provisions of these regulations.

88. Banking account and investments

(1) The liquidator of a co-operative-

- (a) must open with a banking institution registered under the Banks Act, 1965 (Act 23 of 1965), a current account in the name of the co-operative, and must deposit therein to the credit of the co-operative all the money received by him or her on the co-operative's behalf as soon as may be possible but not later than seven days of the receipt thereof;
- (b) may, with the written consent of the registrar, open with such a banking institution or any other financial institution approved by the registrar, a savings account in the name of such co-operative, and may transfer thereto money deposited in the amount referred to in paragraph (a) and not immediately required;
- (c) may, with the written consent of the registrar, place money deposited in the account referred to in paragraph (a) and not immediately required on interest-bearing deposit with such a banking institution or financial institution;
- (d) must not withdraw any money in a savings account referred to in paragraph (b) or on interest-bearing deposit referred to in paragraph (c) otherwise than by way of a transfer to the said current account.

(2) The liquidator of a co-operative must forthwith notify the registrar of-

- (a) the banking or financial institution and the branch with which he or she has opened an account referred to in paragraph (a) or (b) of sub regulation (1) or with which he or she has placed a deposit referred to in paragraph (c);
- (b) the number of that account or the reference number under which that deposit has been placed;
- (c) any transfer of money in such an account or so placed in deposit to any other banking institution or financial institution or branch of such a banking or financial institution.

(3) A banking or financial institution referred to in sub regulation (2) must on the registrar's request forthwith furnish him or her with a statement showing deposits paid into and withdrawals made from an account referred to in sub regulation (1)(a) or (b).

(4) The registrar and any surety for a liquidator will have the same right to information in regard to an account referred to in paragraph (a) or (b) of sub regulation (1) or a deposit

referred to in paragraph (c) of that sub regulation as the liquidator him- or herself self-possesses, and may examine all documents in relation thereto, whether in the possession of the liquidator or a banking or financial institution.

(5) The registrar may after notice to the liquidator in writing order a banking or financial institution with which an account referred to in paragraph (a) of (b) of sub regulation (1) has been opened or where a deposit referred to in paragraph (c) of that sub regulation has been placed not to allow any withdrawal from any such account or of any such deposit except with the approval of the registrar.

(6) All cheques or orders drawn on an account referred to in sub regulation (1)(a) must contain the name of the payee and the cause of payment, and must be drawn to order and be signed by the liquidator or his or her duly authorized agent.

89. Register to be kept by liquidator

(1) Immediately after his or her appointment a liquidator must open a register in which he or she must enter a statement of all money and property and all books, accounts and other documents received by him or her on behalf of the co-operative.

(2) The registrar may at any time order a liquidator to submit to him or her any such register, book, account or other document or to make any such register, book, account or other document available for inspection by an interested person.

90. Powers of liquidator

(1) A liquidator may subject to the provisions of the Act and these regulations do anything reasonably necessary for the effective performance of his or her duties, and may in particular-

- (a) with the approval of the registrar institute, defend or take any action or other legal proceeding of a civil nature in the name and on behalf of the co-operative;
- (b) with the approval of the registrar obtain legal advice on any question of law affecting the winding-up of the co-operative;
- (c) carry on any part of the business of the co-operative in so far as may be necessary for the beneficial winding-up thereof;
- (d) with the approval of the registrar agree to any reasonable offer of composition made to the co-operative by any debtor, and accept payment of any part of a debt due to the co-operative in settlement thereof;
- (e) with the approval of the registrar write off any debts;
- (f) submit to the determination of arbitrators any dispute concerning the co-operative of a claim by the co-operative;
- (g) terminate contracts to which the co-operative is a party.

(2) A liquidator must not dispose of immovable property of a co-operative except with the approval of the registrar.

91. Realization of movable assets in possession of creditors as security

(1) A creditor of a co-operative being wound up holding a movable asset as security for his or her claim against the co-operative must within 30 days of publication of the notice referred to in regulation 80 notify the liquidator of such co-operative of his or her possession of such asset, the nature of such asset and the grounds of his or her preference to such asset.

(2) If such asset consists of securities or a bill of exchange the creditor may after he or she has given such notice realize such asset in terms of sub regulation(4).

(3) If such asset does not consist of securities or a bill of exchange the liquidator may take over such asset from the creditor at a value agreed upon between the liquidator and the creditor or at the full amount of the creditor's claim, and if the liquidator does not so take over such asset, the creditor may realize such asset in terms of sub regulation (4).

(4) A creditor may realize an asset referred to in sub regulation (2) or (3) in the following manner, namely-

- (a) if it consist of a thing ordinarily sold through a stockbroker the creditor may forthwith cause it to be sold by a stockbroker approved by the liquidator;
- (b) if it consists of a thing which in the opinion of the liquidator can profitably be sold at a public auction, the creditor may cause it to be sold by public auction through an auctioneer approved by the liquidator;
- (c) if it consists of a thing which in the opinion of the liquidator cannot profitably be sold by public auction, the creditor may cause it to be realized in a manner approved by the liquidator.

(5) As soon as a creditor has realized an asset in terms of sub regulation (4) he or she must forthwith pay the net proceeds thereof and submit all supporting documents relating to the realization of such asset to the liquidator.

(6) If the asset concerned has not been realized within 90 days of the publication of the notice referred to in regulation 16 the creditor must forthwith deliver such asset to the liquidator.

92. Assets acquired by co-operative under hire-purchase contract

A movable asset delivered to a co-operative under a hire-purchase contract may after the commencement of the winding-up of the co-operative be delivered to the creditor under such contract, and thereupon the creditor will be deemed to be holding that asset as security for his or her claim and the provisions of regulation 91 will apply.

Voidable dispositions**93. Disposition not for value**

(1) Any disposition of property made by a co-operative not for value may on application by the liquidator of the co-operative be declared void by a competent court if the property was disposed of-

- (a) more than two years before the commencement of the winding-up of the co-operative and it is proved that immediately after the disposition was made the liabilities of the co-operative exceeded the value of its assets;
- (b) within two years before the commencement of the winding-up of the co-operative and the person to whom the property was disposed of is unable to prove that immediately after the disposition was made the value of the co-operative's assets exceeded its liabilities;

Provided that if it is proved that the liabilities of the co-operative at any time after the disposition was made exceeded the value of its assets by less than the value of the property disposed of, the disposition may be declared void only to the extent of such excess.

(2) A disposition of property not made for value which was declared void under sub regulation(1) or which was not completed by the co-operative will not give rise to any claim in competition with the co-operative's creditors.

(3) If the court declares any disposition of property void under sub regulation (1) the court may summarily issue an order directing that the property disposed of be delivered to the liquidator or that an amount equal to the value of the relevant property as at the date of the disposition thereof be paid to the liquidator.

94. Voidable preferences

(1) Any disposition of property made by a co-operative within 180 days before the commencement of its winding-up and which has had the effect of preferring any one or more of its creditors above another may on application by the liquidator be declared void by a competent court if immediately after such disposition was made the liabilities of the co-operative exceeded the value of its assets, unless the person to whom the property was disposed of proves that the disposition was made in the ordinary course of business and that it was not intended thereby to prefer a creditor above another.

(2) Any disposition of property by a co-operative made at a time when its liabilities exceeded the value of its assets and with the intention of preferring any one or more of its creditors above another may at any time after the commencement of the winding-up of the co-operative on application by the liquidator be declared void by a competent court.

(3) If the court declares any disposition of property void under sub regulation (1) or (2) the court may summarily issue an order directing that the property disposed of be delivered to the liquidator or that an amount equal to the value of the relevant property as at the date of the disposition thereof be paid to the liquidator.

95. Collusive dealings to prejudice creditors or to prefer certain creditors above others

(1) Any collusion to dispose of property of a co-operative in a manner prejudicing the co-operative's creditors or preferring a creditor above another may at any time after the commencement of the winding-up of such a co-operative on application by the liquidator be declared void by a competent court.

(2) Any person being a party to any collusion declared void by the court under sub regulation (1) may summarily be ordered by the court to make good to the co-operative any decrease in

the value of the assets of the co-operative caused by such collusion, and if such person is a creditor of the co-operative he or she will forfeit his or her claim against the co-operative.

96. Voidable set-off

Any set-off of debts between a co-operative and another person within 180 days before the commencement of the co-operative's winding-up and which has had the effect of preferring such person as creditor above another creditor of the co-operative may on application by the liquidator be declared void by a competent court if at the time when such set-off was effected the liabilities of the co-operative exceeded the value of its assets, unless such person proves that the debts which were set off arose in the ordinary course of business between him or her and the co-operative.

97. Interested person may make application to court on behalf of liquidator

If the liquidator is requested by any interested person to make application to the court under regulations 93, 94, 95 or 96 and the liquidator omits to make such application within 30 days as from the date of the request such person may upon his or her indemnifying the liquidator against all costs in the action make the relevant application on behalf of the liquidator.

Admission and proving of claims

98. Admission and proving of claims against co-operative being wound up

(1) Any person who has a claim against a co-operative being wound up, excluding a claim against a members' fund, must within 90 days after the date of publication of the notice referred to in regulation 16 lodge with the liquidator a sworn or solemn statement specifying the amount of the claim and the prescribed particulars relating to the claim together with the supporting documents (if any): Provided that if a member for any reason whatsoever does not want his or her claim against a members' fund to proceed he or she must inform the liquidator in writing thereof.

(2) The liquidator may admit or refuse to admit the co-operative's liability for the amount of a claim referred to in sub regulation (1) or may admit the co-operative's liability for any portion of such an amount.

(3) Any person aggrieved by a decision taken by a liquidator under sub regulation (2) in connection with his or her claim may within 30 days after he or she was notified of such decision appeal to the registrar against such decision, and the registrar may after consideration of the grounds of the appeal and the liquidator's reasons for his or her decision confirm the decision, or set the decision aside and order the liquidator to admit the claim or to admit it to the extent determined by the registrar.

(4) (a) Any person referred to in sub regulation (1) who has failed to lodge his or her claim with the liquidator within the period mentioned in that sub regulation, may thereafter with the consent of the registrar lodge his or her claim with the liquidator within a period of 30 days after the termination of the said period.

(b) The provisions of sub regulations (2) and (3) will mutatis mutandis apply in respect of a claim referred to in paragraph (a).

(5) The provisions of this section will not prevent a creditor from proving a claim against a co-operative in any court, but no person must institute an action to prove a claim against a co-

operative being wound up or proceed with any such action which has been suspended in terms of regulation 73, unless he or she has lodged his or her claim with the liquidator within the period mentioned in sub regulation (1), or, with the consent of the registrar, within the further period mentioned in sub regulation (4), or has otherwise given notice to the liquidator in writing of the action or intended action within a period of 120 days after the date of publication of the notice referred to in regulation 80.

Liquidation, trading, distribution and contribution accounts and application of proceeds

99. Submission of certain accounts to registrar

(1) The liquidator must within 180 days after the date of publication of the notice referred to in regulation 80 draw up the following accounts, certify them and submit them in duplicate to the registrar, namely-

- (a) a liquidation account;
- (b) a trading account, if the liquidator has carried on a business of the co-operative;
- (c) a distribution account, if the proceeds of the co-operative's assets exceed the sum of the amounts to be paid out of such proceeds in terms of regulation 101 (1) and (2) and 102 (a), (b), (c), (d) and (e);
- (d) a contribution account, if the said proceeds are less than the sum of the said amounts and there are contributories.

(2) The accounts referred to in sub regulation (1) must be accompanied by all supporting documents available to the liquidator.

(3) If the said accounts are not the final accounts the liquidator must within such period as the registrar may determine draw up further accounts and submit them to him or her in duplicate.

(4) If the liquidator is unable to submit an account or documents mentioned in sub regulation (1), (2) or (3) to the liquidator within the required period he or she must before the termination of the period concerned submit to the registrar a written explanation of the reasons for his or her inability, and the registrar may thereupon grant an extension of time to the liquidator for the submission of the relevant account or documents.

100. Liquidation account

(1) A liquidation account must contain an accurate record-

- (a) of all money received and of all money disbursed by the liquidator otherwise than in the course of a business which he or she carries on behalf of the co-operative;
- (b) of the expected or real costs of liquidation;
- (c) of every claim against the co-operative proved or admitted in terms of regulation 98;

- (d) of the amount standing to the credit of each member in the members' fund of the co-operative;
- (e) if such a claim is a secured claim, of the property which serves as security for the claim, or if the property has already been realized, the amount of the proceeds thereof;
- (f) in the case of a second or later liquidation account, of the amount paid on every claim in terms of a previous liquidation account;
- (g) in the case of a liquidation account which is not the final liquidation account-
 - (i) of all aspects yet to be realized;
 - (ii) of all debts yet to be recovered;
 - (iii) of the reasons why such assets have not yet been realized or such debts have not yet been recovered.

(2) A liquidation account must subject to the provisions of regulations 101, 102, 103, 104, and 105 provide for the application of the proceeds of the assets of the co-operative.

101. Application of proceeds of assets which served as security

(1) The proceeds of any asset which served as security for a claim admitted or proved in terms of regulation 97 must, after deducting therefrom the liquidator's expenses with respect to such asset and such pro rata portion of the costs of liquidation as may be determined by the liquidator, in the first place be applied in paying such claim.

(2) If there is more than one such claim the relevant claims must be paid in the order of their preference.

(3) If the portion of the said proceeds which may be applied in paying any such claim or claims is less than the amount of such claim or claims the creditor or creditors concerned must be an ordinary creditor or ordinary creditors in respect of the unpaid portion of his claim or their claims.

102. Application of proceeds after payment of secured claims

Subject to the provisions of regulation 101 the proceeds of the assets of a co-operative being wound up must be applied as follows, namely-

- (a) in the first place in paying expenses incurred by the liquidator in connection with the winding-up and the other costs of liquidation;
- (b) thereafter paying any amounts due by the co-operative with respect to the matters referred to in paragraph (b) of section 98A(1), or in paragraphs (a) to and including (e) of section 99(1), of the insolvency Act, 1936 (Act 24 of 1936), which have been admitted or proved in terms of regulation 98, or, if the balance of the said proceeds is insufficient to pay the said amounts in full, in paying a proportionate share of each;

- (c) thereafter in paying outstanding salaries and wages of full-time employees of the co-operative which have been admitted or proved in terms of regulation 98 for a period not exceeding two months prior to the commencement of the winding-up of the co-operative, or, if the balance of the said proceeds is insufficient to pay the said salaries and wages in full, in paying a proportionate share of each;
- (d) thereafter in paying income tax for which the co-operative is liable;
- (e) thereafter in paying all other claims admitted or proved in terms of regulation 98, including any unpaid portions of secured claims contemplated in regulation 101(3) and any credit amounts in the members' fund, or, if the balance of the said proceeds is insufficient to satisfy the said claims, portions of claims and credit amounts in full, paying a proportionate share of each;
- (f) there after any residue must be applied in accordance with the distribution account.

103. Tacit hypothecs

(1) A tacit hypothec, other than a landlord's legal hypothec, will not confer any preference when a co-operative is being wound up.

(2) A landlord's legal hypothec will confer a preference with regard to property which is subject to that hypothec for any rent calculated in respect of any period immediately prior to and up to the commencement of the winding-up but not exceeding-

- (a) three months, if the rent is payable monthly or at shorter intervals than one month;
- (b) six months, if the rent is payable at intervals exceeding one month but not exceeding three months;
- (c) nine months, if the rent is payable at intervals exceeding three months but not exceeding six months;
- (d) fifteen months in any other case.

104. Certain mortgage bonds not to confer preference

(1) A mortgage bond, other than a kustingbrief, registered in any office for the registration of deeds against immovable property of a co-operative for the purpose of securing payment of-

- (a) a debt not previously secured which arose more than 60 days prior to the lodging of the relevant bond for registration in such office; or
- (b) a debt incurred in novation of or substitution for a debt referred to in paragraph (a);

will not confer any preferences with regard to such property or the proceeds thereof if the co-operative is wound up with 180 days after the lodging of such bond.

(2) A general mortgage bond, including a general clause in a mortgage bond hypothecating particular immovable property, will not confer any preference with regard to the property of a co-operative being wound up or the proceeds thereof.

105. Ranking of mortgage bonds for future debts

Priority under any mortgage bond registered in any office for the registration of deeds against immovable property of a co-operative for the purpose of securing payment of future debts will depend on the date of registration of that mortgage bond and not on the date upon which any such debt arises.

106. Trading account

A trading account must contain an accurate record of-

- (a) the value of the stock on hand at the commencement of the winding-up;
- (b) the value of the stock on hand on the last day of the period in respect of which the account is made up;
- (c) the daily totals of receipts and payments in connection with the business.

107. Distribution account

(1) A distribution account must subject to the provisions of regulation 108 provide for a residue referred to in regulation 102 (f) to be applied according to the provisions of this regulation.

(2) The residue referred to in sub regulation (1) must in the first place be applied in paying back the paid-up share capital of the co-operative to shareholders of the co-operative.

(3) If such residue is less than the paid-up share capital the amount to be paid to a shareholder out of such residue must be an amount which bears the same ratio to the amount of such residue as the paid-up value of his shares bears to the paid-up share capital.

(4) If such residue exceeds the paid-up share capital the balance remaining after the paid-up share capital has been paid back must subject to the provisions of sub regulation (8) be allocated to the members of the co-operative-

- (a) in the case of a co-operative the main object of which involves that its members conduct transactions with or through it, in accordance with the patronage proportion;
- (b) in the case of a co-operative the main object of which does not involve that its members conduct transactions with or through it, in accordance with a basis set out in the constitution.

(5) The patronage proportion mentioned in sub-regulation (4)(a) must be determined with reference to either the period specified in the constitution of the co-operative which preceded the commencement of the winding-up of the co-operative or the period for which the co-operative has existed, whichever period is the shorter: Provided that the period mentioned in the constitution of the co-operative must not be less than five years.

(6) For the purposes of sub regulations (4) and (5)-

- (a) the value of the transactions conducted by a former member with or through such co-operative during the appropriate period referred to in sub regulation (5) may be

added to the value of the transactions of a member who is entitled to an allocation under sub regulation (4), provided-

- (i) the former member, or, if he or she is deceased, his or her executor, has submitted his or her written consent to that effect to the co-operative within 90 days after such former member ceased to be a member of the co-operative; and
 - (ii) the constitution of the co-operative so provides;
- (b) a co-operative incorporated in consequence of a conversion under section 66 will be deemed to have existed as from the date of incorporation of the previous co-operative so converted, and the value of the transactions conducted by a member of the first-mentioned co-operative during the appropriate period with or through the previous co-operative as a member may be added to the value of the transactions conducted by him or her with or through the first-mentioned co-operative;
- (c) a co-operative incorporated in consequence of an amalgamation of two or more co-operatives under section 56 must be deemed to have existed as from the date of incorporation of the most recent of those co-operatives, and the value of the transactions conducted by a member of the amalgamated co-operative during the appropriate period with or through any of the previous co-operatives of which he or she was then a member may be added to the value of the transactions conducted by him or her with or through the amalgamated co-operative.

(7) The registrar may notwithstanding the provisions of sub regulations (4), (5) and (6) direct the liquidator to allocate the balance remaining after the paid-up share capital has been paid back, to the members of the co-operative on any basis determined by the registrar.

(8) If the constitution of a co-operative provides that an amount must be paid to any particular person or for any particular purpose in the event of the co-operative being wound up, the balance referred to in sub regulation (4) must in the first place be applied for the payment of such an amount.

108. Disposal of small residues

If a residue referred to in regulation 102 (f) is so small that the payment thereof to the persons referred to in regulation 107 is in the opinion of the registrar not justified the registrar may direct the liquidator to dispose of such residue, the provisions of that section notwithstanding, in any manner determined by the registrar.

109. Contribution account

(1) A contribution account must provide for the recovery of contributions from such persons as are liable for the payment thereof.

(2) A contribution account must in respect of each contributory indicate the ground on which he or she is liable for the payment of contribution, the amount for which he or she is liable and the contribution to be paid by him or her in terms of that contribution account and, in the case of a second or later contribution account, the contribution recovered from him or her in terms of a previous contribution account.

110. Inspection of liquidation, distribution or contribution account by interested persons

(1) Every liquidation, distribution or contribution account or a copy thereof must be made available in the Co-operatives Division of the Companies and Intellectual Property Commission, and, if the registered office of the co-operative is not situated in the magisterial district of Pretoria, also in the office of the magistrate of the district in which the registered office of the co-operative is situated, for such period as may be determined by the registrar, for inspection by interested persons.

(2) The liquidator must give notice to interested persons in the *Gazette* and in a newspaper circulating in the area in which the registered office of the co-operative is situated of the period for which and the place or places where the liquidation, distribution or contribution account will be available for inspection and that objection against such account may be lodged with the registrar before a date to be stated in the notice, which must be a date not less than seven days after the end of the said period.

(3) The magistrate of the office where an account is available for inspection must affix a notice in a public place in or at his or her office in which is mentioned that the account concerned is available in his or her office for inspection by interested persons during the relevant period, and must upon the expiry of such period issue a certificate that the relevant account was available for inspection during the relevant period and transmit the certificate and account to the registrar.

111. Objections against liquidation, distribution or contribution account

(1) Any person who has an interest in the winding-up of a co-operative may before the date stated in the notice referred to in sub regulation (2) of regulation 46 lodge an objection with the registrar against any entry in an account made available for inspection in terms of sub regulation (1) of that regulation.

(2) An objection referred to in sub regulation (1) must be contained in an affidavit or a solemn declaration in which the grounds of appeal are fully set forth.

(3) The registrar may uphold, partially uphold or reject an objection referred to in sub regulation (1).

