

Co-operatives National Law (Victoria)

MURRAY VALLEY ABORIGINAL CO-OPERATIVE LIMITED

The existing rules of the Co-operative be rescinded and the new set of rules be adopted as the current rules of the Co-operative.

I certify the registration of the foregoing alteration of the rules of Murray Valley Aboriginal Co-Operative Limited by way of the changes to the rules this 9 January 2018.



Deputy Registrar of Co-operatives

**RULES OF
MURRAY VALLEY ABORIGINAL
CO-OPERATIVE LIMITED**

**A NON-DISTRIBUTING COOPERATIVE
WITH SHARES**

**CO-OPERATIVES NATIONAL LAW APPLICATION ACT 2013
Co-operatives National Law (Victoria)**

4. Name

- (1) The name of the co-operative is the name specified in Part 1 of Appendix 2.
- (2) The co-operative may change its name in accordance with section 224 of the CNL (Vic).
- (3) The co-operative may abbreviate its name in accordance with section 222 of the CNL (Vic).

5. Active membership provisions

- (1) The primary activity of the co-operative is the activity set out in Part 2 of Appendix 2.
- (2) In order to establish active membership of the co-operative a member must comply with the requirements set out in Part 3 of Appendix 2.
- (3) All members must be active members of the co-operative.
- (4) If a member fails or ceases to be an active member, the board must in accordance with Division 4 of Part 2.6 of the CNL (Vic) -
 - (a) declare the membership of the member cancelled; and
 - (b) declare the shares of the member forfeit.

6. Qualifications and shareholding required for membership

- (1) A person is not qualified to be admitted to membership unless there are reasonable grounds for believing that the person will be an active member of the co-operative.
- (2) Every member must hold a share.

7. Membership and shares

- (1) An application for membership or shares in the co-operative must -
 - (a) be in a form approved by the board; and
 - (b) be lodged at the registered office of the co-operative; and
 - (c) be accompanied by the relevant fee or amount set out in Part 2 of Appendix 3.

8. Ceasing membership

A person ceases to be a member in each of the following circumstances -

- (a) if the member's membership is cancelled under Part 2.6 of the CNL (Vic);
- (b) if the member is expelled in accordance with these rules;
- (c) if the member becomes bankrupt and
 - (i) the trustee of the member's estate disclaims any debt, contract, duty or liability of the member with the co-operative or
 - (ii) the bankrupt member or trustee is unable to pay monies due to the co-operative by the member or the trustee in his/her capacity as trustee;
- (d) on the death of the member;
- (e) if the contract of membership is rescinded on the ground of misrepresentation or mistake;
- (f) if the member's share is transferred to another person and the transferee is registered as the holder of the share;
- (g) if the member's share is forfeited in accordance with the provisions of the CNL (Vic) or the provisions of these rules;
- (h) if the member's share is purchased by the co-operative in accordance with the provisions of these rules;
- (i) if a member's share is sold by the co-operative pursuant to any power in these rules and the purchaser is registered as holder in the member's place;
- (j) if the amount paid up on the member's share is repaid to the member in accordance with the provisions of these rules;
- (k) on notice in writing given by the member to the Secretary, of the member's resignation from membership; or
- (l) on confirmation of acts of violence or financial deceit against the organisation:
 - (i) the member has been convicted by a court of an offense of dishonesty, violence or unlawful damage relating to the co-operative its staff or assets; or

- (5) When a member is expelled, the co-operative must, in accordance with section 163 of the CNL (Vic), repay to the member an amount determined in accordance with that section in respect of the member's shares and cancel the member's shares.

10. Suspension of members

- (1) A member may be suspended from membership of the co-operative for a period not exceeding one year if the co-operative by special resolution determines that the member should be so suspended on the ground that -
- (a) the member has contravened these rules; or
 - (b) the member has failed to discharge the member's obligations to the co-operative under these rules; or
 - (c) the member has acted in a manner detrimental to the co-operative.
- (2) The member must be given at least 28 days written notice of the proposed resolution and of the date, time and place of the meeting at which the resolution will be moved.
- (3) The procedure at the general meeting to consider the proposed resolution is as follows -
- (a) the member must be given a reasonable opportunity to be heard at the meeting;
 - (b) the member is entitled to call witnesses and to cross examine witnesses called against the member;
 - (c) if the member fails, without reasonable cause, to attend at the time and place of which notice has been given, the co-operative may consider the matter in the absence of the member;
 - (d) after considering the matter, the co-operative may by special resolution determine to suspend the member.
- (4) A member who is suspended ceases during the suspension to have the rights of a member except as otherwise provided in the CNL (Vic) or these rules.

Note This Rule provides for the mediation of a dispute. Note that section 130 of the CNL (Vic) provides another procedure whereby application may be made to the Magistrates' Court for an order declaring and enforcing rights or obligations of members between themselves, or of the co-operative and a member between themselves. The Court may refuse to make an order, or may make an order for costs, if the Court is of the opinion that the application is unreasonable or the issue trivial.

12. Fines

The co-operative may not impose a fine on a member for any infringement of these rules.

13. Capital and shares

The capital of the co-operative is to be raised by the issue of shares which are to have a nominal value as described in Part 2 of Appendix 3 provided that no member shall hold shares exceeding the nominal value of \$2.00 nor shall any member be beneficially entitled to more than one-tenth of the shares in the Co-operative.

14. Liability of members

- (1) A member is not, as a member, under any personal liability to the co-operative except for the amount, if any, unpaid on the shares held by the member together with any charges payable by the member to the co-operative as required by these rules.
- (2) On the death of a member, the member's estate remains liable as the member until the member's personal representative or some other person is registered in the member's place.