112. Amendment of liquidation, distribution or contribution account

(1) If the registrar upholds or partially upholds an objection against a liquidation, distribution or contribution account under regulation 111(3), or if he or she is of the opinion that any such account is incorrect in any respect, he or she must order the liquidator to amend the relevant account in such manner as may be determined by him or her.

(2) If the registrar is of the opinion that the interests of any person are materially prejudiced by an amendment of a liquidation, distribution or contribution account under sub regulation (1), the provisions of regulation 110 and 111 and this regulation will be applicable to the amended account unless the said person submits a written statement to the registrar that he or she has no objection against such amendment.

113. Appeal to court against registrar's decisions

(1) Any person whose objection against a liquidation, distribution or contribution account has been rejected or partially upheld under regulation 111(3) may within 30 days after he or she was notified of the registrar's decision with regard to the objection appeal against that decision by way of application on notice of motion to any competent court.

(2) A liquidator may within 30 days after he or she was ordered by the registrar under regulation 111 (1) to amend a liquidation, distribution or contribution account appeal against that decision by way of application on notice of motion to any competent court.

114. Confirmation of liquidation, distribution or contribution account

If the registrar is satisfied that a liquidation, distribution or contribution account has been made available for inspection in accordance with the requirements of these regulations that any objections against it have been finalized and that the necessary amendments (if any) have been effected thereto, he or he must confirm the account.

115. Payments in terms of liquidation or distribution account and recovery of contribution

(1) The liquidator must as soon as may be practicable after-

- (a) a liquidation or distribution account was confirmed in terms of regulation 114 make all payments to be made in accordance therewith;
- (b) a contribution account was so confirmed, recover the contributions to be paid in accordance therewith.

(2) Any payment in terms of a liquidation or distribution account must be made by way of a cheque payable to the person entitled to such payment or his order and drawn on an account contemplated in regulation 88(1)(a).

(3) The liquidator must forthwith submit to the registrar proof of every payment made by him or her in terms of a liquidation or distribution account.

116. Disposal of unclaimed payments

If a cheque by which any payment is made in terms of a liquidation or distribution account, is not cashed or deposited within 90 days after it was issued, the liquidator must, unless the registrar otherwise directs, stop payment of the cheque and forthwith deposit the amount concerned in the guardian's fund referred to in section 86 of the Administration of Estates Act, 1965 (Act 66 of 1965), to be credited to the said person.

117. Recovery of contribution

(1) If any contributory liable to pay contribution in terms of a contribution account fails to pay the amount of such contribution to the liquidator within 30 days after a letter of demand in which particulars of such contribution are set out was sent to him or her by registered post to his or her last-known residential or business address, the magistrate of the district in which

the registered office of the co-operative is situated must upon written request by the liquidator issue a writ of execution against the property of such contributory.

(2) Any such writ must be executed against the movable property of such contributory, and if sufficient movable property is not found to satisfy the writ, then against his or her immovable property.

(3) A writ of execution issued under sub-regulation (1) must be deemed to have been issued pursuant to a judgement of a magistrate's court.

General provisions

118. Summoning and examination of persons concerning affairs of co-operative being wound up

(1) The magistrate of the district in which the registered office of a co-operative being wound up is situated may, on application by the registrar, the liquidator of the co-operative or any other person who has an interest in the winding-up of such co-operative, summon before him or her any person known or suspected to have in his or her possession any asset of the co-operative or believed to be indebted to the co-operative, or any person whom the magistrate deems capable of giving information concerning the affairs, transactions or assets of the co-operative.

(2) (a) Such magistrate may examine on oath or affirmation any person summoned under sub regulation (1), or authorize the registrar, the liquidator or any such other interested person to examine such person or to cause such person to be examined, concerning any matter referred to in that sub regulation, either orally or on written interrogatories, and may reduce his or her answers to writing and require him or her to sign them.

(b) Any such person may be required to answer any question put to him or her at the examination, notwithstanding that the answer might tend to incriminate him or her, and any answer given to any such question may thereafter be used in evidence against him or her.

(3) Such magistrate may require any such person to produce any book or other document in his or her custody or under his or her control relating to the co-operative, but without prejudice with regard to any right which he or she or any other person may have to such book or document.

(4) If any person summoned under sub regulation (1) fails to appear before the magistrate concerned at the appointed time such magistrate may cause him or her to be apprehended and brought before him or her for examination.

119. Co-operative struck off register

When a co-operative has been wound up to the satisfaction of the registrar the co-operative must be struck off the register of co-operatives by him or her and the co-operative will dissolve when so struck off the register.

120. Release of liquidator

The liquidator of a co-operative may at any time after dissolution of the co-operative apply to the registrar for his release, who may grant such release if he or she deems it expedient.

121. Disposal of books and documents

After six months from the date of release of the liquidator the books and documents for the co-operative and those relating to the winding-up of the co-operative may be destroyed, unless the registrar otherwise directs.

PART B. JUDICIAL MANAGEMENT OF CO-OPERATIVES

122. Circumstances in which co-operatives may be placed under judicial management

- (1) When any co-operative by reason of mismanagement or for any other cause-
 - (a) is financially distressed in that it appears reasonably unlikely that the co-operative will be able to pay all of its debts or discharge its financial obligations as they become due and payable within the immediate ensuing six months; or
 - (b) it appears to be reasonably likely that the co-operative will become in solvent within the immediate ensuing six months; or
 - (c) has otherwise not become or is prevented from becoming a successful concern, and there is a reasonable probability that, if it is placed under judicial management, it will be enabled to pay its debts or to meet its obligations and become a successful concern, a competent court or the Tribunal may, if it appears just and equitable, grant a judicial management order in respect of that co-operative.
- (2) An application to a competent court or the Tribunal for a judicial management order in respect of a co-operative may be made-
 - (a) by a co-operative voluntarily after a special resolution to that effect;
 - (b) by any interested person; or
 - (c) by the Tribunal on its own accord or on the recommendation of the registrar.
- (3) When an application for the winding-up of a co-operative is made in terms of section 72 or 72B to a competent court or the Tribunal and it appears to that court or the Tribunal that if the co-operative concerned is placed under judicial management the grounds for its winding-up may be removed and that it will become a successful concern, and that the granting of a judicial management order would be just and equitable, such court or the Tribunal may grant such an order in respect of that co-operative.

123. Provisional judicial management order

(1) A court or the Tribunal may, on an application made under regulation 122, grant a provisional judicial management order stating the return day or dismiss the application or make any other order that it deems fit.

(2) A provisional judicial management order must contain-

- (a) directives that the co-operative named therein will be under the management and control, subject to the supervision of the registrar and support by the Tribunal, of a provisional judicial manager appointed as hereinafter provided, and that any person vested with the management and control of the co-operative's affairs will from the date of the order be divested thereof.
- (b) such other directives as the court or the Tribunal may deem necessary as to the management and control of the co-operative, or any matter incidental thereto, including directives conferring upon the provisional judicial manager the power, subject to the rights of the creditors, to raise money in any way without the authority of the members of the co-operative as the court or the Tribunal may deem necessary;

and may contain instructions that while the co-operative is under judicial management, all actions, legal proceedings and the execution of all writs, summonses and other legal process against the co-operative be stayed and not be proceeded with without the leave of the court or the Tribunal.

(3) The court or the Tribunal which has granted a provisional judicial management order may at any time and in any manner on the application of the applicant, the co-operative, a creditor or a member of the co-operative, the provisional judicial manager or on the recommendation of the registrar, vary the terms of such order or discharge it.

124. Custody of property and appointment of provisional judicial manager on granting of judicial management order

(1) When a provisional judicial management order is granted-

- (a) all persons who immediately prior to the commencement of the provisional judicial management order of the co-operative hold office as director, manager or secretary of the co-operative will jointly and severally be responsible for the custody of all the assets of the co-operative under the co-operative's control until a provisional judicial manager is appointed and has assumed office.
- (b) the registrar must without delay appoint a provisional judicial manager, who must give such security for the proper performance of his duties in his or her capacity of such as the registrar may direct, and who must, subject to the provisions of subsection (2), hold office until discharged by the court or the Tribunal or dismissed by the registrar under sub regulation (2).

(2) The registrar may at any time and for reasons which he deems fit dismiss a provisional judicial manager from his office and appoint another person in his place.

125. Effect of provisional judicial management order

(1) When a provisional judicial management order is granted-

- (a) no shares in the co-operative or amount of money from a members' fund may be refunded to any member or to any member whose membership was terminated within six months prior to the granting of the provisional judicial management order; and
- (b) the constitution of the co-operative will remain in force in so far as it is not in conflict with the directives of the provisional judicial management order, unless the registrar is of the opinion that the application of any provision of the constitution is not in the interests of the members or creditors during the provisional judicial management, and he notifies the provisional judicial manager in writing that such provision must be suspended.

(2) The registrar may at any time terminate the suspension referred to in sub regulation (1)(b) and notify the provisional judicial manager in writing thereof.

126. Functions of provisional judicial manager

A provisional judicial manager appointed under regulation 124(1)(b) or (2) must-

- (a) assume the management and control of the co-operative and recover and take into his possession all the assets of the co-operative;
- (b) convene within 60 days, or such longer period as the registrar may determine at the written request of the provisional judicial manager, joint or separate meetings of the creditors and members of the co-operative for the purposes referred to in regulation 127;
- (c) prepare and lay before the meetings convened under paragraph (b) a report containing-
 - (i) an account of the general state of affairs of the co-operative;
 - (ii) a statement of the reasons why the co-operative is in financial distress or unable to pay its debts or is probably unable to meet its obligations or has not become or is prevented from becoming a successful concern;
 - (iii) a statement of the assets and liabilities of the co-operative;
 - (iv) a complete list of creditors of the co-operative, including contingent and prospective creditors, and of the amount and the nature of the claim of each creditor;
 - (v) particulars as to the source from which money has been or is to be raised for the purposes of carrying on the business of the co-operative and the conditions on which it must be repaid; and
 - (vi) the considered opinion of the provisional judicial manager as to the prospects of the co-operative becoming a successful concern and of the removal of the

facts or circumstances which prevent the co-operative from becoming a successful concern.

127. Purpose of meetings convened under regulation 126(b)

- (1) (a) Any meeting convened under regulation 126(b) must be presided over by the registrar or a magistrate having jurisdiction in the area where the meeting is held.
- (b) Any meeting referred to in paragraph (a) must be convened-
 - (i) in the case of a meeting of the co-operative concerned, in the manner prescribed in the constitution of that co-operative for the convening of a general meeting; and
 - (ii) in the case of a meeting of creditors, by a notice in the *Gazette* and in one or more newspapers circulating in the area in which the registered office of the co-operative is situated, not less than seven days prior to such meeting.
- (2) At the meeting the report of the provisional judicial manager under regulation 126(c), and the desirability or not of placing the co-operative finally under judicial management, must be considered, taking into account the prospects of the co-operative becoming a successful concern.
- (3) The chairman of any such meeting must prepare and lay before the court or the Tribunal a report of the proceedings of such meeting, including a summary of the reasons for any conclusion arrived at under sub-regulation (2).

128. Return day of provisional judicial management order and powers of court

- (1) Any return day fixed under regulation 122 (1) must not be later than 60 days after the date of the provisional judicial management order but may be extended by the court on good cause shown.
- (2) On such return day the court may after considering of-
 - (a) the opinion and wishes of creditors and members of the co-operative;
 - (b) the report of the provisional judicial manager under regulation 126 (c);
 - (c) the report referred to in regulation 127 (3); and
 - (d) a report of the registrar if he does not preside at the meeting referred to in regulation 127(1),

grant a final judicial management order if it appears to the court that the co-operative will, if placed under judicial management, be enabled to become a successful concern and that it is just and equitable that it be placed under judicial management, or the court may discharge the provisional order or make any other order it may deem fit.
- (3) A final judicial management order must contain-
 - (a) directives for the vesting of the management and control of the co-operative, subject to the supervision of the registrar, in the final judicial manager, the handing

over of all matters and the accounting by the provisional judicial manager to the final judicial manager, and the discharge of the provisional judicial manager, where necessary;

- (b) such other directives as to the management and control of the co-operative, or any matter incidental thereto, including directives conferring upon the final judicial manager the power, subject to the rights of the creditors of the co-operative, to raise money in any way without the authority of the members of the co-operative, as the court or the Tribunal may consider necessary.
- (4)
- (a) When a final judicial management order is granted, the registrar must without delay appoint a final judicial manager, who must give such security for the proper performance of his duties in his or her capacity as such as the registrar may direct, and who will hold office until he or she is discharged in terms of paragraph (b) or until the judicial management order is withdrawn or is deemed to be withdrawn in terms of regulation 134.
 - (c) The registrar may at any time for reasons which he or she deems fit dismiss a final judicial manager from his or her office and appoint another person in his or her place.
- (5) The court or the Tribunal which has granted a final judicial management order may at any time and in any manner vary the terms of such order on the application of the registrar, the final judicial manager, or a representative acting on behalf of the creditors or member of the co-operative concerned by virtue of a resolution passed, in the case of creditors, by a majority in value and number of such creditors at a meeting of those creditors or, in the case of members, by a majority of members present at a general meeting.

129. Effect of final judicial management order

The provisions of regulation 125 will *mutatis mutandis* apply when a final judicial management order is granted.

130. Functions of final judicial manager

A final judicial manager must, subject to the provisions of the constitution of the co-operative concerned in so far as they are not inconsistent with any directive contained in the relevant judicial management order or suspended by the registrar in writing-

- (a) take over the management and control of the co-operative from the provisional judicial manager.
- (b) conduct such management and control, subject to the orders of the registrar, in such manner as he may deem most economic and most promotive of the interests of the members and creditors of the co-operative in order to restore the co-operative as a successful concern;
- (c) comply with any directive of the court or the Tribunal made in the final judicial management order or any variation thereof;

- (d) keep such accounting records and have such financial statements prepared as the co-operative would have been obliged to keep or have prepared if it had not been placed under judicial management;
- (e) convene the annual general meeting and other meetings of members of the co-operative provided for by the Act, and in that regard comply with all the requirements with which the directors of the co-operative would in terms of the Act have been obliged to comply if the co-operative had not been placed under judicial management;
- (f) convene meetings of the creditors of the co-operative by notices issued separately on the dates on which the notices convening annual meetings of the co-operative are issued or on which any interim report is sent out to members, and submit to such meetings reports showing the assets and liabilities of the co-operative, its debts and obligations as verified by the auditor or independent reviewer of the co-operative, and all such information as may be necessary to enable the creditors to become fully acquainted with the co-operative's position as at the date of the end of the period covered by any such interim report;
- (g) lodge with the registrar copies of all the documents submitted to the meetings as provided for in paragraphs (e) and (f);
- (h) examine the affairs and transactions of the co-operative before the commencement of the judicial management in order to ascertain whether any director, past director, officer or past officer of the co-operative has contravened or appears to have contravened any provision of the Act or has committed any other offence which gave rise to the circumstances referred to in regulation 58(1);
- (i) examine the affairs and transactions of the co-operative before the commencement of the judicial management in order to ascertain whether any director, past director, officer or past officer of the co-operative is or appears to be personally liable for damages or compensation to the co-operative or for any debts or liabilities of the co-operative;
- (j) if at any time he is of the opinion that the continuation of the judicial management will not enable the co-operative to become a successful concern, apply to the court or the Tribunal after not less than 14 days' notice by registered post to all members and creditors of the co-operative for the cancellation of the relevant judicial management order and the issue of an order for the winding-up of the co-operative;

131. Application of assets during judicial management

- (1) A judicial manager may not without the leave of the court sell or otherwise dispose of any of the co-operative's assets save in the ordinary course of the co-operative's business.
- (2) Any money of the co-operative becoming available to the judicial manager must be applied by him in paying the costs of the judicial management and in the conduct of the co-operative's business in accordance with the judicial management order and so far as the circumstances permit in the repayment of debts of the co-operative incurred before the date of the provisional judicial order.

132. Position of auditor in judicial management

Notwithstanding the granting of a judicial management order in respect of any co-operative and for so long as the order is in force, the provisions of this Act relating to the appointment and re-appointment of an auditor or independent reviewer and the rights and duties of an auditor or independent reviewer will continue to apply as if any reference in the said provisions to the directors of the co-operative were a reference to the judicial manager.

133. Application to judicial management of certain provisions on winding-up

In every case in which a co-operative is placed under judicial management the provisions of regulations 93, 94, 95, 96 and 118 will apply as if the co-operative under judicial management were a co-operative being wound up and the judicial manager were the liquidator.

134. Cancellation of judicial management order

(1) If at any time on application by the judicial manager or any person having an interest in the co-operative it appears to the court or the Tribunal which granted a judicial management order that the purpose of such order has been fulfilled or that for any reason it is undesirable that such order should remain in force, that court may cancel such order, and thereupon the judicial manager will be divested of his functions.

(2) In cancelling any such order the court or the Tribunal must give such directives as may be necessary for the resumption of the management and control of the co-operative by a Board of directors referred to in section 32(1), including directives for the convening of a general meeting of members for the purpose of electing such directors.

(3) When a co-operative under judicial management amalgamates with another co-operative it will be deemed that the judicial management order is cancelled with effect from the date on which the first-mentioned co-operative ceased to exist in terms of section 58.

135. Remuneration of provisional and final judicial manager

The registrar must determine the basis of the remuneration of a provisional or final judicial manager, and may at any time decrease or disallow such remuneration if in his opinion there is good cause for doing so.

136. Short title

These Regulations are called the Co-operatives Administrative Regulations, 2016, and come into operation on the date when the Co-operatives Amendment Act, 2013 (Act 6 of 2013) comes into operation.

SCHEDULE 1 - FEES

The prescribed fees to be paid in respect of the filing, verification or copying of a document in terms of the Act, or in respect of any registration and other services rendered by the registrar, are stipulated below. The fees are payable by the co-operative concern to CIPC. Fees must be paid in cash at application.

NATURE OF GOODS OR SERVICE	TARIFF/FEE
1. Application to register a co-operative [Section 6(1)]	R 125.00 per application
2. Registration of special resolution for amendment of constitution	R17.50 per section with a maximum of R125.00
3. Inspection of a document received and kept by the registrar under the Act	R22.50 per co-operative
4. Obtaining a copy of or extract from a document – When it follows inspection When otherwise requested When it is provided programmatically	R 1.50 per page photocopied R 22.50 per co-operative plus R1.50 per page photocopied R 22.50 per co-operative plus disk
5. Application to convert a company into a co-operative [Section 66(1)]	R 125.00 per application
6. Application for the amalgamation of two or more co-operatives [Section 57(4)]	R 125.00 per application
7. Division of co-operative: <ul style="list-style-type: none"> • the registration fees for registration of the new co-operatives; • the fee for registering the special resolution 	R 125.00 per co-operative R 17.50 per section with a maximum of R 125.00
8. Conversion of co-operative from one type to another: <ul style="list-style-type: none"> • the fee for registering the special resolution 	R 17.50 per section with a maximum of R 125.00
9. Application by co-operative to transfer its assets, rights, liabilities and obligations to any other co-operative and registration of special resolution	R 125.00 per application and the fee for registering the special resolution - R 17.50 per section with a maximum of R 125.00
7. Additional fee for late lodgement of documents required to be lodged within a specified period [Section 95 (1) (b)]	R 52.50 per document
8. Checking of documents and drafts of documents	R 52.50 per document
9. Application for the reservation of a name, translated form or shortened form of name	R 75.00 per application if applied for manually and R50.00 if applied for electronically through the CIPC system
10. Annual fees payable by co-operatives – Category A1 and A2 Primary Co-operative	R 50.00 and R 100.00 if submitted more than 30 days after due date
Category B Primary Co-operative	R 450.00 and R 600.00 if submitted more than 30 days after due date
Category C Primary Co-operative	R 3 000.00 and R 4 000.00 if submitted more than 30 days after due date
Secondary Co-operative, Tertiary Co-operative and National Apex Co-operative with an annual or projected annual revenue of less than R25 Million.	R 450.00 and R 600.00 if submitted more than 30 days after the due date
Secondary Co-operative, Tertiary Co-operative and National Apex Co-operative with annual or projected annual revenue of R25 Million or more.	R 3 000.00 and R 4 000.00 if submitted more than 30 days after due date

SCHEDULE 2**REMUNERATION OF LIQUIDATORS**

	ITEM TAXED	SCALE OF TAXATION
1.	The gross proceeds of movable property (other than shares and similar securities) sold, and the gross amount collected under promissory notes or book debts or as rent interest, contributions or other income	10%
2.	The gross proceeds of immovable property, shares and similar securities sold, mortgage bonds recovered, and the balance recovered in respect of immovable property sold prior to liquidation	3%
3.	The – (a) money found in the estate; (b) gross proceeds of cheques and postal orders payable to the co-operative and found in the estate; and (c) gross proceeds of amounts standing to the credit standing to the credit of the co-operative in current, savings and other accounts and fixed deposits and other deposits at banking and financial institutions.	1%
4.	Sales by the liquidator in carrying on the business of the co-operative, or any part thereof, in terms of regulation 19.	6%
5.	The amount distributed in terms of a composition, excluding any amount on which remuneration is payable under any other item of this tariff	2%
6.	The value at which movable property in respect of which a creditor has a preferred right, has been taken over by such creditor	5%

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FORM CO-OP 1

CLIENT REF:							
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**PRESCRIBED FEE
PER SCHEDULE 1**

**REPUBLIC OF SOUTH AFRICA
CO-OPERATIVES ACT, 2005
AS AMENDED BY CO-OPERATIVES AMENDMENT ACT, 2013**

**APPLICATION FOR REGISTRATION OF PRIMARY/SECONDARY/TERTIARY/NATIONAL
APEX CO-OPERATIVE**
(Section 6)

INSTRUCTIONS FOR COMPLETION OF FORM

1. Write in block capital letters, typewrite or print in legible characters with deep permanent black ink, and lodge one set of the documents referred to at the end of Part 1.
2. An application, which does not comply with the requirements of the Act, these regulations or the notes on this Form, may be rejected.
3. If no identity document has been issued, a written statement to this effect must be attached to the application form and the date of birth must be entered where an identity number is required

PART 1

APPLICATION STATEMENT

WE, as founder members, apply for the registration of the co-operative, particulars of which are set out below. We confirm that on2.....(date), a meeting of interested persons was held and that the attached constitution was adopted for the co-operative and that the persons whose names appear in Part 3 were elected as first directors of the co-operative.

Name of co-operative.....

Shortened form of name (if applicable).....

Literal translation of name (if applicable).....

Form of co-operative (i.e. Primary / Secondary / Tertiary/The National Apex).....

Kind of co-operative (specify to sector, i.e. worker/agricultural/agro-processing/mining/housing/financial/manufacturing/ or describe kind even if not listed in section 4 of Act, e.g. worker/agricultural/consumer co-operative)....

Main objective and description of business of co-operative.....

Date of end of financial year.....

Province where co-operative registered office is located.....

DOCUMENTS ATTACHED

The following documents are attached to this application:

1. Certified ID Copies of all founder members and directors;
2. COR 9.4 containing particulars of the name reserved for the co-operative;
3. A power of attorney signed by the founder member in favour of the person signing the constitution on their behalf (only if the constitution is not signed by the founder member personally);
4. Form CO-OP 5 containing particulars of the application to reserve a name for the co-operative or COR 9.1 if the application to reserve the name for the co-operative was done on line (only if a name has been reserved for the co-operative to be formed but a confirmation notice for the name reserved has not yet been issued by the registrar);
5. The prescribed fee or proof of payment thereof; and.
6. Independent reviewer's letter of consent to act as independent reviewer in the case of the co-operative being a category B primary co-operative or an auditor's letter of consent to act as auditor of the co-operative in the event of the co-operative being a Category C primary co-operative, a secondary co-operative, a tertiary co-operative or the national apex co-operative.

PART 2

LIST OF FOUNDER MEMBERS OF

Name of co-operative:.....

<p>FULL FORENAMES, SURNAME AND IDENTITY NUMBER OF FOUNDER MEMBER (PRIMARY CO-OP) /</p> <p>FULL FORENAMES, SURNAME, IDENTITY NUMBER OF REPRESENTATIVE OF FOUNDER CO-OPERATIVE MEMBER – NAME AND REG. NO. (SECONDARY /TERTIARY/APEX CO-OPERATIVE)</p>	<p>PHYSICAL AND POSTAL ADDRESS OF FOUDE R MEMBER(PRIMARY CO-OP)</p> <p>PHYSICALAND POSTAL ADDRESS OF FOUDE R MEMBER(SECONDARY/TERTIARY/APEX CO-OPERATIVE)</p>
<p>Full forenames.....</p> <p>.....</p> <p>Surname.....</p> <p>ID Noof</p> <p>Co-operative name.....</p> <p>.....</p> <p>Reg No.....</p>	<p>Home address.....</p> <p>.....</p> <p>.....</p> <p>Postal address.....</p> <p>.....</p> <p>.....</p>

<p>Full forenames.....</p> <p>.....</p> <p>Surname.....</p> <p>ID Noor</p> <p>Co-operative name.....</p> <p>.....</p> <p>Reg No.....</p>	<p>Home address.....</p> <p>.....</p> <p>.....</p> <p>Postal address.....</p> <p>.....</p> <p>.....</p>
<p>Full forenames.....</p> <p>.....</p> <p>Surname.....</p> <p>ID Noor</p> <p>Co-operative name.....</p> <p>.....</p> <p>Reg No.....</p>	<p>Home address.....</p> <p>.....</p> <p>.....</p> <p>Postal address.....</p> <p>.....</p> <p>.....</p>
<p>Full forenames.....</p> <p>.....</p> <p>Surname.....</p> <p>ID Noor</p> <p>Co-operative name.....</p> <p>.....</p> <p>Reg No.....</p>	<p>Home address.....</p> <p>.....</p> <p>.....</p> <p>Postal address.....</p> <p>.....</p> <p>.....</p>
<p>Full forenames.....</p> <p>.....</p> <p>Surname.....</p> <p>ID Noor</p> <p>Co-operative name.....</p> <p>.....</p> <p>Reg No.....</p>	<p>Home address.....</p> <p>.....</p> <p>.....</p> <p>Postal address.....</p> <p>.....</p> <p>.....</p>

Full forenames..... Surname..... ID Noor Co-operative name..... Reg No.....	Home address..... Postal address.....
---	--

<u>IMPORTANT NOTE</u>	
Form of Co-operative	Minimum Number of Members Required for Formation of Co-operative and Type of Members Required
Primary Co-operative	5 Natural Persons, 2 juristic persons or a combination of any 5 persons
Secondary Co-operative	2 Operational Primary Co-operatives
Tertiary Co-operative	2 Operational Secondary Co-operatives
National Apex Co-operative	3 Operational sectoral Tertiary Co-operatives operating on National Level and 5 operational multi-sectoral Tertiary Co-operatives operating on provincial, district or local level

PART 3

FIRST DIRECTORS OF

Name of co-operative:

.....

(Sections 6 and 39)

The directors listed in this return have consented to their appointment and according to their letters of consent to their appointment; none of the directors are disqualified to be directors in terms of the Co-operatives Act, 2005 as amended or the constitution of the co-operative.

APPOINTED DIRECTORS

FULL FORENAMES, SURNAME, ID NO, GENDER AND APPOINTMENT DATE OF DIRECTOR	HOME AND POSTAL ADDRESS OF DIRECTOR AND PARTICULARS OF DISABILITY, IF ANY
Full forenames..... Surname..... ID No..... Date of appointment..... Gender.....	Home address..... Postal address..... Disability.....
Full forenames..... Surname..... ID No..... Date of appointment..... Gender.....	Home address..... Postal address..... Disability.....
Full forenames..... Surname..... ID No..... Date of appointment..... Gender.....	Home address..... Postal address..... Disability.....
Full forenames..... Surname..... ID No..... Date of appointment..... Gender.....	Home address..... Postal address..... Disability.....
Full forenames..... Surname..... ID No..... Date of appointment..... Gender.....	Home address..... Postal address..... Disability.....

Full forenames..... Surname..... ID No..... Date of appointment..... Gender.....	Home address..... Postal address..... Disability.....
Full forenames..... Surname..... ID No..... Date of appointment..... Gender.....	Home address..... Postal address..... Disability.....
Full forenames..... Surname..... ID No..... Date of appointment..... Gender.....	Home address..... Postal address..... Disability.....

PART 4

ADDRESSES AND CONTACT PARTICULARS OF CO-OPERATIVE

Name of co-operative:.....

 (Section 20(3))

(Completion of paragraphs (a) and (b) is compulsory)

(a) SITUATION OF REGISTERED OFFICE

(Please provide street or other physical address):

.....

 Province:.....

(b) POSTAL ADDRESS

.....

 Postal Code.....

(c) COMPLETE IF AVAILABLE

Co-operative Tel. No.: (.....)

Co-operative Fax No.: (.....)

Co-operative E-mail Address:.....

Website address:.....

PART 5**STATISTICAL INFORMATION FOR PRIMARY CO-OPERATIVES****(Not compulsory but essential for planning and implementing support measures)**

Name of co-operative.....

.....

Please complete the following information relating to the co-operative as accurately as possible:

1. Number of female members.....
2. Number of male members.....
3. Number of members younger than 35 years.....
Number of members 35 years and older
4. Number of disabled persons who are members.....
5. Number of Black members.....
Number of members of other races.....
6. Number of members who are not natural persons.....
7. Size of the co-operative:
Total number of members as at foundation date.....
Total number of current members.....(date).....
8. Number of persons employed by co-operative (members and non-members).....
.....

PART 6**CO-OPERATIVES MODEL CONSTITUTION COMPULSORY CLAUSES****PLACE OF BUSINESS**

The main place of business of the Co-operative is situated at:
.....(Place).....(Province)

OBJECTIVES, BUSINESS, DESCRIPTION & RESTRICTIONS THERETO

- (a)
-
- (b)
-
- (c)
-
-

ENTRANCE FEE & MEMBERSHIP FEE/SUBSCRIPTION FEE

An entrance Fee of R.....00 must be paid on application for membership. Such fee is not refunded on termination of membership.

A Membership Fee/Subscription fee of R.....00 must be paid annually. Provided that a member may pay off the subscription fee in equal monthly instalments. Such fee shall not be terminated of membership.

ISSUE OF SHARES AND MINIMUM SHAREHOLDING

Shares issued by the Co-operative must all be same class, ranking and nominal value.

The nominal value of each share must be R..... of which _____%(_____ percent) shall be payable in cash on application and the balance on such dates and times as the Board may determine; or as stipulated in the constitution of the co-operative.

Each member must have minimum of.....(number) shares.

MANAGEMENT OF CO-OPERATIVE
BOARD OF DIRECTORS

The affairs of the co-operative must be managed by a Board of Directors consisting of a minimum of and a maximum ofDirectors. The directors must exercise the powers and perform the duties of the Co-operative.

NOTE: THIS PAGE MUST BE SIGNED BY ALL FOUNDER MEMBERS

FULL NAMES AND SURNAME OF APPLICANTS FOR MEMBERSHIP	SIGNATURE OF APLICANTS
1. Full names..... Surname.....
2. Full names..... Surname.....
3. Full names..... Surname.....
4. Full names..... Surname.....
5. Full names..... Surname.....
6. Full names..... Surname.....
7. Full names..... Surname.....
8. Full names..... Surname.....
9. Full names..... Surname.....
10. Full names..... Surname.....

CHANGES TO MODEL CONSTITUTIONS

Other changes may also be made to the constitution, given that the changes are in line with provisions of the Co-operatives Act, 2005, as amended and the rest of the constitution. If any changes were made to the constitution the number of the clauses that were changed should be mentioned in a cover letter, as well as the reasons for the changes.

NO PRESCRIBED FEE

**FORM CO-OP 2
REPUBLIC OF SOUTH AFRICA
CO-OPERATIVES ACT 2005
AS AMENDED BY CO-OPERATIVES AMENDMENT ACT, 2013**

RETURN RELATING TO DIRECTOR

(To be lodged when particulars of directors change, including resignation and appointment of new directors)
(Sections 6 and 39)

NAME OF CO-OPERATIVE:.....

REGISTRATION NO. OF CO-OPERATIVE:.....

I,..... (Name of director, secretary/manager/officer).....state that the directors listed in this return are all the directors of the co-operative, have consented to their appointment and that, according to their letters of consent to their appointment, none of the directors are disqualified to be directors in terms of the co-operatives Act, 2005, as amended or the of the co-operative and that the directors listed in the second table have not been re-appointed or have vacated their office for other reasons.

SIGNED..... (Director/secretary/manager/officer of co-operative)

DATE.....

APPOINTED DIRECTORS

FULL NAME, HOME AND POSTAL ADDRESS, ID, APPOINTMENT DATE, RACE, GENDER AND DEMOGRAPHICS
Full forenames..... Surname..... Home address..... Postal address..... Date of appointment ID No..... Gender: Male <input type="checkbox"/> Female <input type="checkbox"/> Youth <input type="checkbox"/> Person living with a disability <input type="checkbox"/>
Full forenames..... Surname..... Home address..... Postal address..... Date of appointment ID No..... Gender: Male <input type="checkbox"/> Female <input type="checkbox"/> Youth <input type="checkbox"/> Person living with a disability <input type="checkbox"/>

Full forenames.....
Surname.....
Home address.....
.....
Postal address.....
.....
Date of appointment ID No.....
Gender: Male Female Youth Person living with a disability

Full forenames.....
Surname.....
Home address.....
.....
Postal address.....
.....
Date of appointment ID No.....
Gender: Male Female Youth Person living with a disability

Full forenames.....
Surname.....
Home address.....
.....
Postal address.....
.....
Date of appointment ID No.....
Gender: Male Female Youth Person living with a disability

Full forenames.....
Surname.....
Home address.....
.....
Postal address.....
.....
Date of appointment ID No.....
Gender: Male Female Youth Person living with a disability

DIRECTORS THAT HAVE VACATED OFFICE

(If applicable)

Full forenames..... Surname..... ... ID No..... Date of vacation: Reason for vacation.....
Full forenames..... Surname..... ... ID No..... Date of vacation: Reason for vacation.....
Full forenames..... Surname..... ... ID No..... Date of vacation: Reason for vacation.....
Full forenames.....

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Regulation Gazette

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April 2019

No. 42408

PART 2 OF 2

<p>Surname.....</p> <p>...</p> <p>ID No..... Date of vacation:</p> <p>.....</p> <p>Reason for vacation.....</p> <p>.....</p> <p>..</p> <p>.....</p> <p>...</p> <p>.....</p> <p>..</p>
<p>Full forenames.....</p> <p>Surname.....</p> <p>...</p> <p>ID No..... Date of vacation:</p> <p>.....</p> <p>Reason for vacation.....</p> <p>.....</p> <p>..</p> <p>.....</p> <p>...</p> <p>.....</p> <p>..</p>

NO
PRESCRIBED
FEE

FORM CO-OP 3

**REPUBLIC OF SOUTH AFRICA
CO-OPERATIVES ACT 2005
AS AMENDED BY CO-OPERATIVES AMENDMENT ACT, 2013**

**NOTICE OF ADDRESSES AND CONTACT PARTICULARS OF CO-OPERATIVE
AND CHANGES THEREOF**

(To be lodged when particulars change or additional information needs to be disclosed)
(Section 20(3) of Act and Section 16.2 of Regulations)

NAME OF CO-OPERATIVE:

REGISTRATION NO. OF CO-OPERATIVE.....

(Completion of paragraphs (a) (b) and (c) is compulsory)

(b) SITUATION OF REGISTERED OFFICE

(Please provide street or other physical address):

.....
.....
Province:.....

(b) POSTAL ADDRESS

.....
.....
Postal Code.....

(c) COMPLETE

Co-operative Tel. No.: (.....)
Co-operative Fax No.: (.....)
Co-operative E-mail Address:.....
Website address:.....

The effective date of the changes is....., being a date at least five business days after date of submission.

Signed.....(Director/Secretary/Manager/Officer of co-operative)

Date.....

**NO
PRESCRIBED
FEE**

FORM CO-OP 4

**REPUBLIC OF SOUTH AFRICA
CO-OPERATIVES ACT 2005
AS AMENDED BY CO-OPERATIVES AMENDMENT ACT, 2013**

**NOTICE OF APPOINTMENT OF AUDITOR/INDEPENDENT REVIEWER AND
CONSENT TO ACT AS OR RESIGNATION BY AND REMOVAL OF
AUDITOR/INDEPENDENT REVIEWER**
(Sections 50 and 51 of Act)

NAME OF CO-OPERATIVE.....
REGISTRATION NO.OF CO-OPERATIVE..... (If already registered)

***MARK THE APPLICABLE SQUARE**

PART I

(To be completed by the auditor/independent reviewer concerned and sent to the co-operative for completion of PART III and lodgement with the Registrar).NB: Attachment of consent letter compulsory)

***A APPOINTMENT**

I,.....consent to my appointment as auditor/independent reviewer of the co-operative as from and declare that I am not disqualified in terms of section 49 of the Co-operatives Act, 2005 as amended for the appointment.

***B CHANGE OF NAME OF FIRM OF AUDITORS/INDEPENDENT REVIEWERS**

The firmhas with effect from.....changed its name and will in future be known as.....

Date:.....

Signature of auditor/independent reviewer:.....

Profession:.....

Practice number:.....

Office address:.....

Postal address:.....

PART II

(To be completed by auditor/independent reviewer concerned and original to be lodged with Registrar and duplicate to be sent to the co-operative for completion of PART III and lodgement with Registrar)

***C RESIGNATION**

I,.....resign
as auditor/independent reviewer of the above-mentioned and declare that:-

- (a) As at the date of this notice I have no reason to believe that a reportable irregularity as defined in section 1 of the Auditing Profession Act, (Act 26 of 2005) has taken place, or is taking place;
- (b) I reported a reportable irregularity to the Independent Regulatory Board for Auditors on (insert date) in terms of section 45 of the Auditing Profession Act, 2005 (Act 26 of 2005).

(Note: In terms of section 50 (6) of the Act the resignation will become effective on the date on which the written resignation is received by the co-operative or a later date specified in the resignation).

Date.....2.....

Signature of auditor/independent reviewer.....

Profession.....

Practice number.....

PART III

(To be completed by the co-operative concerned and lodged with Registrar)

***D STATEMENT**

The auditor/independent reviewer of the above-mentioned co-operative was removed/not re-appointed in terms of the Co-operatives Act, 2005 as amended on
.....2.....

Date2.....

Signature.....(Director/secretary/manager/office

Full names of signatory.....

Position held in co-operative.....

**PRESCRIBED FEE
PER SCHEDULE 1**

FORM CO-OP 5

**REPUBLIC OF SOUTH AFRICA
CO-OPERATIVES ACT 2005
AS AMENDED BY CO-OPERATIVES AMENDMENT ACT, 2013**

**APPLICATION FOR RESERVATION OF NAME
OR TRANSLATED FORM OR SHORTENED FORM OF NAME**
(Section 6 and Regulation 12)

(INSTEAD OF COMPLETING FORM CO-OP 5, APPLICANT MAY USE COR.9.1 TO RESERVE THE NAME ONLINE)

A. Proposed Name or Translated Form or Shortened Form
(Indicate with a cross)

IN ORDER OF PREFERENCE	FOR OFFICE USE
1.	approved/not approved
2.	approved/not approved
3.	approved/not approved
4.	approved/not approved
5.	approved/not approved
6.	approved/not approved
Reservation is valid for six months	

B. Is the proposed name associated with a person, co-operative or a company? If so, what is the name and number (if a co-operative or company) and the nature of the association (e.g. member, director etc).....
.....
.....

C. Main object/business of the co-operative/proposed co-operative.....
.....
.....

Name of Applicant (print).....

Address to which form must be returned (if not lodged electronically)
.....
.....

Signature of applicant.....

CLIENT REF:							
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PRESCRIBED FEE PER SCHEDULE 1
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FORM CO-OP 6.1

**REPUBLIC OF SOUTH AFRICA
CO-OPERATIVES ACT 2005
AS AMENDED BY CO-OEPRATIVES AMENDMENT ACT, 2013
SPECIAL RESOLUTION: AMENDMENT TO CONSTITUTION**

[Section 18]

NAME OF CO-OPERATIVE.....

REGISTRATION NO. OF CO-OPERATIVE.....

A Special Resolution passed in terms of section 18(4) of the Act on(date/s),
at a general meeting/s of the co-operative by at least two thirds of the members present –

1. The required quorum was present at the meeting and a copy of the resolution is hereby lodged for registration.
2. A copy of the notice convening the meeting and setting out the proposed amendment, as required by section 18 (2) of the Act, is attached.

CONTENTS OF RESOLUTION

(Use attachment if necessary and leave open if not applicable)

It was resolved to amend the constitution as follows:

Clause number(s)to be deleted.

Clause number(s).....to be amended to read as follows:

Clause

.....

.....

.....

Clause.....

.....

.....

.....

Signature(Director/Secretary/Manager/Officer of co-operative)

Date.....

Special resolution registered this day of.....Two thousand
and.....

REGISTRAR OF CO-OPERATIVES

Seal of Office of the Registrar of Co-operatives

CLIENT REF:							
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**PRESCRIBED FEE
PER SCHEDULE 1**

FORM CO-OP 6.2

**REPUBLIC OF SOUTH AFRICA
CO-OPERATIVES ACT 2005
AS AMENDED BY CO-OPERATIVES AMENDMENT ACT, 2013**

SPECIAL RESOLUTION: AMALGAMATION

[Sections 57(3)]

NAME OF CO-OPERATIVE.....

REGISTRATION NO. OF CO-OPERATIVE.....

A Special Resolution passed in terms of section 57(3) of the Act on(date/s),
at a general meeting/s of the co-operative by at least two thirds of the members present –

1. The required quorum was present at the meeting and a copy of the resolution is hereby lodged for registration.
2. A copy of the notice convening the meeting and a copy of the agreement or summary on the agreement of the proposed amalgamation agreement, as required by section 57(2) of the Act, is attached.

Note: Each co-operative that is part of the amalgamation must submit a Co-oP 6.2

CONTENTS OF RESOLUTION

(Use attachment if necessary)

RESOLVED:

The members of above mention co-operative agreed by special resolution to amalgamate with

Co-operative Limited (Registration number/...../..... to form a new co-operative named

.....Co-operative Limited.

Signature(Director/Secretary/Manager/Officer of co-operative)

Date.....

Special resolution registered this day of..... Two thousand and.....

REGISTRAR OF CO-OPERATIVES

Seal of Office of the Registrar of Co-operatives

CLIENT REF:

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**PRESCRIBED FEE
PER SCHEDULE 1**

FORM CO-OP 6.3

**REPUBLIC OF SOUTH AFRICA
CO-OPERATIVES ACT 2005
AS AMENDED BY CO-OPERATIVES AMENDMENT ACT, 2013**

SPECIAL RESOLUTION: DIVISION

[Sections 60 (3)]

NAME OF CO-OPERATIVE.....

REGISTRATION NO. OF CO-OPERATIVE.....

A Special Resolution passed in terms of section 60(3) of the Act on(date/s),
at a general meeting/s of the co-operative by at least two thirds of the members present –

1. The required quorum was present at the meeting and a copy of the resolution is hereby lodged for registration.
2. A copy of the notice convening the meeting and setting out the proposed division, as well as copies of the agreed constitutions for the co-operatives to be constituted by the division, a notice for their registration amendment and notice of the directors and members of the co-operatives as required by section 60 (4) of the Act, is attached.

CONTENTS OF RESOLUTION

(Use attachment if necessary)

RESOLVED:

The members of above mention co-operative agreed by special resolution to divide Co-operative Limited (Registration number/...../..... to form the following co-operatives

1.
..... Co-operative Limited
2.
..... Co-operative Limited

Signature(Director/Secretary/Manager/Officer of co-operative)

Date.....

Special resolution registered this day of Two thousand and.....

REGISTRAR OF CO-OPERATIVES

Seal of Office of the Registrar of Co-operatives

CLIENT REF:						
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PRESCRIBED FEE PER SCHEDULE 1

FORM CO-OP 6.5

**REPUBLIC OF SOUTH AFRICA
CO-OPERATIVES ACT 2005
AS AMENDED BY CO-OPERATIVES AMENDMENT ACT, 2013**

SPECIAL RESOLUTION: TRANSFER

[Sections 63 (3)]

NAME OF CO-OPERATIVE.....

REGISTRATION NO. OF CO-OPERATIVE.....

A Special Resolution passed in terms of section 63(3)18 of the Act on(date/s), at a general meeting/s of the co-operative by at least two thirds of the members present –

1. The required quorum was present at the meeting and a copy of the resolution is hereby lodged for registration.
2. A copy of the notice convening the meeting and setting out the proposed amendment, as required by section 18 (2) of the Act, is attached.

CONTENTS OF RESOLUTION

(Use attachment if necessary)

RESOLVED:

The members of
Co-operative Limited (Registration number/...../.....resolved
 by special resolution to transfer its assets, rights, liabilities and obligations by mutual
 agreement to
 Co-operative Limited (Registration number/...../.....

Signature(Director/Secretary/Manager/Officer of co-operative)

Date.....

Special resolution registered this day of.....Two thousand and.....

REGISTRAR OF CO-OPERATIVES

Seal of Office of the Registrar of Co-operatives

CLIENT REF:							
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**PRESCRIBED FEE
PER SCHEDULE 1**

FORM CO-OP 6.6

**REPUBLIC OF SOUTH AFRICA
CO-OPERATIVES ACT 2005
AS AMENDED BY CO-OPERATIVES AMENDMENT ACT, 2013**

SPECIAL RESOLUTION: JUDICIAL MANAGEMENT

[Sections 77 (2)]

NAME OF CO-OPERATIVE.....

REGISTRATION NO. OF CO-OPERATIVE.....

A Special Resolution passed in terms of section 77(2)(a) of the Act on(date/s), at a general meeting/s of the co-operative by at least two thirds of the members present –

1. The required quorum was present at the meeting and a copy of the resolution is hereby lodged for registration.

2. A copy of the notice convening the meeting and setting out the proposed amendment, as required by section 77 (2) of the Act, is attached.

CONTENTS OF RESOLUTION

(Use attachment if necessary)

RESOLVED:

The members of
Co-operative Limited (Registration number/...../..... resolved by special resolution to apply for a judicial management order.

Signature(Director/Secretary/Manager/Officer of co-operative)

Date.....

Special resolution registered this day of..... Two thousand and.....

.....
REGISTRAR OF CO-OPERATIVES
Seal of Office of the Registrar of Co-operatives

**FORM CO-OP 7
REPUBLIC OF SOUTH AFRICA
CO-OPERATIVES ACT 2005
AS AMENDED BY CO-OPERATIVES AMENDMENT ACT, 2013**

ANNUAL SUBMISSION TO REGISTRAR OF FINANCIAL REPORTS AND STATEMENTS

[Sections 48 (6) and 54 (3)]

(To be lodged within 15 days of approval by annual general meeting)

NOTE: This annual submission of financial reports must be submitted to the registrar together with the applicable documents referred to in Parts A and B hereunder, within 15 days after the annual general meeting has considered the report and financial statements.

NAME OF CO-OPERATIVE.....
REGISTRATION NO. OF CO-OPERATIVE.....

A. AUDITED REPORT, INDEPENDENT REVIEWED REPORT OR ANNUAL REPORT(SECTION 48)

1. The following documents are lodged herewith:

- Audited report for the financial year ended
- Independent reviewed report for the financial year ended
- Annual report for the financial year ended..... (Co-op 15.1 or Co-op 15.2)

The outcome of the general meeting’s discussion and consideration of the report was the following:

.....
.....(Use attachment if necessary)

OR

2. The general meeting of the co-operative resolved to delay submitting the audited report, independent reviewed report or annual report for the financial year endedfor the following reasons:

.....
.....(Use attachment if necessary)

and intends to take the following action to address the situation.....

.....
.....(Use attachment if necessary)

B. CORRECTION OR REVISION OF ERROR OR MISSTATEMENT IN AUDITED REPORT, INDEPENDENT REVIEWED REPORT OR ANNUAL REPORT (SECTION 54)

1. (1) The following error or misstatement was made in the audited report, independent reviewed report or annual report for the financial year ended (if applicable):

.....
.....
..... (Use attachment if necessary)

(2) A copy of the revised and corrected audited report, independent reviewed report or annual report that have been prepared and issued is submitted herewith.

CLIENT REF:						
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ANNUAL FEE PER SCHEDULE 1

FORM CO-OP 8

**REPUBLIC OF SOUTH AFRICA
CO-OPERATIVES ACT 2005
AS AMENDED BY ACO-OPERATIVES AMENDMENT ACT, 2013**

ANNUAL SUBMISSION OF INFORMATION TO THE REGISTRAR (SECTION 26A)

Form CO-OP 8 must be submitted together with Form CO-OP 7 containing the submission by the co-operative of its audited report, independent reviewed report or annual report in terms of regulation 21 or within 30 days thereafter: Provided that should a co-operative fail to submit the return within the said additional 30 days period the prescribed annual fee would increase to the amount indicated in Schedule 1.

(Use attachments if necessary)

A. ANNUAL INFORMATION REGARDING THE CO-OPERATIVE TO BE PROVIDED AS ACCURATELY AS POSSIBLE:

1. Type of co-operative.....
2. Types of membership provided for by the co-operative.....
.....
3. Number of female members.....
4. Number of male members.....
5. Number of members 35 years and younger.....
6. Number of members older than 35 years
7. Number of disabled persons who are members.....
8. Number of Black members (specify African, coloured, Indian, etc).....
.....
9. Number of members of other races (specify).....
.....
10. Number of members who are juristic persons.....
11. Number of associate members.....
12. Total number of members.....
13. Total number of members as at foundation date.....
14. Total number of current members.....(on date).....
15. Number of persons employed by co-operative (members and relatives).....

B. ANNUAL FEES PAYABLE BY CO-OPERATIVES TO ACCOMPANY SUBMISSION OF THIS FORM

(Tick appropriate block)

- Category A1 and A2 Primary Co-operative R.....and R.....if submitted more than 30 days after due date for submission of this Form (proposed R50.00 and R100.00)
- Category B Primary Co-operative R.....and R.....if submitted more than 30 days after due date for submission of this Form (proposed R450.00 and R600.00)
- Category C Primary Co-operative R.....and R.....if submitted more than 30 days after due date for submission of this Form (proposed R3000.00 and R4000.00)
- Secondary Co-operative R.....and R.....if submitted more than 30 days after due date for submission of this Form (proposed R3000.00 and R4000.00)
- Tertiary Co-operative R.....and R.....if submitted more than 30 Days after due date for submission of this Form (proposed R3000.00 and R4000.00)
- National Apex Co-operative R.....and R.....if submitted more than 30 days after due date for submission of this Form (proposed R3000.00 and R4000.00)

PRESCRIBED FEE
FOR SPECIAL
RESOLUTION PER
SCHEDULE 1

CLIENT REF:							
-------------	--	--	--	--	--	--	--

FORM CO-OP 9

**REPUBLIC OF SOUTH AFRICA
CO-OPERATIVES ACT 2005
AS AMNEDED BY CO-OPERATIVES AMENDMENT ACT, 2013**

NOTICE OF CHANGE OF FINANCIAL YEAR OF CO-OPERATIVE

Date:

Customer Code.....

NAME OF CO-OPERATIVE:

.....

REGISTRATION NO:.....

The co-operative whose current financial year end is(date).....
advises that the co-operative will change its financial year end
to.....(date).....
.....

(NOTE: The year end may only change once annually by a maximum of six months earlier or later).

Signature(Director/Secretary/Manager/Officer of co-operative)

Date.....

NO PRESCRIBED FEE

FORM CO-OP 10

REPUBLIC OF SOUTH AFRICA
CO-OPERATIVES ACT 2005
AS AMENDED BY CO-OPERATIVES AMENDMENT ACT, 2013

SPECIAL RESOLUTION FOR VOLUNTARY WINDING UP OF CO-OPERATIVE

(Section 71A)

NAME OF CO-OPERATIVE

REGISTRATION NO. OF CO-OPERATIVE

1. A Special Resolution passed in terms of section 71A of the Act on... at a general meeting of the co-operative is hereby lodged for registration.

2. A copy of the notice convening the meeting and setting out the proposed resolution and the reasons therefore, is attached.

CONTENTS OF RESOLUTION

Resolved

1. That the Co-operative named, Limited, be placed under voluntary liquidation.

2 (other)

Signature (Director/Secretary/Manager/Officer of co-operative)

Date Special resolution registered this day of two thousand and

REGISTRAR OF CO-OPERATIVES

Seal of Office of the Registrar of Co-operatives

FORM CO-OP 11

**REPUBLIC OF SOUTH AFRICA
CO-OPERATIVES ACT 2005
AS AMENDED BY CO-OPERATIVES AMENDMENT ACT, 2013**

CERTIFICATE OF REGISTRATION OF A CO-OPERATIVE

(Section 7)

I, hereby, certify that.....
..... LIMITED
was registered this day under section 7 of the Co-operatives Act, 2005 (Act 14 of 2005), as
amended under registration
number..... as a
Primary/Secondary/Tertiary/National Apex (select relevant form) Co-operative with limited
liability and that its constitution was registered today.

I further certify that..... LIMITED
is with effect from this day entitled to commence business.

Signed and sealed at PRETORIA on this..... Day of
.....Two Thousand and

.....
REGISTRAR OF CO-OPERATIVES

Seal of Office of the Registrar of Co-operatives

CLIENT REF:						
--------------------	--	--	--	--	--	--

**FORM CO-OP 12
 REPUBLIC OF SOUTH AFRICA
 CO-OPERATIVES ACT 2005
 AS AMENDED BY CO-OPERATIVES AMENDMENT ACT, 2013**

**CERTIFICATE OF CHANGE OF NAME
 OF CO-OPERATIVE
 [Sections 11 and 18]**

I, hereby certify that.....
 LIMITED,
 with Registration Number has changed its name
 by SPECIAL RESOLUTION and is now called:-

.....LIMITED.

The effective date of the change of name is.....2.....and the
 said new name has been entered into the Register of Co-operatives.

Signed and sealed at PRETORIA on this,Day of.....
 Two Thousand and

.....
REGISTRAR OF CO-OPERATIVES

Seal of Office of the Registrar of Co-operatives

FORM CO-OP 13

**REPUBLIC OF SOUTH AFRICA
CO-OPERATIVES ACT 2005
AS AMENDED BY CO-OPERATIVES AMENDMENT ACT, 2013**

CERTIFICATE OF CHANGE OF NAME BY DIRECTIVE OF REGISTRAR
[Section 11]

NAME OF CO-OPERATIVE.....

.....

REGISTRATION NO. OF CO-OPERATIVE.....

I, hereby certify that I have changed the name of

..... LIMITED

To

.....

..... LIMITED

in terms of section 11(2)(a) of the Co-operatives Act, 2005 as amended.

The original name of the co-operative has been revoked, and the new name of the co-operative was assigned to and entered in the Register of Co-operatives.

The co-operative is registered as a Primary/Secondary/Tertiary/National Apex (delete which is not applicable) Co-operative with limited liability.

From the date of this certificate, the constitution of the co-operative is deemed to have been amended to reflect the name assigned to it in this certificate.

Signed and sealed at PRETORIA on this Day of

Two Thousand and

.....

REGISTRAR OF CO-OPERATIVES
Seal of Office of the Registrar of Co-operatives

**PRESCRIBED
FEE PER
SCHEDULE 1**

CLIENT REF:							
--------------------	--	--	--	--	--	--	--

**FORM CO-OP 14
REPUBLIC OF SOUTH AFRICA
CO-OPERATIVES ACT 2005
AS AMENDED BY CO-OPERATIVES AMENDMENT ACT, 2013**

APPLICATION FOR INSPECTION OF DOCUMENTS

(Section 82)

A. APPLICANT

Name.....
 Name of organisation that requests the information.....
 Tel/Cell No. of Contact Person.....
 Email Address of Contact Person.....
 Postal Address of Contact Person (if the requested documents need to be posted)

 Postal Code.....

B. INFORMATION REQUESTED IN RESPECT OF -

NAME OF CO-OPERATIVE.....

REG. NO..... (if available)

(1) Document/file	√	Cost
(2) Access to full co-operative file		
Certificate of Registration		
Constitution		
Financial statements for Financial Year/s-		
Form CO-OP 1 - Application for registration of co-operative		
Form CO-OP 2 - Return relating to directors		
Form CO-OP 3 - Notice of addresses and change of addresses		
Form CO-OP 4 - Notice of appointment of auditor		
Form CO-OP 5 - Application for reservation of name		
Form CO-OP 6 - Special resolution		
Form CO-OP 7 - Annual submission to registrar of financial reports and statements		
Form CO-OP 8 - Annual submission to registrar (section 26a)		
Form CO-OP 9 - Notice of change financial year of co-operative		
Form CO-OP 10- Special resolution for winding up		
Form CO-OP 11 - Certificate of registration of co-operative		
Form CO-OP 12 - Certificate of change of name		
Form CO-OP 13 - Certificate of change of name by registrar		

FORM CO-OP 15.1 (For Category A1 Primary Co-operatives)
REPUBLIC OF SOUTH AFRICA
CO-OPERATIVES ACT 2005
AS AMENDED BY CO-OPERATIVES AMENDMENT ACT, 2013

Insert Logo
[Insert name of the Co-operative here]
(Registration number)
Financial statements for the year ended 31 December 20

These financial statements were prepared by:

Issue date:

CO-OPERATIVES ACT 2005 AS AMENDMEN BY CO-OPERATIVES AMENDMENT ACT, 2013

Name of Co-operative: _____

(Registration number.....)

Financial Statements for the year ended 31 December 20x2

General Information

Country of incorporation and domicile: _____ South Africa _____

Nature of business and principal activities:.....
.....
.....

Registered office: **Address:**.....
.....
.....
.....

Business address: **Address:**.....
.....
.....
.....

Postal address: **Address:**.....
.....
.....
.....

Bankers: **Bank:**
.....
.....

**CO-OPERATIVES ACT 2005 AS AMENDED BY ACO-OPERATIVES AMENDMENT ACT,
2013**

Name of Co-operative: _____

(Registration number.....)

Financial Statements for the year ended 31 December 20x2

Statement of Financial Position (Balance Sheet) as at 31 December 20.

Figures in Rands	Note(s)	20x2	20x1
Assets			
Non-current Assets			
Property, Plant and Equipment			
Intangible assets(e.g. Franchise agreement)			
Investments			
Loans to members			

Current Assets			
Inventories (Stock)			
Trade receivables (Debtors)			
Prepayments			
Accrued income			
Interest receivable			
Loans to members			
Staff loans			
Cash and cash equivalents			xxx _____

Total Assets (Non-current Assets plus Current Assets)			_____
Members' shares, Reserves and Liabilities			
Members' shares and reserves			
Members' contributions		xx	xxx
Accumulated profit		xxx	
Indivisible reserve			

Total Members' shares, and Reserves			_____

**CO-OPERATIVES ACT 2005 AS AMENDED BY CO-OPERATIVES AMENDMENT ACT,
2013**

Name of Co-operative: _____

(Registration number ...)

Financial Statements for the year ended 31 December 20:2

**Statement of Financial Position (Balance Sheet) as at 31 December 20:2
(continued)**

Figures in Rands	Note(s)	20x2	20x1
Liabilities			
Non-current Liabilities			
Mortgage loan			xxx
Bank loan			
Loans from members			
Long-term employee benefits			
<hr/>			
Current Liabilities			
Trade payables (creditors)			
Accrued expenses			
Income received in advance			
Interest payable		xxx	
Bank overdraft			
Tax payable			
<hr/>			
Total Members' shares, Reserves and Liabilities			
<hr/>			

NB: Please note that the above template is a guide. Some of the items listed may not be applicable to your Co-operative.

**CO-OPERATIVES ACT 2005 AS AMENDED BY CO-OPERATIVES AMENDMENT ACT,
2013**

Name of Co-operative: _____

(Registration number ...)

Financial Statements for the year ended 31 December 20x2

Income Statement

Figures in Rands	Note(s)	20x2	20x1
Sales			
Cost of Sales			xxx
Gross Profit			
Other income			
Operating expenses			xxx
Profit/loss before interest and tax			
Interest income			
Interest expense		xxx	
Profit/loss before tax		xxx	
Taxation			
Profit/loss for the year			

NB: Please note that the above template is a guide. Some of the items listed may not be applicable to your Co-operative.

FORM CO-OP 15.2 (For Category A2 Primary Co-operatives)

**REPUBLIC OF SOUTH AFRICA
CO-OPERATIVES ACT 2005
AS AMENDED BY CO-OPERATIVES AMENDMENT ACT, 2013**

Insert Logo

[Insert name of the Co-operative here]

(Registration number)

Financial statements

For the year ended 31 December 20x2

These financial statements were prepared by:

Issue date:

Name of Co-operative: _____

(Registration number.....)

Financial Statements for the year ended 31 December 20x2

Index

Index	Page
Members' Responsibilities and Approval	4
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Members' Report	6
Statement of Financial Position (Balance Sheet)	7
Income Statement	9
Statement of Changes in Members' Shares and Reserves	10
Statement of Changes in Cash Flows	11
Accounting Policies	12-17
Notes to the Financial Statements	18 – 27

Name of co-operative: _____

(Registration number.....)

Financial Statements for the year ended 31 December 20x2

Members' Responsibility and Approval

The members are responsible for the maintenance of adequate accounting records and the preparation and integrity of the financial statements and related information. The accounting officer..... is responsible to ensure that the financial statements are in agreement with the accounting records and in accordance with Co-operatives Act 14 of 2005 as amended.

The members are also responsible for the co-operatives system of internal financial control. This is designed to provide reasonable, but not absolute, assurance as to the reliability of the financial statements, and to adequately safeguard, verify and maintain accountability of assets, and to prevent and detect misstatement and loss. Nothing has come to the attention of the members to indicate that any material break down in the functioning of these controls, procedures and systems has occurred during the year under review.

The financial statements have been prepared on the going concern basis, since the members have every reason to believe that the co-operative has adequate resources in place to continue to operate for the foreseeable future.

The members of the co-operative confirm that as at 31 December 20x2, the assets of the co-operative exceeded its liabilities.

The financial statements were approved at the annual general meeting by members in compliance with the requirements of the Act and the co-operative's constitution.

Name

Name

Place:

Date:

Accounting Officer's Report

Name of Co-operative:.....

To the members of the abovementioned co-operative

We have performed the duties of accounting officer to Co-operative for the year ended 31 December 20x2. The financial statements of Co-operative is set out on pages 7 to 27 are the responsibility of the members.

We have determined that the financial statements are in agreement with the accounting records, summarised in the manner required by the Co-operatives Act and have done so by adopting such procedures and conducting such enquiries in relation to the accounting records as we considered necessary in the circumstances. We have also reviewed the accounting policies which have been represented to us as having been applied in the preparation of the financial statements, and we consider that they are appropriate to the business.

Name
Designation

Place
Date

Name of Co-operative: _____

(Registration number.....)

Financial Statements for the year ended 31 December 20x1

Members' Report

The members submit their report for the year ended 31 December 20x2

1. Incorporation

The Co-operative was registered South Africa on.....and obtained its certificate to commence business on

2. Review of activities**Main business and operations**

The Co-operative is engaged in a.....[describe nature of the Co-operative's business here].....and operates principally in South Africa.

The operating results and state of affairs of the Co-operative are fully set out on pages 7 to 27 of the financial statements and do not, in our opinion, require any further comment.

3. Going concern

The financial statements have been prepared on a going concern basis. This basis presumes that funds will be available to finance future operations and that the realisation of assets and settlement of liabilities, contingent obligations and commitments will occur in the ordinary course of business.

4. Events after the reporting period

The members are not aware of any matter(s) or circumstance(s) arising since the end of the financial year that has(have) a material impact on the financial statements.

5. Members' shares

Refer to note 11 for details of changes to members' shares.

6. Members

The members of the co-operative during the year and on the date of this report are as follows:

Name	Nationality
------	-------------

Name of Co-operative: _____

(Registration number.....)

Financial Statements for the year ended 31 December 20x2

Statement of Financial Position (Balance Sheet) as at 31 December 20x2

Figures in Rands	Note(s)	20x2	20x1
Assets			
Non-current Assets			
Property, Plant and Equipment		xxx	
Intangible assets			
Investments			
Loans to members			
Deferred tax			
Current Assets			
Inventories (Stock)			
Trade receivables (Debtors)			
Prepayments			
Accrued income			
Interest receivable			
Loans to members			
Staff loans			
Cash and cash equivalents			
Total Assets (Non-current Assets plus Current Assets)			
Members' shares, Reserves and Liabilities			
Members' shares and reserves			
Members' contributions			
Accumulated profit			
Indivisible reserve		xx	
Revaluation reserve		xxx	
Total Members' shares, and Reserves			

Name of Co-operative: _____

(Registration number ...)

Financial Statements for the year ended 31 December 20xx

**Statement of Financial Position (Balance Sheet) as at 31 December 20xx
(continued)**

Figures in Rands	Note(s)	20xx	20x1
Liabilities			
Non-current Liabilities			
Mortgage loan			
Bank loan			
Loans from members			
Long-term employee benefits Deferred tax			xxx
<hr/>			
Current Liabilities			
Trade payables (creditors)			
Accrued expenses			
Income received in advance			
Interest payable			yx
Bank overdraft			
Tax payable			
<hr/>			
<hr/>			
Total Members' shares, Reserves and Liabilities			
<hr/>			

Name of Co-operative: _____
 (Registration number ...)

Financial Statements for the year ended 31 December 20x2

Income Statement

Figures in Rands	Note(s)	20x2	20x2
Sales			
Cost of Sales			
Gross Profit			
Other income			
Fair value adjustments/revaluation			
Operating expenses			
Profit/loss before interest and tax		xxx	
Interest income			
Interest expense			
Profit/loss before tax			
Taxation		xxx	
Profit/loss for the year		xxx	

Name of Co-operative: _____

(Registration number ...)

Financial Statements for the year ended 31 December 20xx

Statement of Changes in Member Shares and Reserves

Figures in Rands	Note(s)	Member shares	Accumulated Profit	Indivisible reserve	Revaluation reserve	Total
Balance as at 1 January 20xx:						
Profit for year						
Increase/(decrease) in members' contributions						
Transfer to/(from) revaluation reserve						
Transfer to/(from) indivisible reserve						
Balance as at 31 December 20xx:						
Profit for year						
Increase/(decrease) in members' contributions						xxx
Transfer to/(from) revaluation reserve						
Transfer to/(from) indivisible reserve						
Balance as at 31 December 20xx:						

Name of Co-operative: _____

(Registration number ...)

Financial Statements for the year ended 31 December 20...

Statement of Cash Flows

Figures in Rands	Note(s)	20x?	20..
Cash flows from operating activities			
Cash receipts from customers			
Cash paid to suppliers			
Cash generated from (used in) operations			
Interest income			
Interest expense			
Tax paid			
Net cash from operating activities			
Cash flows from investing activities			
Purchase of Property, Plant and Equipment			
Proceeds from sale of Property, Plant and Equipment			
Purchase of Intangible Assets			
Proceeds from sale of Intangible Assets			
Purchase of Investments			
Proceeds from sale investments			
Net cash from investing activities			
Cash flows from financing activities			
Proceeds from members' loans			
Repayment of members' loans			
Proceeds from mortgage loan			
Repayment of mortgage loan			
Proceeds from bank loan/overdraft			
Repayment of bank loan/overdraft			
Net cash from financing activities			
Total cash movement for the year			
Cash at the beginning of the year			
Total cash at the end of the year			

Name of Co-operative: _____

(Registration number ...)

Financial Statements for the year ended 31 December 20x2

Accounting Policies

1. Basis of preparation of the financial statements

The financial statements have been prepared in accordance with the accounting policies as determined by the members and are set out below. The financial statements have been prepared on the historical cost basis and (modified for the revaluation of land and buildings and or fair valuation of investments). These financial statements are presented in South African Rands.

1.1 Property, plant and equipment

1.1.1 Property, Plant and Equipment carried at cost

Property, plant and equipment are initially recognised at cost and subsequently at cost less accumulated depreciation and accumulated impairment losses.

Costs include costs incurred initially to acquire or construct an item of property, plant and equipment and costs incurred subsequently to add to, replace part of, or service it. Ongoing repairs and maintenance are recognised in profit or loss in the period they are incurred.

An item of property, plant and equipment is derecognised upon disposal. Any gain or loss arising on disposal of the asset (calculated as the difference between the proceeds and the carrying amount of the asset) is included in the profit or loss in the year the item is disposed of.

Depreciation is provided using the straight-line method to write down the cost, less estimated residual value over the useful life of the property, plant and equipment, as follows:

	Average useful life
Buildings	years/%
Plant and Machinery	years/%
Furniture and Fixtures	years/%
Motor Vehicles	years/%
Computer Equipment	years/%

The residual value, depreciation method and useful life of each asset are reassessed only when there is an indication that there has been a significant change from the previous estimate.

At each reporting date, property, plant and equipment are reviewed to determine whether there is any indication that they have suffered an impairment loss. If there is an indication of possible impairment, the recoverable amount of any affected asset (or group of related assets) is estimated and compared with its carrying amount. If the estimated recoverable amount is lower, the carrying amount is reduced to its estimated recoverable amount, and an impairment loss is recognised immediately in profit or loss.

If an impairment loss subsequently reverses, the carrying amount of the asset (or group of related assets) is increased to the revised estimate of its recoverable amount, but not in excess of the amount that would have been determined had no impairment loss been recognised for the asset (or group of assets) in prior years. A reversal of impairment is recognised immediately in profit or loss.

Name of Co-operative: _____

(Registration number ...)

Financial Statements for the year ended 31 December 20x2

Accounting Policies

1.1.2 Property, Plant and Equipment (Land and Buildings carried at revaluation through equity)

Property, plant and equipment is initially recognised at cost and subsequently at cost less accumulated depreciation and accumulated impairment losses with the exception of land and buildings which are subsequently carried at a revalued amount, being the fair value at the date of revaluation, determined from market-based evidence by appraisal undertaken by a professional valuer, less any subsequent accumulated depreciation and accumulated impairment losses.

Costs include costs incurred initially to acquire or construct an item of property, plant and equipment and costs incurred subsequently to add to, replace part of, or service it. Ongoing repairs and maintenance are recognised in profit or loss in the period they are incurred.

An item of property, plant and equipment is derecognised upon disposal. Any gain or loss arising on disposal of the asset (calculated as the difference between the proceeds and the carrying amount of the asset) is included in the profit or loss in the year the item is disposed of.

Any revaluation increase arising on the revaluation of such land and buildings is credited to the revaluation reserve. A decrease in the carrying amount arising on the revaluation of such land and buildings is debited to the revaluation reserve to the extent of any previous revaluations of that asset in equity before recognition in the profit or loss.

The realised portion of the revaluation reserve is transferred to accumulated reserves. An annual transfer from the revaluation reserve to accumulated reserves is made for the difference between depreciation based on the revalued carrying amount of the asset and depreciation based on the asset's original cost. Additionally, accumulated depreciation as at the revaluation date is eliminated against the gross carrying amount of the asset and the net amount is restated to the revalued amount of the asset. Upon disposal, any revaluation reserve relating to the particular asset being sold is transferred to accumulated reserves.

Depreciation is provided using the straight-line method to write down the cost, less estimated residual value over the useful life of the property, plant and equipment, as follows:

	Average useful life
Buildings	years/%
Plant and Machinery	years/%
Furniture and Fixtures	years/%
Motor Vehicles	years/%
Computer Equipment	years/%

The residual value, depreciation method and useful life of each asset are reassessed only when there is an indication that there has been a significant change from the previous estimate.

1.1.3 Property, Plant and Equipment (Land and Buildings carried at revaluation through profit or loss) (option 2)

Property, plant and equipment is initially recognised at cost and is subsequently measured at fair value through profit or loss.

Costs include costs incurred initially to acquire or construct an item of property, plant and equipment and costs incurred subsequently to add to, replace part of, or service it. Ongoing repairs and maintenance are recognised in profit or loss in the period they are incurred.

Name of Co-operative: _____

(Registration number ...)

Financial Statements for the year ended 31 December 20x2

Accounting Policies**1.1.3 Property, Plant and Equipment (Land and Buildings carried at revaluation through profit or loss) (option 2) (continued)**

An item of property, plant and equipment is derecognised upon disposal. Any gain or loss arising on disposal of the asset (calculated as the difference between the proceeds and the carrying amount of the asset) is included in the profit or loss in the year the item is disposed of.

The residual value, depreciation method and useful life of each asset are reassessed only when there is an indication that there has been a significant change from the previous estimate.

1.1.4 Intangible assets

Intangible assets are initially recognised at cost and subsequently at cost less accumulated amortisation and accumulated impairment losses.

Costs include costs incurred initially to acquire the intangible asset and costs incurred subsequently to add to, replace part of, or service it. Ongoing repairs and maintenance are recognised in profit or loss in the period they are incurred.

An intangible asset is derecognised upon disposal. Any gain or loss arising on disposal of the asset (calculated as the difference between the proceeds and the carrying amount of the asset) is included in the profit or loss in the year the item is disposed of.

Depreciation is provided using the straight-line method to write down the cost, less estimated residual value over the useful life of the intangible asset, as follows:

	Average useful life
Computer software	years/%

The residual value, depreciation method and useful life of each asset are reassessed only when there is an indication that there has been a significant change from the previous estimate.

At each reporting date, intangible assets are reviewed to determine whether there is any indication that they have suffered an impairment loss. If there is an indication of possible impairment, the recoverable amount of any affected asset (or group of related assets) is estimated and compared with its carrying amount. If the estimated recoverable amount is lower, the carrying amount is reduced to its estimated recoverable amount, and an impairment loss is recognised immediately in profit or loss.

If an impairment loss subsequently reverses, the carrying amount of the asset (or group of related assets) is increased to the revised estimate of its recoverable amount, but not in excess of the amount that would have been determined had no impairment loss been recognised for the asset (or group of assets) in prior years. A reversal of impairment is recognised immediately in profit or loss.

Name of Co-operative: _____

(Registration number ...)

Financial Statements for the year ended 31 December 20..

Accounting Policies

1.2 Investments

1.2.1 Investments measured at cost

Investments are measured at the transaction price (cost).

Investments are derecognised upon disposal. Any gain or loss arising on disposal of the investment (calculated as the difference between the proceeds and the carrying amount of the investment) is included in the profit or loss in the year the investment is disposed of.

1.2.2 Investments measured at fair value

Investments are measured at the transaction price (cost) and subsequently at fair value. Fair value adjustments on investments are recognised in profit or loss.

Investments are derecognised upon disposal. Any gain or loss arising on disposal of the investment (calculated as the difference between the proceeds and the carrying amount of the investment) is included in the profit or loss in the year the investment is disposed of.

1.3 Tax

Current tax for current and prior periods is, to the extent unpaid, recognised as a liability. If the amount already paid in respect of current and prior periods exceeds the amount due for those periods, the excess is recognised as an asset. Current tax is measured at an amount that includes the effect of the possible outcomes of a review by the South African Receiver of Revenue (SARS).

1.3.1 Deferred tax assets and liabilities

A deferred tax liability and deferred tax asset is recognised for all temporary differences, unused tax losses and unused tax credits.

The tax basis of an asset equals the amount that would have been deductible in arriving at taxable profit if the carrying amount of the asset had been recovered through sale at the end of the reporting period. If the recovery of the asset through sale does not increase taxable profit, the tax basis is deemed to be equal to the carrying amount.

The tax basis of a liability equals its carrying amount less any amounts deductible in determining taxable profit (or plus any amounts included in taxable profit) that would have arisen if the liability had been settled for its carrying amount at the end of the reporting period. In the case of deferred revenue, the tax base of the resulting liability is its carrying amount, less any amount of revenue that will not be taxable in future periods.

Deferred tax assets and liabilities are measured at an amount that includes the effect of the possible outcomes of a review by the tax authorities using the tax rates that, on the basis of enacted or substantially enacted tax law at the end of the reporting period, are expected to apply when the deferred tax asset is realised or the deferred tax liability is settled.

1.3.2 Tax expenses

Tax expense is recognised in the same component of the income statement or reserve as the transaction or other event that resulted in the tax expense.

Name of Co-operative: _____

(Registration number ...)

Financial Statements for the year ended 31 December 20:2

Accounting Policies**1.4 Inventories (Stock)**

Inventories (Stock) initially measured at cost and subsequently at lower of cost and net realisable value (estimated selling price less costs to complete the sale) on a first-in-first out (FIFO) basis.

At the end of the reporting period, the write down to net realisable is recognised as reduction in the carrying amount of the inventory (stock).

1.5 Trade receivables (Debtors)

Trade receivables (Debtors) are initially measured at transaction price and subsequently at amortised cost using the effective interest rate method. Trade receivables (Debtors) are classified as current assets and are measured at the undiscounted amount of the cash expected to be received.

At the end of the reporting period the carrying amount of trade receivables (debtors) is reviewed to determine whether there is objective evidence that the amount is recoverable. If there is objective evidence that the recoverable amount is lower than the carrying amount, the carrying amount of the trade receivable (debtor), a provision for bad debts is recognised immediately in profit or loss.

1.6 Indivisible reserve

Indivisible reserve is a reserve fund and is not divisible amongst the members of the Co-operative.

Indivisible reserves of the Co-operative equal..... percent of the surplus or net asset value and is in accordance with the Co-operative's Constitution.

1.7 Mortgage loans and bank loans

Mortgage loans and bank loans are initially measured at transaction price and subsequently at amortised cost using the effective interest rate method. The interest is recognised in profit or loss as an interest expense. Mortgage loans and bank loans that are to be due settled 12 months after the end of the reporting period are classified as non-current assets.

1.8 Trade payables (creditors)

Trade payables (Creditors) are initially measured at transaction price and subsequently at amortised cost using the effective interest rate method. Trade payables (Creditors) are classified as current assets and are measured at the undiscounted amount of the cash expected to be received.

1.9 Short-term employee benefits

The cost of short-term employee benefits, (those payable within 12 months after the service is rendered, such as paid vacation leave and sick leave, bonuses, and non-monetary benefits such as medical care), are recognised in profit or loss in the period which the service is rendered and are not discounted.

1.10 Provisions

Provisions are recognised when:

- the Co-operative has an obligation at the reporting date as a result of a past event;
- it is probable that the Co-operative will be required to transfer economic benefits in settlement; and
- the amount of the obligation can be estimated reliably.

Name of Co-operative: _____

(Registration number ...)

Financial Statements for the year ended 31 December 20xx

Accounting Policies**1.10 Provisions (continued)**

Provisions are measured at the best estimate of the amount expected to be required to settle the obligation at the reporting date.

When the effect of the time value of money is material, the amount of a provision is the present value of the amount expected to be required to settle the obligation.

1.11 Sales

Sales of goods are recognised when the risks and rewards have been transferred from the seller to the purchaser and measured at the fair value of the consideration received, net of trade discounts, prompt settlement discounts, volume rebates and VAT.

1.12 Other Income

Donations and grants are accounted for when they are received. When there are attaching conditions, donations and grants are accounted for when there is a reasonable expectation that the donation or grant will be received and the conditions will be complied with.

Dividends received are recognised when they are received.

Income from services rendered for when services are rendered.

Other income is recognised on receipt/accrued.

1.13 Operating Expenses

Expenses are recognised when they are paid/incurred.

1.14 Interest income

Interest income is recognised in profit or loss, using the effective interest rate method.

1.15 Interest expense

Interest expense is recognised in profit or loss, using the effective interest rate method.

Name of Co-operative: _____

(Registration number ...)

Financial Statements for the year ended 31 December 20x2

Notes to the financial statements**2. Property, Plant and Equipment*****Carried at cost (This note should be provided for each item of Property, Plant and Equipment)***

	20x2	20x1
Cost		
Accumulated Depreciation		
Accumulated impairment		
Carrying amount		xxx

	20x2	20x1
Carry amount at the beginning of the year		
Purchase of Property, Plant and Equipment		xxx
Disposals of Property, Plant and Equipment		
Depreciation		xxx
Impairment		
Carrying amount at the end of the year		

Property, Plant and Equipment is pledge as security forof Rxxx.....(If applicable)

Carried at revalued amount (This note should be provided for each item of Property, Plant and Equipment)

	20x2	20x1
Cost	xxx	
Accumulated Depreciation		
Accumulated impairment		xxx
Revaluation		xxx
Carrying amount		

Carried at revalued amount (continued)

	20x2	20x1
Carrying amount at the beginning of the year		
Purchase of Property, Plant and Equipment		xx
Disposals of Property, Plant and Equipment		
Revaluation		xx
Depreciation		
Impairment		
Carrying amount at the end of the year		

Property, Plant and Equipment is pledge as security forof Rxx.....(If applicable)

Name of Co-operative: _____

(Registration number ...)

Financial Statements for the year ended 31 December 20x1

Notes to the financial statements

3. Intangible Assets *(This note should be provided for each item of Intangible Assets)*

	20x2	20x1
Cost		xxx
Accumulated Depreciation		
Accumulated impairment		
Carrying amount		xx
	20x2	20x1
Carry amount at the beginning of the year		
Purchase of Intangible Assets		
Disposals of Intangible Assets	xxx	
Depreciation		xxx
Impairment		
Carrying amount at the end of the year		

4. Investments

Carried at cost

	20x2	20x1
Investment in shares: Listed		
Unlisted		
Fixed Deposits		
RSA Retail Bonds		
	20x2	20x1
Carry amount at the beginning of the year		
Purchase of Investments		
Disposals of Investments		xx
Carrying amount at the end of the year		

Investments are pledge as security for of R.(xx)..... (If applicable)

Carried at fair value

	20x2	20x1
Investment in shares: Listed		
Unlisted		
Fixed Deposits		
RSA Retail Bonds		x

Name of Co-operative: _____
 (Registration number ...)

Financial Statements for the year ended 31 December 20x2

Notes to the financial statements

4. Investments (continued)

Carried at fair value	20x2	20x1
Carry amount at the beginning of the year		
Purchase of Investments		
Disposals of Investments	xxx	
Fair value adjustment (if applicable)		
Carrying amount at the end of the year	xx	

Investments are pledged as security forof Rxxx.....(If applicable)

5. Loans to members

20x2			
	Member Name	Member Name	Member Name
Opening balance			
Increase (decrease) in member shares during the year			
Closing balance			
20x1			
	Member Name	Member Name	Member Name
Opening balance			
Increase (decrease) in member shares during the year			xxx
Closing balance			

6. Deferred tax

	20x2	20x1
Deferred tax liability		
Property, plant and equipment		xxx
Other (specify)	xxx	
Total deferred tax liability		xxx
Deferred tax asset		
Impairment of trade receivables		
Tax losses		
Other (specify)		
Total deferred tax asset		

The deferred tax assets and the deferred tax liability relate to income tax in the same jurisdiction, and the law allows net settlement. Therefore, they have been offset in the statement of financial position (balance sheet) as follows:

Deferred tax liability
Deferred tax asset
Net deferred tax liability and deferred tax asset

Name of Co-operative: _____

(Registration number ...)

Financial Statements for the year ended 31 December 20x2

Notes to the financial statements**Reconciliation of deferred tax asset (liability)**

Opening balance		
Increase/decrease in tax losses available for set off against future taxable income		
Temporary differences relating to property, plant and equipment		xxx
Temporary difference on valuation of property, plant and equipment		
Temporary difference relating to impairment of trade receivables		
Other (specify)		
Closing balance		

7. Inventories (Stock)

	20x2	20x1
Raw materials		
Work in Progress		
Finished Goods		

Inventory was pledged as security forof Rxxx (if applicable).

8. Trade receivables (Debtors)

	20x2	20x1
Trade receivables (Debtors) – Gross		
Less: Provisions for bad debts		xxx

9. Staff loans

	20x2	20x1
Staff member name		
Staff member name		

The staff loans are secured by(state asset).....with a carrying amount/fair value ofR.....at 31 December 20x2 (R.....31 December 20x1). The interest rate on the staff loans are% and repayable(state terms of payment here).....

10. Cash and cash equivalents**Cash and cash equivalents comprise:**

	20x2	20x1
Cash on hand (Petty Cash)		
Bank balances		
Bank overdraft		

11. Member shares

	20x2	20x1
Opening balance		
Increase (decrease) in member shares during the year	xxx	
Closing balance		

Name of Co-operative: _____

(Registration number ...)

Financial Statements for the year ended 31 December 20x2

Notes to the financial statements

11. Member shares (continued)

Reconciliation

20x2

	Member Name	Member Name	Member Name
Opening balance			
Increase (decrease) in member shares during the year	xxx		
Closing balance			

20x1

	Member Name	Member Name	Member Name
Opening balance			
Increase (decrease) in member shares during the year			
Closing balance			

12. Indivisible reserves

Opening balance	20x2	20x1
Transfers during the year		xxx
Closing balance	xxx	

13. Mortgage loan

20x2	20x1	
Opening balance		x x
Cash received during the year		xxx
Payments		
Closing balance		

The mortgage loan is secured by(state asset).....with a carrying amount/fair value ofR.....at 31 December 20x2 (R.....31 December 20x1). The interest rate on the mortgage loan is% and repayable(state terms of payment here).....

14. Bank loan

Opening balance	20x2	20x1
Cash received during the year		
Payments		
Closing balance		

The bank loan is secured by(state asset).....with a carrying amount/fair value ofR.....at 31 December 20x2 (R.....31 December 20x1). The interest rate on the bank loan is% and repayable(state terms of payment here).....

Name of Co-operative: _____

(Registration number ...)

Financial Statements for the year ended 31 December 20x2

Notes to the financial statements

15. Loans from members

20x2		Member Name	Member Name	Member Name
Opening balance			xxx	
Increase (decrease) in member shares during the year				
Closing balance				

20x1		Member Name	Member Name	Member Name
Opening balance				xxx
Increase (decrease) in member shares during the year				
Closing balance				xxx

The loans from members are secured by(state asset).....with a carrying amount/fair value ofR.....at 31 December 20x2 (R.....31 December 20x1). The interest rate on the loans from members is% and repayable(state terms of payment here).....

16. Trade payables (Creditors)

Trade payables (Creditors)	20x2	20x1
----------------------------	------	------

17. Accrued expenses

	20x2	20x1
Opening balance		
Expenditure incurred during the year	xxx	xxx
Payments during the year		
Closing balance	xxx	

18. Income received in advance

	20x2	20x1
Opening balance		
Income recognised during the year		xx
Income received in advance during the year		xxx
Closing balance		xxx

19. Provisions

	20x2	20x1
Opening balance		
Additions		
Utilised during the year		
Reversed during the year		
Closing balance		

20. Cost of Sales

	20x2	20x1
Cost of goods sold		
Write down of inventories to net realisable value		

Name of Co-operative: _____

(Registration number ...)

Financial Statements for the year ended 31 December 20:2

Notes to the financial statements

21. Other income	20:2	20:1
Dividends received		
Rental income		
Donations		
Grants		
Profit on sale of Property, Plant and Equipment		
Profit on sale of Intangible Assets		
Profit on sale of Investments		
22. Operating expenses	20:2	20:1
Rental expense		
Employee Benefits		
Members' fees for services rendered		
Water and Electricity		
Telephone		
Printing and Stationery		
Fines/Penalties		
Depreciation – Property, Plant and Equipment		
Amortisation – Intangible Assets		
Impairment – Property, Plant and Equipment	xxx	
Impairment – Intangible Assets		
Provisions – Utilised during the year		
Loss from sale of Property, Plant and Equipment		
Loss from sale of Intangible Assets		xxx
Loss from sale of investments		
Repairs and maintenance		
Advertising		xxx
Bad debts		
Bank Charges		
Computer expenses		
Entertainment		
Insurance		
Legal expenses		
Petrol		
Motor vehicle expenses		
Licence fees		
Security		
Subscriptions		
Training		xxx
Travel		
Schedule 1 – Tariffs		
Registration fees		
Registration of special resolution to amend the Constitution		
Inspection fees		
Copy of document		
Conversion from company to co-operative/from co-operative to another		
Application fees to amalgamate two co-operatives	xxx	
Application fees to transfer assets, liabilities, rights, liabilities and obligations to another co-operative		
Lodgement fees		
Checking of documents or drafts of documents		
Application for the reservation of a name, translated form or shortened form of name		

Name of Co-operative: _____

(Registration number ...)

Financial Statements for the year ended 31 December 20x2

Notes to the financial statements

23. Operating expenses	20x2	20x1
Annual fees		
Other (specify)		
24. Fair value adjustments/revaluation	20x2	20x1
Investments: fair value		
Property, plant and equipment: revaluation		
25. Interest income	20x2	20x1
Bank		
Loans to members		xxx
Fixed Deposit		
RSA retail bonds		
Other (specify)		
26. Interest expense	20x2	20x1
Mortgage loan		xxx
Bank overdraft		
Bank loan		
Loans from members		
Other (specify)		
27. Taxation	20x2	20x1
Current tax		
Local income tax – current period	xxx	xxx
Deferred tax		
Temporary differences on property, plant and equipment		xxx
Temporary differences on investments		
Temporary differences on provisions		
Temporary differences on income received in advance		
Temporary differences on accrued expenses		
Temporary difference - Other (specify)		xx
28. Cash generated from (used in) operations	20x2	20x1
Profit/Loss before taxation		xxx
Adjustments for:		
Depreciation – Property, Plant and Equipment		
Amortisation – Intangible Assets	x	
Impairment – Property, Plant and Equipment		
Impairment – Intangible Assets		

Name of Co-operative: _____

(Registration number ...)

Financial Statements for the year ended 31 December 20x2

Notes to the financial statements**Cash generated (used in) operations (continued)**

	20x2	20x1
Provisions – Utilised during the year		
Loss from sale of Property, Plant and Equipment		
Loss from sale of Intangible Assets		
Loss from sale of investments		
Profit on sale of Property, Plant and Equipment	xxx	
Profit on sale of Intangible Assets		
Profit on sale of investments		
Interest income		
Interest expense		
Fair value adjustments/revaluation		xxx
Changes in working capital		
Inventories (Stock)	xxx	
Trade receivables (debtors)		
Prepayments		
Trade payables (creditors)		
Income received in advance		
Accrued expenses		

29. Tax paid

	20x2	20x1
Opening balance		
Current tax expense		
Closing balance		

30. Contingent liabilities

[Describe]

31. Related party transactions

Loans to members	Refer to note 31
Loans from members	Refer to note 31

All loans from members are unsecured/secured, interest free and have no fixed terms of payment. No guarantees/guarantees have been provided for these loans.

32. Transactions with members

20x2					
	Salary	Bonus	Loan Advances	Loan Repayments	Total
Member name	xxx				
Member name	xxx				
Member name					xxx

Name of Co-operative: _____
 (Registration number ...)

Financial Statements for the year ended 31 December 20x2

Notes to the financial statements

33. Transactions with members

20x1

	Salary	Bonus	Loan Advances	Loan Repayments	Total
Member name					
Member name					
Member name					

FORM CT 1
REPUBLIC OF SOUTH AFRICA
CO-OPERATIVES ACT, 2005
AS AMENDED BY CO-OPERATIVES AMENDMENT ACT, 2013

APPLICATION TO CO-OPERATIVE TRIBUNAL

Applicants name and Identity number	
Name of person or co-operative whose conduct is subject to this application	
Concise Statement of the Complaint	
Attach supporting affidavit	
Name and Title of the Person Authorised to Sign	
Authorised Signature: Date:	
<u>FOR OFFICE USE ONLY</u>	
Tribunal File Number:	Date Filed:

**FORM CT2
REPUBLIC OF SOUTH AFRICA**

**CO-OPERATIVES TRIBUNAL
CO-OPERATIVES ACT, 2005
AS AMENDED BY CO-OPERATIVES AMENDMENT ACT, 2013**

AMENDMENT OF APPLICATION TO THE CO-OPERATIVES TRIBUNAL

Applicant's Name	
Applicants ID number	
Date of original document	
Revised Statement of the Complaint	
<p>Note: Please attached a supporting affidavit. Name and Title of the Person Authorised to Sign</p>	
Authorised Signature	Date
FOR OFFICE USE ONLY	
Tribunal File Number	Date Filed:

FORM CT3
REPUBLIC OF SOUTH AFRICA

CO-OPERATIVES TRIBUNAL
CO-OPERATIVES ACT, 2005
AS AMENDED BY CO-OPERATIVES AMENDMENT ACT, 2013

APPLICATION FOR LATE FILING OR EXTENSION OF TIME

Date:	
File Number:	
Respondent's Name & identity number	
I hereby request that the Co-operatives Tribunal: (Tick appropriate box below)	
<input type="checkbox"/>	Accept the late filing of this response – please find attached an affidavit responding to the complaints raised by the applicant
<input type="checkbox"/>	Grant permission to extend the time required to submit an affidavit responding to the complaints raised by the applicant – Please attach reasons
Name and Title of the Person Authorised to Sign	
Authorised Signature:	Date:
For official use only	
Tribunal File No	Date

FORM CT4

**REPUBLIC OF SOUTH AFRICA
CO-OPERATIVES TRIBUNAL
CO-OPERATIVES ACT, 2005
AS AMENDED BY CO-OPERATIVES AMENDMENT ACT, 2013**

NOTICE OF MOTION FOR CONSENT ORDER

Date	
File number	
Concerning the matter between:	
_____	(the Applicant) and
_____	(the Respondent)
Take notice that the intends to apply to the Tribunal for the following order:	
Name and title of the person authorised to sign:	
Authorised signature	Date

FORM CT5

REPUBLIC OF SOUTH AFRICA
CO-OPERATIVES TRIBUNALCO-OPERATIVES ACT, 2005
AS AMENDED BY CO-OPERATIVES AMENDMENT ACT, 2013

APPLICATION TO INTERVENE

Date	
To:	The Co-operatives Tribunal
From: (Name of the "Intervenor":)	
Concerning the matter between:	
	(the Applicant) and
	(the Respondent)
Take notice that the Intervenor wishes to express a material interest in this matter as outlined below:	
Name and Title of the Person Authorised to Sign	
Authorised signature	Date
FOR OFFICE USE ONLY	
Tribunal File Number:	Date Filed:

FORM CT6**REPUBLIC OF SOUTH AFRICA
CO-OPERATIVES TRIBUNAL****CO-OPERATIVES ACT, 2005
AS AMENDED BY CO-OPERATIVES AMENDMENT ACT, 2013****WITNESS SUMMONS**

To:	
Concerning: (Name and File Number:)	
A proceeding concerning this matter has been brought before the Co-operatives Tribunal. You are required to appear at [insert Tribunal address] and give evidence on:	
Issued on	
By	
The Registrar, Co-operatives Tribunal:	

FORM CT7

REPUBLIC OF SOUTH AFRICA
CO-OPERATIVES TRIBUNALCO-OPERATIVES ACT, 2005
AS AMENDED BY CO-OPERATIVES AMENDMENT ACT, 2013

NOTICE OF WITHDRAWAL

Date	
To	The Registrar of the Co-operatives Tribunal
From	
(Name of Initiating Party:)	
Concerning the matter between:	
	(the Applicant) and
	(the Respondent)
Take notice that the initiating party withdraws (tick appropriate box):	
<input type="checkbox"/>	All of the initiating documents in this matter.
<input type="checkbox"/>	That part of the initiating document in this matter that is noted on the attached sheet.
<input type="checkbox"/>	The consents to pay costs as set out in the attached sheet.
Name and title of the person authorised to sign:	
Authorised signature:	Date:

FORM CT8

**REPUBLIC OF SOUTH AFRICA
CO-OPERATIVES TRIBUNAL**

**CO-OPERATIVES ACT, 2005
AS AMENDED BY CO-OPERATIVES AMENDMENT ACT, 2013
NOTICE OF HEARING**

Date	
From	The Registrar of the Co-operatives Tribunal
To	(Participants in the following matter)
(Name and File Number:)	

The hearing of this matter will commence/resume	
At	(Location address)
On	(date)
At	(time)
The Registrar, Co-operatives Tribunal:	

FOR OFFICE USE ONLY
Tribunal File Number:
Date filed

DEPARTMENT OF SMALL BUSINESS DEVELOPMENT

NO. R. 594

18 APRIL 2019



**small business
development**

Department:
Small Business Development
REPUBLIC OF SOUTH AFRICA

Principles of Good Governance for Co-operatives

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1. Introduction

The Principles of Good Governance for co-operatives aim to assist co-operatives to put the principles of good governance in practice and serve the needs of their members. As in the case of King III Code of Good Governance the objective is to improve the quality of leadership that boards of directors and managers provides to their respective co-operatives. The principles seek to assist directors as well as managers to ensure compliance with legislative requirements as well as the requirements as stipulated in the co-operatives own constitution and to assist members of co-operatives to understand their rights as members of co-operatives. Unlike the King Code of Good Governance, which is voluntary, section 3 of Co-operatives Amendment Act requires all co-operatives to comply with the prescribed principles of good governance. In support of International Labour recommendation 193, the principles of good governance, furthermore also support and promote compliance with this recommendation, of which South Africa is a signatory.

The principles of good governance for co-operatives provide a framework for co-operatives to develop their own operational policies that enforce the principles of good governance based on co-operative values and principles as well as the vision, mission and objectives of the co-operative itself. Through the application of these principles of good governance, co-operatives should be able to operate as effective co-operative businesses that are economically viable, advance the integrity of the corporate identity of co-operatives as a viable and sustainable business model that can make a meaningful contribution towards the economic viability and social responsibility of its members.

The principles of good governance for co-operatives do not detail or define all aspects of good governance but it outlines the fundamentals of good governance informed by the unique identity of the co-operative business model. The principles of good governance for co-operatives are generic and not aimed at any specific kind of co-operative. These principles will be further refined and over the next few years specific sets of principles of good governance for co-operatives will be developed for the different kinds of co-operatives, i.e. worker co-operatives, housing co-operatives, etc. The principles of good governance for the different kinds of co-operatives will provide a strong foundation for co-operatives to enforce good governance that will inspire confidence and elevate the status of co-operatives as solid and unique business entities that provide a robust long-term approach to building competitive co-operative enterprises and economies.

The principles of good governance for co-operatives provide guidelines to members, boards of directors and managers to ensure compliance with all legal requirements. The aim is to enable all co-operative members, as owners of co-operatives, as well as directors and managers to realize their roles and responsibilities in ensuring compliance with good co-operative governance. Transparency and accountability is at the center of good governance. User friendly checklists have also been included to guide co-operatives to ensure compliance to legislative requirements.

2. Co-operative Identity

It is important to differentiate the identity of a co-operative from that of its corporate partners. The most important difference is that co-operatives are owned and controlled by members and **not** by external shareholders. As a result they maintain a different approach to the philosophy,

structure, ownership, governance, investment and benefit sharing within the business entity, i.e. the co-operative.

Co-operatives are established by members with a *common bond*. This *common bond* is the *services or benefits* the co-operative offers to its members at *competitive prices* and *the organisation they as members own and share* is a business entity based on *democratic principles*. The main purpose is shared services or benefits. Member profits are an indirect result of benefits gained through shared services. The profitability of members as a result of the competitive services delivered by the co-operative guarantees the relevance of the co-operative, ensures sustainability and enables social responsibility.

Co-operatives emerge when important services are not available, or where economies of scale are too small to be economically viable as individual business entrepreneurs or where important community needs are not being met. It is thus the needs of the community that are the most important, with profit generation being a secondary concern. The existence of co-operatives is driven by both social and economic concerns. The priority of a co-operative is to serve the needs of its members and to improve the quality of life of its members. To be successful and be able to grow, co-operatives must, however, be financially robust and well managed just like any other type of enterprise.

The following table highlights the key elements that differentiate the identity of a co-operative from its corporate partners:

	Co-operative	Company
Purpose	Shared services to fulfill the needs or provide services to members	Profit to shareholders
Ownership	Members	Shareholders
Voting	Democratic Member control (one member, one vote) ¹	Votes in relation to shares
Board	Only members can appoint the Board of Directors	Shareholders appoint the Board
Management	Board of directors appoints manager(s) ²	Board appoints CEO
Share holding	Choice of shareholding – nominal value (as determined by co-operative)	Shares – changing market values
Dividends	Surplus is divided in Patronage proportion based on the (Rand) value of transactions by members	Dividends on capital invested/equity

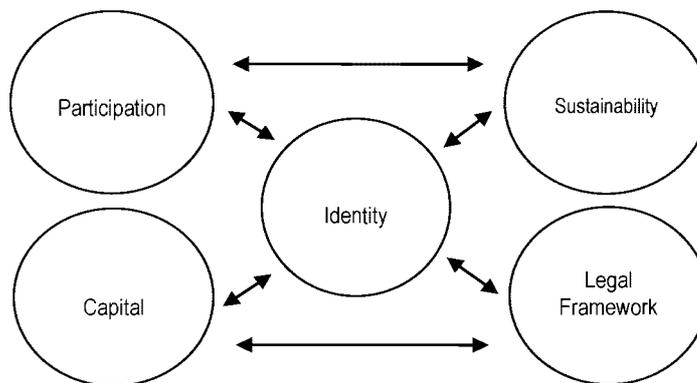
¹ Co-operatives Amendment Act No 6 of 2013 allows Category C Primary Co-operatives, Secondary Co-operatives, Tertiary Co-operatives and the National Apex Co-operative to provide in their constitutions that members may have more than one vote subject to some quantity requirements to maintain the democratic nature of the co-operative

² Micro co-operatives with 5 members normally dedicate one of the members to be the manager or formally appoint one of the members as manager or the board the directors divide the management responsibilities amongst them. It is recommended that small to medium co-operatives appoint professional managers to manage the co-operative on behalf of the members. The managers are accountable to the board of directors and their performance should be measured against agreed criteria and targets.

The International Co-operative Alliance (ICA) blue print for a co-operative decade, January 2013, gives emphasis to 5 interlinked topics that make co-operatives to do business better and brings a more effective balance to the global economy than the dominance of companies. The 5 topics are participation, sustainability, identity, legal framework and capital and are explained as follows:

- (a) Co-operatives are better because they give individuals **participation** through ownership, which makes them inherently more engaging, more productive, useful and relevant to its members;
- (b) Co-operatives are better because their business model creates greater economic, social and environmental **sustainability**;
- (c) Co-operatives are better because the business model puts people at the heart of economic decision making and brings a greater sense of fair plays to the global economy. This is achieved through the co-operative **identity** which is defined by the core values and principles of co-operation;
- (d) Co-operatives in all countries sit within **legal frameworks** that plays a critical role in terms of ensuring the viability and existence of co-operatives; and
- (e) Access to secure reliable **capital** is important whilst guaranteeing member control.

The 5 topics are interlinked and overlapping and are important to ensure the viability and future of co-operatives to promote sustainability and public interest rather than private interests.



Source: ICA Blue Print for co-operative Decade

2.1 Definition

The Co-operatives Act, 2005, as amended through the Co-operatives Amendment Act, 2013, defines a co-operative as an autonomous association of persons united voluntarily to meet their common economic, social and cultural needs and aspirations through a jointly owned and democratically controlled enterprise organised and operated on co-operative principles. This definition for a co-operative is aligned with the internationally accepted definition for a co-operative as adopted by the International Co-operative Alliance (ICA).

Co-operatives are thus businesses that are owned and democratically controlled by their members based on the co-operative values and principles. The board of directors is accountable to the members and managers are accountable to the board of directors. The board of directors

is responsible to ensure the economic viability and effective management of the co-operative whilst at the same time ensuring that the co-operative serves the needs of its members.

2.2 Values

Co-operatives are based on the values of self-help, self-responsibility, democracy, equality, equity and solidarity; and co-operative members believe in the ethical values of honesty, openness, social responsibility and caring for others.

2.3 Principles

Co-operative principles are guidelines by which co-operatives put their values into practice. All co-operative members and their boards should act in accordance to the following seven co-operative principles: -

Principle 1: Voluntary and open membership

Co-operatives are voluntary organisations and should be open to all persons able to use their services and willing to accept the responsibility of membership, without gender, social, racial, political, or religious discrimination. *(Persons can join or leave the co-operative)*

Principle 2: Democratic member control

Co-operatives are democratic organisations controlled by their members, who actively participate in setting their policies and making decisions. Men and women serving as elected representatives are accountable to the membership. *(Because you have an equal say in what happens, you have the right to listen and communicate openly and honestly – your voice will be heard)*

Principle 3: Member economic participation

Members contribute equitably to, and democratically control, the capital of their co-operative. At least part of that is usually the common property of the co-operative. Members usually receive limited compensation, if any, on capital subscribed as a condition of membership. Members allocate surpluses for any or all of the following purposes: developing their co-operative, possibly by setting up reserves, part of which would be indivisible; benefiting members in proportion to their transactions with the co-operative; and supporting other activities approved by the membership of the co-operative. *(Members provide capital and are part of decision making)*

Principle 4: Autonomy and independence

Co-operatives are autonomous self-help organisations controlled by their members. If they enter into agreements with other organisations, including governments, or raise capital from external sources, they do so on terms that ensure democratic control by their members and maintain their co-operative autonomy. *(Together you are autonomous – co-operative members work together and help each other to achieve their goals)*

Principle 5: Education, training and information

Co-operatives provide education and training to their members, elected representatives, managers, and employees so they can contribute effectively to the development of their co-operatives. They inform the general public – particularly young people and opinion leaders –

about the nature and benefits of co-operation. (*Co-operative members develop themselves, they learn from each other*)

Principle 6: Co-operation among co-operatives

Co-operatives serve their members most effectively and strengthen the co-operative movement by working together through local, national, regional, and international structures. (*Through co-operation you can be more successful if you co-operate – co-operatives look for opportunities to co-operate with others*)

Principle 7: Concern for community

Co-operatives work for the sustainable development of their communities through policies approved by their members. (*As you succeed you can do something for your community*)

3. Governance

All authority and power exercised in the co-operative should be performed in pursuance of the objectives of the co-operatives as stipulated in its constitution.

In exercising these powers the board of directors must develop a set of processes, customs, policies and structures that drive the manner in which an organisation is directed, administered and controlled. These process, customs, policies and structures must be approved by the members of the co-operative. As a minimum requirement, the constitution of a co-operative must comply with the requirements as stipulated in the Co-operatives Act 14 of 2005 as Amended by the Co-operatives Banks Amendment Act as well as Co-operatives Amendment Act No. 6 of 2013 and their regulations. The constitutions of each co-operative must furthermore also stipulate the requirements as agreed to by its members.

Governance is, however, not just about fiduciary duties and compliance with legislative requirements, it also involves fairness, participation, accountability, responsibility and transparency, i.e. thus putting the 7 co-operative principles to practice.

The board of directors and the co-operative members, who elect the directors, establish and guide the overall direction of the co-operative to ensure its success as a solid business enterprise and a co-operative community. The directors are accountable to the members of the co-operative and it is important that they accept this responsibility and ensure transparency in terms of the decision making as well as the financial accounting of the co-operative to members so that members can make informed decisions. The responsibility of good governance for co-operatives thus rest by the directors or the board as well as the co-operative members who elect the directors.

Distinctive management practices need to be developed that reflect the democratic values and sustainability of co-operatives and which fully exploit the potential the co-operative advantage. The board may appoint managers if the constitution of the co-operative so provides. Professional managers appointed by the board should adhere to the co-operatives principles, all legislative and constitutional requirements of the co-operative and ensure that they act in the interest of the members of the co-operatives. At the same time these managers must be

innovative and strategic in ensuring that they optimize the profitability of the members of the co-operative.

The board of directors is required to compile a management decision report each year to ensure compliance with all legal requirements and the requirements contained in the constitution of the co-operative. All though the board of directors may appoint and delegate functions to managers, the board of directors remains accountable to members for the overall management of the co-operative.

4. Members

Membership is at the heart of the co-operative. Each individual member has a role to play in the co-operative which goes beyond the service that the member receives from the co-operative. Members collectively own their co-operative through the democratic relationship stipulated in its constitution and there for each member has a responsibility to ensure good governance and delivery in terms of the needs of the members of their co-operative. Individually every member has a right to information and a right to influence decisions through votes.

Co-operative members share the same goals, have a say in how their co-operative is run and benefit through the services offered by the co-operative and may enjoy a share of the surplus. All members are jointly responsible for the election of board members and are entitled to have insight in the manner in which the co-operative is managed. The processes, customs, policies and structure of how the co-operative is managed are provided for in the constitution of the co-operative which is developed by the founding members of the co-operative and approved by its members. The constitution of the co-operative can only be amended through a special resolution at a general meeting of the co-operative provided that a notice that sets out the proposed amendment to the constitution is send out with the notice for the hosting of the general meeting. It is thus not possible for members to simply propose amendments to the constitution at a general meeting.

The first three co-operative principles speak directly to members of co-operatives. The first co-operative principle states that co-operatives are voluntary organisations open to all persons able to use their services and willing to accept the responsibilities of membership, without gender, social, racial, political or religious discrimination. The South African co-operative legislation does, however, allow the constitution of a co-operative to restrict the persons eligible for membership provided that the restriction is (a) reasonable to the business of the co-operative as set out in its constitution, and the commercial ability of the co-operative to provide services to prospective members; and (b) does not constitute unfair discrimination.

The second principle deals with democratic control. In terms of this principle co-operatives are democratic organisations controlled by their members, who actively participate in setting their policies and making decisions. Men and women serving as elected representatives are accountable to the membership. In terms of the South African co-operative legislation members in primary category A and B co-operatives have equal voting rights, i.e. one member one vote,

and other co-operatives, i.e. category C primary co-operatives, secondary and tertiary co-operatives and the national apex co-operative are also organised in a democratic manner.

The third co-operative principle deals with member economic participation. The first part of this principle requires members to contribute equitably to, and democratically control, the capital of their co-operative. This reconfirms democratic control of the co-operative by its members as well as the manner in which the capital of the co-operative is used. The second part of this principle deals with how members are compensated for funds invested in the co-operative and how surpluses should be used. Unlike other commercial entities established for the purpose of profit, co-operative members usually receive limited compensation, if any, on capital subscribed as a condition of membership. Members allocate surpluses for any or all of the following purposes: developing their co-operative, possibly by setting up reserves, part of which at least would be indivisible; benefiting members in proportion to their transactions with the co-operative; and supporting other activities approved by the membership of the co-operative.

The minimum membership for the establishment of a primary co-operative is (a) five natural persons, or; (b) two juristic persons, or (c) a combination of 5 persons, whether natural or juristic. The minimum membership for a secondary co-operative is 2 operational³ primary co-operatives whilst the minimum membership for a tertiary co-operative is 2 operational secondary co-operatives. The minimum membership for the national apex co-operative is three operational sectoral tertiary co-operatives that operate on a national level; and five operational multi-sectoral tertiary co-operatives that operate on a provincial, district or local level.

Each co-operative must annual submit membership information to CIPC as required in terms of Form Co-op 8 as part of their annual reports, independently reviewed reports or audited reports.

4.1 Rights and responsibilities of members

Members determine how the co-operative is run and must exercise this right by actively participating in all activities of the co-operative. Members should participate in deliberations at general meetings and any other meetings of the co-operative and exercise their right through voting at general meetings. Members collectively own the co-operative and, amongst other, have a right to:

- (a) Access to information and may examine the records of the co-operative during normal office hours and may make copies after payment of a fee;
- (b) Members are entitled to a certificate in respect of shares issued to such member if the constitution of the co-operative allows for shares to be issued and member loans made by that member;
- (c) Members, as owners of the co-operative, are part of the decision making in the co-operative through general meetings or special and ordinary resolutions⁴; and
- (d) Members have the right to withdraw from being a member of the co-operative at any point of time.

³ Operational means a co-operative that has held its annual general meeting and has submitted its annual report, audited report or independent reviewed report as applicable, to the registrar in its last financial year.

⁴ See point 5.2 for an explanation on special and ordinary resolutions.

Members should abide by the rules of the co-operative as stipulated in its constitution and act in accordance to the co-operative values and principles. Members should always act in the best interest of the co-operative and should ensure that all policies and performances are in accordance with the stated aims and objectives of the co-operative. The general meeting which is made up of all the members represents the sovereign body of the co-operative where decisions are made.

4.2 Financial liability of membership

In co-operatives where members do not hold shares, members are liable for such amounts that are owed to the co-operative in terms of their membership agreement and any other amounts that such member may owe to the co-operative, such as purchases made but not yet paid for by the member. The financial liability of a member in a co-operative where members hold shares in the co-operatives is limited to an

In co-operatives where members are allowed to hold shares, the members are liable for all amounts owed to the co-operative in terms of their membership agreement, plus any other amounts that are owed to the co-operative in terms of purchases made but not yet paid for as well as unpaid shares held by the members in the co-operative. The value of the unpaid shares is valued at the nominal⁵ value of the shares.

4.3 Withdrawal of membership

Members may at any point withdraw from being a member of the co-operative. This may be a decision to withdraw or on the death of a member. In both instances the co-operative must repay the membership shares to the member's estate/family of the deceased member within a period of 2 years.

If a co-operative determines that the repayment of a member's membership shares upon the withdrawal of that member's membership, would adversely affect its financial well-being, the co-operative may, subject to other legislation and its constitution, defer such payment for a period not exceeding two years.

Unless the co-operative determines otherwise, the withdrawal of a member from the co-operative does not release the member from any debt or obligation to the co-operative or any contract between the member and the co-operative.

The termination or suspension of membership should be dealt with in line with the provisions in the constitution of the co-operative.

4.4 Powers of the registrar in the case of reduced number of membership

If the membership of a co-operative is reduced to a number less than the number required for registration, and if the number remains less than the number required for registration for six months, the co-operative is deemed to be de-registered in terms of the Co-operatives Act. Such co-operative must be converted into another legal entity or be wound up and the

⁵ The nominal value of the shares is the value determined by the co-operative on the date when the shares were issued. The nominal value is **NOT** the market value of the shares.

members of the co-operative may be held personally liable for any loss or damages which may occur as a result of any subsequent activities.

4.5 Annual submission of member information to the Registrar

The annual return on membership and membership contributions needs to be provided as required in terms of the regulations (Form Co-op 8) and must be submitted to CIPC as part of either the annual report (category A primary co-operative), independently reviewed report (category B primary co-operative) or the audited report (category C primary co-operative, secondary co-operative, tertiary co-operative and the national apex co-operative).

5 Management of Co-operative

Good management of a co-operative is what makes a co-operative successful. Many options are available for the co-operative to appoint a manager. A co-operative can be managed by one of the board of directors, a member of the co-operative or by a professional manager or professional management team depending on affordability, size and nature of the co-operative.

5.1 Board of directors

The board of directors is responsible for the management of the co-operative and is accountable to the members, who are the owners of the co-operative. The board of directors is appointed at the annual general meeting by the members of the co-operative. Only members of the co-operative may be elected as directors or executive directors of the co-operative. Associate members may only be elected as non-executive directors. In the event of a vacancy the board may by way of resolution appoint a director for the remainder of the period as stipulated in the constitution of the co-operative, provided that such appointment is ratified at the next general meeting.

The board should elect a chairperson. A chairperson has the ability, power and commitment to guide and organize the work of the board, initiate and monitor strategic decisions and has the know-how and experience to lead the board.

The members of the co-operative may by special resolution, either through a meeting convened by the supervisory committee or at least 25% of the members if such a co-operative does not have a supervisory committee, agree to dissolve the board if such members find justifiably good reasons that the board is dysfunctional.

The board may delegate functions to a director or manager if this is provided for in the constitution of the co-operative. The constitution of the co-operative must also stipulate the conditions under which functions or responsibilities of the board may be delegated. Should the board decide to delegate the management of the co-operative to a manager, the board remains accountable to the members regarding the management of the co-operative. It is thus important that the board ensures appropriate management and performance systems are in place should it decide to appoint and delegate the management function of the co-operative to a manager.

Meetings of the board are called by the chairperson or any two directors of the board and a quorum is a majority of the directors of the board unless stipulated differently in the constitution of the co-operative. For purposes of ensuring a quorum, directors participating telephonically or electronically in the meeting are deemed to be present. Decisions are also taken by majority vote and in the event of equal votes the chairperson or the person acting as chairperson has the casting vote. The number of directors as well as period for which they are elected is stipulated in the constitution of the co-operative. A resolution in writing signed by all the directors entitled to vote on such a resolution at a meeting of the board is valid as if such resolution was passed at a board meeting, unless the constitution of the co-operative provides otherwise. Records of minutes of meetings of the board must be kept in a minute book.

A director or a manager of a co-operative may not accept any commission, remuneration or reward from any person for, or in connection with, any transaction to which the co-operative is a party unless such commission, remuneration or reward is given in the course of usual business or profession as director, manager or employee and the director, manager or employee has declared his or her interest to the co-operative.

All co-operatives must, in writing, notify the registrar of the full names, addresses and identity numbers of each person elected as a director within 30 days of such appointment or any change of address of a director or any vacancies.

If provided for and approved by members, board members should be paid a realistic compensation for their work.

In the execution of their powers, the board of directors must develop a set of processes, customs, policies and structures that drive the manner in which the co-operative will be directed, administered and controlled for consideration and approval by members. Examples of these are human resource policies, remuneration policies and resource utilization policies. Compliance to these policies should be enforced by the management of the co-operative and reported to the board of directors. In instances where a co-operative has appointed a supervisory committee, the supervisory committee should also oversee and ensures compliance to approved policies. Co-operatives may also decide to appoint an Ethics Committee.

5.2 Functions and responsibilities of the board of directors

The board has to oversee and ensure the strategic decisions in pursuance of the objectives of the co-operative as informed by the constitution of the co-operative as well as leadership to maximize the benefits for the co-operative. The board must exercise leadership, entrepreneurship, integrity and sound judgment in directing the affairs of the co-operative. The board of directors must also look after the interests of their members needs whilst simultaneously remaining competitive in the market. Member proximity or participation is thus very important. Member participation can only be obtained by ensuring regular, frequent and meaningful interaction with members. It is thus important that the board identify, disseminate and uphold best practices in member participation, engagement and involvement.

The Board must develop internal policies and plan to ensure the efficient and effective running of the co-operative. The Board must also develop a risk plan and report on the risk plan at the annual general meeting to members. Policies or plans developed by the board must be ratified and endorsed by members at the annual general meeting. The policies or plans to be developed by the board include the following:

- (a) Activity plan that summarises the operational and financial objectives of the co-operative for the next financial year with clear business goals and how the funds of the co-operative will be utilised;
- (b) A framework for adequate internal control;
- (c) Risk plan;
- (d) Monitoring and review performance management plans;
- (e) Financial statements or annual report in the case of category A primary co-operatives; as well as
- (f) Social and management decision reports.

The board is responsible to ensure good governance and compliance to legislative requirements as well as the requirements stipulated in the constitution of the co-operative. A director of the board or the board of the co-operative may do all things necessary to carry out the objectives of the co-operative provided that such action is allowed in terms of provisions of the constitution of the co-operative. A director or the board of the co-operative must not pursue any objective or perform any act that is not authorised by its constitution. A co-operative or director that is found guilty of contravening the requirements of the constitution of the co-operatives is guilty of an offence and may be liable to a fine not exceeding one million rand.

The board must ensure transparency in terms of management decisions; the financials of the co-operative as well as accountability to the members of the co-operative. The board must provide members with the information necessary to make sound judgements regarding the affairs of the co-operative as well as their membership to the co-operative. To ensure transparency and accountability the board must establish effective communication mechanisms to ensure communication with members, management as well as all relevant stakeholders.

The board has a responsibility to increase the number of members to the co-operative and to ensure that members actively participate in the operations and decision making within the co-operative.

5.3 Liability, personal financial interests and returns relating to directors

Directors must, in writing and in the prescribed manner as determined in section 37 of the Act, disclose to the co-operative the nature and extent of any financial interest in a contract or transaction or a proposed material contract with the co-operative or any change to such contract, transaction or proposal if it is a contract or a transaction that is not available or customarily entered into between the co-operative and its members.

A co-operative must not pursue any objective or perform any act that is not authorised by its constitution and record all business transactions concluded with members and non-members in its annual financial statements.

A director or employee of a co-operative may not use his or her position or any information obtained whilst in his or her capacity as a director or employee to gain any commission, remuneration, reward or other advantage for themselves or for any person other than the co-operative, unless he or she has disclosed full particulars of the nature and extent of such commission, remuneration, reward or other advantage and the material circumstances relating to its acquisition in writing to the co-operative and the co-operative has given its written approval to such acquisition by the director, member or other person, as the case may be.

Notwithstanding the aforementioned provisions, a director or employee of a co-operative may not in any circumstances use his or her position or any information obtained while acting in his or her capacity as director or employee to gain any commission, remuneration, rewards or other advantage for him or herself or for any person other than the co-operative through or in connection with any transaction to which the co-operative is a party.

A director of a co-operative is required to inform the co-operative in writing of any change in his or her address. In return a co-operative must, in writing, amongst other notify the registrar of (a) the full names, address and identification number of each person appointed as a director within 30 days of such appointment; (b) of any change of address of a director, within 30 days of knowledge of such change; (c) after any director has vacated office, within 30 days of such vacation; and (d) of the reason for the registration or removal of a director.

A co-operative or director of a co-operative that contravenes any of these provisions is guilty of an offence.

5.4 Managers

The constitution of a co-operative may stipulate the provisions regulating the appointment of a general manager or executive manager by the board of directors.

Managers in a co-operative are responsible for the effective and efficient day to day management of the co-operative and are accountable to the board of the co-operative. Apart from the management function, managers also have an entrepreneurial function to ensure the relevance and economic growth of the co-operative by advising the board of directors accordingly. Managers should also be responsible for risk management.

Boards of directors often also delegate the supervision of employees to the management of the co-operative. If the managers are responsible for the employees of the co-operative it is important to ensure that performance management and review systems are in place for employees, that employees are trained and that all employment requirements are complied with.

Managers should agree with the board of director on a performance review process to monitor and evaluate their own performance.

5.5 Supervisory committee

The constitution of a co-operative may provide for the appointment of a supervisory committee. A supervisory committee so appointed is a committee of members elected by the members of the co-operative to exercise supervision over the board of directors. The constitution of a co-

operative will stipulate the manner in which the supervisory committee may be constituted. The supervisory committee must be elected at the first annual general meeting within 18 months from the registration of the co-operative. The supervisory committee consists of members of the co-operative who are not directors.

The functions of the supervisory committee include the following:

- (a) The supervisory committee is responsible for supervising the board of directors by representing the interest of its members between general meetings;
- (b) If there is reasonably reliable information that indicates that any act or omission by the board of directors may impact negatively on the co-operative or any of its members, the supervisory committee must call a special meeting of all its members to discuss such an act or omission. Within 7 days of such a meeting the supervisory meeting must inform the Tribunal of the outcome of such a meeting as well as the board of directors and the member or members affected or concerned of the meetings decision and reasons for the decision. If the supervisory committee fails to inform the Tribunal of the special meeting and its outcome, a member of the co-operative may report the matter to the Tribunal for investigation;
- (c) The members of a co-operative may by special resolution past at a special general meeting convened by the supervisory committee dissolve the board of directors if the members find justifiable good reason that the board is dysfunctional or has acted contrary to any law; and
- (d) In instances where a member request access to information relating to a commercial transaction of the co-operative and there is reasonable grounds to belief that the disclosure of such information may be to the disadvantage of that co-operative, the supervisory committee will determine if the board of directors is entitled to withhold such information from the member.

The co-operative must, as in the case of general meetings and meetings of the board of directors, also keep minutes of meetings of the supervisory committee at its offices.

Although it is voluntary for a co-operative to elect a supervisory committee it is advised that all co-operatives with more than 20 members elect a supervisory committee to strengthen internal control and good governance.

5.6 Election of board members, filling of vacancies and requirements to dissolve the board

The Board must be elected at the annual general meeting of the co-operative for such period as set out in the constitution of the co-operative. The constitution of the co-operative must also stipulate the number of directors to be appointed as well as the term of office, which should be reasonable. The constitution of the co-operative will also determine if a director may be re-appointed for a consecutive term of office. Only members of a co-operative may be appointed as executive directors. Associate members may thus only be appointed as non-executive directors.

In the event of a vacancy on the board, the board may appoint a director for the remainder of the stipulated period as set out in the constitution of the co-operative, subject to any

requirements of the co-operative, provided that such resolution must be ratified at the next general meeting of the co-operative.

The board of a co-operative may be dissolved by special resolution passed by a special general meeting convened by the supervisory committee or a general meeting called by 25% of the members of the co-operative where such co-operative does not have a supervisory committee.

6 Structure for decision making in the co-operative

The highest decision making structure in a co-operative is the annual general meeting of members. Members thus decide on the business of the co-operative and not the directors, the board of directors or the supervisory committee. Recommendations by the board of directors or the supervisory committee regarding the business of the co-operative must be submitted at general meetings for consideration by the members of the co-operative.

The board of directors is accountable to the general meeting and the supervisory committee, if the constitution of the co-operative provides for a supervisory committee. Should the board of directors decide to appoint a manager and delegate the management of the co-operative to the manager, the manager will be accountable to the board, but the board ultimately remains accountable for the management of the co-operative to the members of the co-operative.

6.1 Annual general meetings

A co-operative must hold its first annual general meeting within in 18 months of its registration and thereafter annual general meetings must be held within 6 months of the end of the preceding financial year end.

The annual general meeting must:

- (a) In the case of a category B primary co-operative, appoint an independent reviewer and, in the case of a category C, primary -, secondary -, tertiary – and the national apex co-operative, appoint an auditor;
- (b) Approve a report of the board on the affairs of the co-operative for the previous financial year;
- (c) Approve the financial statements and auditor's report where applicable for the previous financial year;
- (d) Elect directors;
- (e) Elect a supervisory committee, if required by the constitution of the co-operative;
- (f) Approve internal policies of the co-operative;
- (g) Consider the activity plan⁶ presented by the board of directors;
- (h) Decide on the future business of the co-operative

A juristic person entitled to vote at a meeting of a co-operative may be represented by any natural person authorised to do so.

⁶ Activity plan means a document that summarises the operational and financial objectives of the co-operative for the next financial year, including clear business goals with reasons why these goals are believed to be attainable and how funds in the co-operative will be utilised.

The chairperson of the meeting must ensure that minutes of all general and special meetings are kept in one of the official languages at the office of the co-operative. Minutes of general meeting must be presented at the next general meeting for approval. Upon request, minutes of general meetings must be made available to members. Should the members want copies of the minutes the co-operative may charge the members the cost of making available copies of the minutes.

The minutes of any general meeting, approved by the members and signed by the chairperson, or a resolution adopted in terms of the constitution of the co-operative is, in the absence of evidence to the contrary, proof of the outcome of the vote or the resolution taken at the meeting.

Self-assessment questions to ensure compliance to all legislative requirements with regard to annual general meetings of a co-operative are provided under section 11 of the principles of good governance for co-operatives.

6.2 Special and ordinary resolutions

A special resolution means a resolution passed by a general meeting⁷ by not less than two-thirds of the members present, or such greater majority as may be stipulated in the constitution of the co-operative.

Members of a co-operative may by special resolution, provided that they have complied with the notification requirements to members:

- (i) Amend the constitution of the co-operative;
- (ii) Approve the amalgamation of the co-operative with another co-operative;
- (iii) Approve the division of a co-operative into more than one co-operative;
- (iv) Approve the transfer of assets, rights, liabilities and obligations by mutual agreement to another co-operative;
- (v) Approve to convert a co-operative into a company;
- (vi) Approve the voluntary winding up of a co-operative;
- (vii) Approve that a co-operative voluntarily be placed under judicial management; and
- (viii) If provided for in the constitution of the co-operative, approve the termination or suspension of a member from the co-operative.

If members find justifiable good reasons that the board of directors is dysfunctional or has acted contrary to any law, the members may dissolve the board by special resolution passed at a special general meeting –

- (a) convened by the supervisory committee, or -
- (b) called by at least 25% of members where such co-operative does not have a supervisory committee.

Ordinary resolution means a resolution passed at a general meeting by the majority of the members present. Members of a co-operative may by ordinary resolution:

⁷ The constitution of a co-operative determines the quorum requirements for general meetings.

- (a) Remove an independent reviewer, if it is a category B primary co-operative, or an auditor, if it is a category C primary -, tertiary – or the national apex co-operative; and
- (b) Within a month after its registration, ratify a contract entered into by a person in the name of, or on behalf of, a co-operative before the co-operative was registered.

7 Voting rights

The second co-operative principle deals with democratic member control and specifically refers to voting rights. In terms of South African co-operative legislation, members of primary category A and B co-operatives, have equal voting rights, i.e. one member one vote, and category C primary co-operatives, secondary and tertiary co-operatives and the national apex co-operative are also organised in a democratic manner.

Where the constitutions of primary category C, secondary, tertiary and the national apex co-operatives provide for differentiated votes it must be subject to the following legislative requirements:

- (a) Three members, no member has voting rights in excess of 40% per cent;
- (b) Four members, no member has voting rights in excess for 30%;
- (c) Five members, no member has voting rights in excess of 25%; and
- (d) In instances where there are more than 5 members, the constitutions of category C primary, secondary, tertiary and the national apex co-operative may provide that members may have more than one vote provided that no member shall have more than 17% of the votes.

In addition to the above, voting rights in respect of category C primary co-operatives, secondary and tertiary co-operatives registered in terms of applicable legislation prior to the Co-operatives Amendment Act No. 6 of 2013 are regulated by the provision on voting rights contained in their constitutions as it was immediately prior to the commencement of Co-operatives Amendment Act No. 6 of 2013.

Associate members do not have any voting rights.

7.1 Proxies

The constitution of a co-operative may allow for members to appoint proxies to attend and vote at general or special meetings on that member's behalf or for postal votes but proxies should be seen as exceptional and should not be recurring. Irrespective of the provisions for proxies in the constitution of a co-operative, proxies are subject to the following minimum legislative requirements:

- (a) No member may appoint more than one proxy to exercise that member's voting rights;
- (b) The number of proxies that a member of a co-operative with 20 members or more may carry on behalf of other members may not exceed 5% of the total membership of the co-operative concerned (the constitution of the co-operative may stipulate a smaller percentage);
- (c) In a co-operative with less than 20 members, a member may only carry one proxy on behalf of another member;

- (d) The total number of votes by proxy during any general or special meeting may not exceed 25% of the total membership of the co-operative concerned (the constitution of the co-operative may stipulate a smaller percentage);
- (e) A proxy appointment must be in writing, dated and signed by the member;
- (f) A proxy appointment must clearly set out the details of the vote to be cast on behalf of the member in respect of each decision on the agenda;
- (g) A proxy appointment remains valid for the period expressly set out in the appointment, unless it is revoked in writing by the member concerned prior to the meeting.

8 Constitution of a co-operative

The constitution is a governance document adopted by the members or all prospective members of the co-operative, which sets out the objectives, policies and management of the particular co-operative. It sets out the rights and responsibilities of the members of the co-operative as well as that of the board of directors of the co-operative.

The submission of a constitution is one of the requirements for the registration of a co-operative. At the founding meeting of a co-operative, a constitution must be read and agreed to and signed by all founding members. This constitution must be filed with Companies and Intellectual Property Commission (CIPC).

A co-operative may amend its constitution if a proposed amendment to the constitution is approved by the annual general meeting or by special resolution at a general meeting.

A co-operative registered in South Africa must comply with the following minimum legislative requirements:

- (a) A co-operative registered in South Africa must adopt a constitution that complies with the following requirements as stipulated in section 14 of Co-operatives Act 14 of 2005 as amended through Co-operatives Amendment Act No 6 of 2013;
- (b) Co-operatives that provides for associate members should comply with the provisions for associate members provided for under section 14 of Co-operatives Amendment Act 6 of 2013;
- (c) A co-operative where members are required to hold shares must adopt a constitution that complies with sections 14 and 15 of Co-operatives Act 14 of 2005 as amended through Co-operatives Amendment Act No 6 of 2013;
- (d) A co-operative may, in addition to the matters listed under section 14 (2), adopt any other provision that is not inconsistent with the Act;
- (e) If the name of a co-operative indicates a restriction on the business that may be carried out by that co-operative, the constitution of that co-operative may not be amended to remove such as restriction unless the name of the co-operative is also amended accordingly;
- (f) A co-operative may use a trademark name registered to it by the registrar followed by the abbreviations "co-op" and "Ltd" if the constitution of the co-operative authorises the use of such trademark.

The self-assessment questions under section 11 of this document will assist and guide co-operative to ensure compliance to all legislative requirements with regard to the constitution of a co-operative.

9. Restrictions on the functions of a co-operative

A co-operative or a member is not allowed to do what is not stipulated in the constitution or allowed in terms of co-operative legislation. Failure to comply with the provisions of the constitution of the co-operative is an offence and is prosecutable by law.

A co-operative may execute all actions or functions necessary to carry out its objectives to obtain its mission and vision provided that such actions and functions comply with the limitations imposed on it by its constitution, the co-operative legislation and any other law. If a co-operative performs any action or function not authorized by its constitution or that contravenes a requirement stipulated by co-operative legislation, the co-operative and director of the co-operative who authorised the action or function performed knowing that the co-operative was not empowered to perform that action or function will be guilty of an offence.

10. Openness, Transparency and Accountability

Openness, transparency and accountability form an integral part of the value of a co-operative. Apart from financial reporting, the co-operatives Amendment Act No. 6 of 2013 also calls for the submission of social and management decision reports. Transparency also covers matters related to conflict of interest, declarations by directors and providing information as required by members.

10.1 Conflict of interest

Directors and managers of co-operatives are required to disclose the material interest that he or she has in a material contract or transaction, or a proposed material contract or transaction, with the co-operative as well as any change to such an interest.

Disclosures must comply with the following minimum requirements:

- (a) The disclosure must be made at the first meeting of directors at which the proposed contract or transaction is first discussed or at the first meeting after the director or manager acquired an interest in the contract or transaction;
- (b) If there is a material change in the interest of the director or manager in the contract or transaction;
- (c) Disclosure must be recorded in the minutes of board of director meetings;
- (d) If the person making the disclosure is not a member of the board of directors the disclosure must be made in writing and submitted to the board;
- (e) The board must keep a register of directors, managers' and employees interests in contracts or undertakings containing full particulars of every disclosure of interest made.

Directors, managers or employees who fail to disclose their interest in contracts or transactions with the co-operative will be subject to disqualification. Disclosures of interests do not apply to

a contract or transaction that is generally available or customarily entered into between the co-operative and its members.

10.2 Financial reports

All co-operatives must annually submit reports on the financial status of the co-operative to CIPC. Category C primary co-operatives, secondary co-operatives, tertiary co-operatives and the national apex co-operative must submit audited financial statements. Category B primary co-operatives must submit an independently reviewed report and category A primary co-operatives must submit an annual report produced by the board of the co-operative.

10.3 Social report

Social responsibility forms part of the 7th co-operative principle that requires co-operatives to work for the sustainable development of their communities through policies approved by their members.

The social report is an assessment of the social impact and ethical performance of the co-operative in relation to the 7 co-operative principles and the co-operative's stated vision, mission, goals and code of social responsibility as set out in the constitution of the co-operative. The social report is drafted by the board of directors of the co-operative.

The social report must be completed by the board of directors and forms part of the documentation that must annually be submitted to CIPC as stipulated in the regulations.

10.4 Management decision report

The management decision report assesses the co-operatives compliance to all legislative requirements and the requirements contained in the constitution of the co-operative.

The management decision report must be completed by the board of directors and forms part of the documentation that must annually be submitted to CIPC as stipulated in the regulations.

11. Capital of Co-operatives

Co-operatives capital generally comes from either members by way of share capital, or retained earnings or reserves. Retained earnings or reserves do however take time to build up, and are not available at start-up. Funding can also be provided by co-operative funding institutions including banks.

The 3rd co-operative principle deals with member economic contribution. This principle requires members to contribute equally in amounts proportionate to their membership shares and to democratically control the capital of their co-operative, usually by –

- (i) Retaining part of the capital as common property of the co-operative;
- (ii) Giving members limited compensation, if any, on capital subscribed as a condition of membership;
- (iii) Allocating surpluses to an indivisible reserve subject to minimum and maximum requirements, or any other reserve as stipulated in the constitution of the co-operative or as considered necessary or desirable by the members of the co-operative; and

(iv) Benefit members in proportion to the rand value of their transactions with the co-operative.

South African co-operative legislation requires co-operatives to stipulate a percentage of the surplus to be set aside as an indivisible reserve provided that such reserve must not be less than one percent and not be more than 5 percent of the net asset value of the co-operative as reflected in its most recent audited report, independently reviewed report or annual report.

The capital contributed by members may comprise of entrance fees, membership fees or subscriptions, the consideration of membership shares or additional shares in a co-operative, member-loans, and funds of members.

The return paid on member capital is limited to the maximum percentage fixed in accordance with the constitution of the co-operative.

11.1 Indivisible reserve and other reserves

Co-operatives are required to put at least a percentage of the surplus in an indivisible reserve. The indivisible reserve is indivisible amongst members. The indivisible reserve must not be less than 1% or more than 5% of the net asset value as reflected in the most recent audited report, independently reviewed report or annual report. A social co-operative may set aside 100% of its surplus in an indivisible reserve.

In addition to the above indivisible reserve the constitution of the co-operative may provide for other reserves, whether indivisible or otherwise.

A co-operative must use its reserves only in accordance with the manner and for the purpose contemplated in its constitution which may include –

- (a) To sustain the co-operative during periods of financial crises;
- (b) To finance capital expenditure; and
- (c) To finance training and capacity building of members, directors, managers or employees.

Records of the indivisible reserve and other reserves must be kept separately in the financial records of the co-operative and must indicate the purpose for which it may be utilized.

A co-operative must report fully on all its reserves as well as on the use of these reserves in its annual financial statements.

12. Self-Assessment Checklists

The self-assessment checklist aims to guide co-operatives in ensuring compliance to minimum legislative requirements in terms of the minimum legislative requirements for the different disciplines in co-operative governance.

12.1 Self-Assessments Checklists to ensure legislative requirements in terms of co-operative constitutions

These self-assessment checklists will assist co-operatives to ensure compliance to the legislative requirements pertaining to the constitutions of co-operatives. The checklist covers the minimum legislative requirements for co-operative constitutions; legislative requirements for co-operative constitutions that makes provision for associate members; legislative requirements for co-operative constitutions where co-operatives are required to hold shares; legislative requirements for constitutions of secondary, tertiary and the national apex co-operative; and requirements a co-operative constitution may provide for (9.1.5).

12.1.1 Co-operative constitution must comply with the following:

	SELF-ASSESSMENT QUESTION	YES	NO
1.	Does the constitution stipulate the name of the co-operative?		
2.	Does the constitution stipulate whether it is a primary, secondary or tertiary co-operative or the national apex co-operative?		
3.	Does the constitution stipulate whether it is a co-operative that concludes transactions with both members and non-members of that co-operative or a co-operative that does not conclude transactions with persons who are not members of the co-operative?		
4.	Does the constitution stipulate the main objectives of the co-operative?		
5.	A description of the business of the co-operative, including any restrictions on the business of the co-operative		
6.	Does the constitution have a provision stipulating the voting rights of each member as contemplated in section 3? <i>Section 3 stipulates that in the case of category A and category B primary co-operatives, each member has only one vote. Section 3 enables the constitutions of category C primary, secondary, tertiary or the national apex co-operative to provide that members may have more than one vote provided that where a co-operative has –</i> <i>(a) Three members, no member has voting rights in excess of 40 per cent;</i> <i>(b) Four members, no member has voting rights in excess of 30 per cent;</i> <i>(c) five members, no member has voting rights in excess of 25 per cent and</i> <i>(d) Where there are more than five members, no member has more than 17 percent of the votes of all members in the co-operative.</i> <i>(e) In addition to the aforementioned, voting rights in respect of category C primary co-operatives, secondary and tertiary co-operatives registered in terms of applicable legislation prior to Co-operatives Amendment Act, 2013, are regulated by the provision on voting rights contained in their constitutions as they were immediately prior to the commencement of Co-operatives Amendment Act, 2013.</i>		
7.	Does the constitution stipulate the minimum period of notice of general meetings?		
8.	Does the constitution stipulate the place where the registered office of the co-operative is located?		

9.	The minimum and maximum number of directors;		
10	Does the constitution stipulate the term of office of directors, which must be reasonable, and whether a director may be re-appointed for a consecutive term of office, provided that the manner for rotation of directors is stipulated in the constitution of the co-operative?		
11	Does the constitution stipulate the powers and restrictions on the directors of the co-operative to manage the business of the co-operative?		
12	Does the constitution stipulate the requirements for membership of the co-operative, subject to section 3(2)? <i>Section 3 (2) enables a co-operative to restrict the persons eligible for membership if the restriction –</i> <i>(a) Reasonably relates to the business of a co-operative as set out in its constitution and to the commercial ability of a co-operative to provide services to prospective members; and</i> <i>(b) Does not constitute unfair discrimination.</i>		
	Does the constitution stipulate the conditions for the withdrawal of membership of a co-operative, including the necessary period for the notice of withdrawal and repayment of shares, and any provisions relating to the liability of a member for a period after the date of withdrawal, subject to section 23?		
13	Does the constitution make provision for the extension of the period for the repayment of the nominal value of membership shares in the event of the death of a member of the co-operative, provided that such period must not exceed two years;		
14	Does the constitution stipulate the percentage of the surplus that must be kept in the indivisible reserve? Section 46(1) determines that that the indivisible reserve must not be less than 1% of the co-operatives net asset value and need not to be more than 5% of its net asset value as reflected in its most recent audited report, independently reviewed report or annual report.		
15	Does the constitution make provision for the distribution of assets of the co-operative on its dissolution?		
16	Does the constitution stipulate the financial year of the co-operative?		
17	Does the constitution provide for the procedures for the application of membership to the co-operative that should be in accordance with co-operative principles;		
18	Does the constitution make provision for the rights and obligations of members?		
19	Does the constitution make provision for the transfer of membership, members' loan and membership share?		
20	Does the constitution stipulate the conditions and processes for the termination of membership?		
21	Does the constitution stipulate the conditions and processes for the suspension of membership?		
22	Does the constitution stipulate the conditions and processes for the forfeiture membership?		
23	Does the constitution make provision for the structure for decision making whereby members can participate in decision-making processes in a democratic and participatory manner?		

24	Does the constitution make provision for annual general meetings and special general meetings, including the manner in which such meetings are convened, the necessary period of notice, the election of a chairperson and provisions for the proposal of resolutions that should ensure democratic decision making?		
25	Does the constitution make provision for the period of notice for general meetings and does it state the conditions and processes to be followed when requesting a general meeting?		
26	Does the constitution make provision for the tabling and adoption of resolutions?		
27	The determination of quorums for general meetings and must ensure that the quorum provides for adequate member control and decision making?		
28	Does the constitution make provision for the manner in which voting may be conducted?		
29	Does the constitution stipulate the conditions under which a resolution in lieu of a meeting may be held and passed?		
30	Does the constitution stipulate conditions and the process for requesting a general meeting?		
31	Does the constitution make provision for the election of directors, executive and non-executive directors, on condition that only members may be appointed as directors or executive directors?		
32	Does the constitution provide for the conditions for vacation of office by directors and the filling of any vacancies in a manner that ensures democratic accountability to the members?		
33	Does the constitution provide for the conditions and processes for the appointment of the chairperson. Vice-chairperson and acting chairperson?		
34	Does the constitution provide for the conditions under which a board of directors may delegate functions to a director or committee or manager?		
35	Does the constitution make provision for the manner in which a portion of the surplus that is transferred to the reserve fund may be utilised?		
36	If the co-operative wants to use a trademark name registered by it by the registrar, does the constitution authorises the use of such trademark name?		

12.1.2 The constitution of a co-operative that provides for associate members must comply with the following:

	SELF-ASSESSMENT QUESTION	YES	NO
1	Does the constitution provide for temporary membership for a period of 12 months to persons to provide support to the co-operative without becoming a member of the co-operative, i.e. does the co-operative provide for associate members?		
2	Does the constitution provide for associate members to benefit from the co-operative without becoming a member of the co-operative?		
3	Does the constitution allow for associate members to apply for full membership at any time?		

4	Does the constitution provide for associate members to become full members after 12 months or to have their associate membership renewed for a further 12 months subject to the approval by members?		
5	If the co-operative has associate members, has this been indicated in the financial reporting system of the co-operative?		
6	Does the constitution stipulate that associate members do not have voting rights?		

12.1.3 The constitution of a co-operative where members are required to hold shares must comply with the following:

	SELF-ASSESSMENT QUESTION	YES	NO
1	Does the constitution of the co-operative stipulate the minimum number of membership shares to be issued to each member?		
2	Does the constitution provide for the nominal value of the shares?		
3	Does the constitution stipulate whether the shares are to be issued fully paid up or not fully paid up, and the conditions under which are to be paid?		
4	Does the constitution provide for the circumstances under which shares are to be paid?		
5	Does the constitution provide for the maximum percentage of the share capital of a co-operative a member may hold, except in the case of a secondary and tertiary co-operative?		
6	Does the constitution provide for the circumstances under which shares issued to members may be redeemed?		

12.1.4 The constitution of a secondary, tertiary or the national apex co-operative must provide for the following:

	SELF-ASSESSMENT QUESTION	YES	NO
1	Does the constitution of the secondary, tertiary or the national apex co-operative provide for the further objectives of the secondary, tertiary or national apex co-operative provided that such objectives may not include any activity that is inconsistent with the objectives of any of its members and which is not undertaken for their exclusive benefit?		
2	Does the further objectives of a tertiary or the national apex co-operative include representing the interests of co-operatives within the sector or region, providing assistance for education and training, establishing a guarantee fund to facilitate external financing of its members, and the establishment of an audit fund to assist members to have their operations audited?		

12.1.5 The constitution of a co-operative may, in addition to the requirements stipulated above also provide for the following:

	SELF-ASSESSMENT QUESTION	YES	NO
1	Does the constitution of the co-operative provide for the additional objectives of the co-operatives, objectives in addition to the minimum		

	legislative requirements?		
2	Does the constitution allow for the amount of business allowed with non-members, subject to the provisions of the act?		
3	In the case of a co-operative having members in more than one region, does the constitution provide for the holding of regional general meetings and a conference of delegates?		
4	Does the constitution make provision for a member to appoint a proxy to attend and vote at a general meeting on that member's behalf, or for postal votes provided that no person may act as a proxy for more than the percentage provided for in section 28(5), or for such lesser percentage of members as may be stipulated in the constitution of the co-operative?		
5	Does the constitution make provision for people who want to provide support to the co-operative without themselves becoming members to be appointed as associate members?		
6	Does the constitution make provision for the manner in which the supervisory committee may be constituted?		
7	Does the constitution make provisions for the appointment of a general manager or executive manager by the board of directors?		
8	Does the constitution make provision for the board to make rules consistent with the constitution and the Co-operatives Act 2005 as amendment by Co-operatives Amendment Act, 2013 concerning the holding of meetings or any other matter of procedure?		
9	Does the constitution make provision for the settlement of disputes between members of the co-operative, between a member of the co-operative and the co-operative itself, or between the co-operative and any other interested persons?		
10	Does the constitution make provision for determining whether the co-operative may allow for the appointment of non-executive independent directors, provided that non-executive independent directors may only be selected from associate members of the co-operative?		
11	A co-operative may provide in its constitution that whole, or a part, of the patronage portion of a member, determined by the board in respect of a financial year, must be applied to purchase membership shares in the co-operative for the member.		
12	The constitution of a co-operative may stipulate that the surplus that is not in an indivisible reserve and not set aside in any additional reserve required by any other applicable law or the constitution of the co-operative, or is not used for the purchase of membership shares, may be placed in such funds and used for such purpose as are authorised by the co-operatives constitution.		

12.2 Annual general meetings

	SELF-ASSESSMENT QUESTION	YES	NO
1	Has the first annual general meeting been held within 18 months of the registration of the co-operative?		
2	If the constitution of the co-operative provides for a Supervisory Committee to be established, has the supervisory committee been		

	elected at the first annual general meeting?		
3	Have subsequent annual general meetings taken place within six month after the end of the preceding financial year?		
4	Has the annual general meeting appointed an auditor if it is a category A primary co-operative, secondary co-operative, tertiary or the national apex co-operative or an independent reviewer if it is a category B primary co-operative?		
5	Has the Board informed the registrar of the appointment of the auditor or independent reviewer within 30 days of the appointment of the auditor or independent reviewer in the prescribed manner?		
6	Has the annual general meeting considered and approved a report of the board on the affairs of the co-operative for the previous financial year?		
7	Has the annual general meeting considered and approved an activity plan for the next financial year that sets clear business goals as well as how funds in the co-operative will be utilised?		
8	Has the annual general meeting approved the financial statements and considered the auditor's report if it is a category A primary co-operative, secondary co-operative, tertiary co-operative or the national apex co-operative or approved the financial statements and considered the independent reviewers report if it is a category B primary co-operative?		
9	Has the annual general meeting considered the annual report prepared by the board if it is a category A primary co-operative?		
10	If the annual general meeting has resolved to delay the auditors or independently reviewed report, has the board informed the registrar within 15 days of the resolution of the annual general meeting?		
11	Has the annual general meeting elected directors subject to the requirements of the constitution of the co-operative?		
12	If the constitution of a co-operative provides for a supervisory committee, has the annual general meeting elected the members of the supervisory committee subject to the requirements of the constitution of the co-operative?		
13	Have minutes of all general meetings prepared and presented at the next general meeting for approval?		
14	Are minutes of the general meetings kept at the registered office of the co-operative?		
15	Are minutes of the all general meetings made available to members on request?		
16	What will the cost be for a member, should the member want copies of the minutes?		

12.3 Appointment of directors

	SELF-ASSESSMENT QUESTION	YES	NO
1	Has the director been elected at the annual general meeting?		
2	Is the person elected to be a director of sound mind?		
3	Is the person elected to be a director solvent or has the director been rehabilitated?		
4	Has the person elected to be a director at any time been convicted		

	(whether in the Republic or elsewhere) of theft, fraud, forgery, perjury or any offence involving dishonesty in connection with the formation or management of a co-operative or other corporate entity?		
5	Has the director been appointed in terms of the conditions and for the period as stipulated in the constitution of the co-operative?		
6	If the board has by way of a resolution appointed a director to fill a vacancy, has the resolution to appoint the director been ratified at the first general meeting after the resolution have been taken?		

12.4 Risk plans

	QUESTIONS THAT WILL HELP WITH THE DEVELOPMENT OF A RISK PLAN
1	What are the possible risks that might hinder the co-operative in achieving its objectives?
2	What is the probability of the risk – need to assess the likelihood of the risk happening
3	What will the impact be - how does the cost of the risk happening weigh up against the benefit for the co-operative in achieving the objective?
4	How can the risk be mitigated and what will the costs and benefits be?
5	To ensure contingency – how can the impact of the risk be reduced?
6	Taking into consideration the mitigation and contingency plans to what level can the risk be reduced?
7	To what extent will the co-operative be exposed to the risk, i.e. the part of the risk that cannot be mitigated or reduced?
8	Develop risk mitigation or risk reduction strategies in terms of each identified risk
9	Monitor and review risks