15. Calls on shares

- (1) The board may make calls on the members in respect of any money unpaid on their shares.
- (2) Sub-rule (1) does not apply if the terms of issue of the shares provide for the money unpaid on the shares to be paid at fixed times.
- (3) A call must not -
 - (a) exceed one-quarter of the sum of the nominal value of the shares; or
 - (b) be payable earlier than one month after the day fixed for the payment of the last preceding call.

- (a) the board is not required to issue more than one share certificate in respect of those shares and
 - (b) the delivery of the share certificate to one joint shareholder is sufficient delivery to all.
- (3) If the board is satisfied that a share certificate issued by the co-operative is defaced, lost or destroyed, the board may issue a duplicate certificate on payment of a fee (not exceeding \$10) determined by the board.

18. Sale of members' shares

Subject to section Division 7 of Part 2.4 of the CNL (Vic), the co-operative may sell a member's shares at the request of the member.

19. Transfer and transmission of shares

- (1) The instrument of transfer of any share shall be executed by or on behalf of the transferor (the giver) and the transferee (the receiver of the share).
- (2) The transferor remains the holder of the share until the name of the transferee is entered in the register of members in respect of the share.
- (3) A transfer of shares is to be in the form of Appendix 4 or in a form approved by the board.
- (4) A share cannot be sold or transferred except -
 - (a) with the consent of the board, to any person who is qualified to be admitted to membership of the co-operative under rules 5 and 6; or
 - (b) as otherwise provided by the CNL (Vic) or these rules.
- (5) The board may refuse to register a transfer of shares -
 - (a) to a person who is not eligible to be a member; or
 - (b) to a person whom the board does not approve; or
 - (c) if the co-operative has a lien or charge over the shares.
- (6) If the board refuses to register a transfer of shares, it must send written notice of its decision to the proposed transferee within 14 days after making that decision.

22. Death of a member

- (1) Subject to section 103 of the CNL (Vic), on the death of the member, the board must transfer the deceased member's share or interest in the co-operative to -
 - (a) the executor or administrator of the deceased member; or
 - (b) with the consent of the board, to a person -
 - (i) who is specified by the personal representative of the deceased member in an application under section 103(1) of the CNL (Vic); and
 - (ii) who is qualified to be a member in accordance with the CNL (Vic) and these rules.
- (2) The board may transfer the shares or interest of a deceased member to a person entitled in accordance with section 104 of the CNL (Vic) if -
 - (a) the total value of the shares or interest is less than \$10,000 (or such other amount as may be prescribed by the regulations); and
 - (b) there has not been a grant of administration of the estate, or probate of the will of the deceased member.

23. Registration as trustee, executor or administrator

- (1) In accordance with sections 93, 94 and 95 of the CNL (Vic), the following persons may be registered as the holder of a share in the co-operative -
 - (a) the trustee, executor or administrator of the estate of a dead person, if the dead person was the holder of that share or was entitled in equity to that share;
 - (b) the administrator of the estate of an incapable person, if the incapable person was the holder of that share or was entitled in equity to that share;
 - (c) the Official Trustee in Bankruptcy, if a bankrupt was the holder of that share or was entitled in equity to that share.
- (2) If a person is entitled in equity to a share in the co-operative, the consent of the co-operative and the holder of the share must be obtained before a person can be registered in respect of that share pursuant to sub-rule (1).

26. Annual general meetings

- (1) In accordance with section 252 of the CNL (Vic), the first annual general meeting of the co-operative must be held at any time within 18 months after the incorporation of the co-operative.
- (2) The second or any subsequent annual general meeting of the co-operative must be held within -
 - (a) 5 months after the close of the financial year of the co-operative; or
 - (b) any further time that may be allowed by the Registrar under section 609 of the CNL (Vic).
- (3) The board may determine the date, time and place of the annual general meeting.
- (4) All general meetings of the co-operative other than the annual general meeting shall be special general meetings.
- (5) If the board does not hold an annual general meeting within the required time, the members may requisition the meeting in accordance with section 257 of the CNL (Vic).

27. Special general meetings

- (1) A special general meeting of the co-operative may be convened at any time by the board of directors.
- (2) In accordance with section 257 of the CNL (Vic), the board must convene a general meeting of the co-operative on the written requisition of the number of active members of the co-operative who together are able to cast at least 20% of the total number of votes able to be cast at a meeting of the co-operative.

28. Notice of general meetings

- (1) The board must give each member at least 14 days' notice of each general meeting.
- (2) The notice may be given in accordance with section 611 of the CNL (Vic).
- (3) The notice must specify the place, the day and the time of the meeting and if special business is to be transacted, set out generally the nature of the special business.

- (b) in any other case is to be adjourned to the same day and time in the next week at the same place.
- (4) If at an adjourned meeting, under sub-rule (3)(b), a quorum is not present within half an hour after the time appointed for the meeting the members present and entitled to vote shall constitute a quorum, provided there are no fewer than ten (10) such members present.

31. *Presiding at general meetings*

- (1) Subject to this rule, the chairperson of the board presides at every general meeting of the co-operative.
- (2) If the chairperson of the board is unable or unwilling to preside or is not present within 15 minutes after the time appointed for the meeting, the members present must select one of their numbers to preside.
- (3) The person selected under sub-rule (2) presides at that meeting until the time that the chairperson attends and is willing to act.

32. *Adjournment of meetings*

- (1) The person presiding may, with the consent of a majority of members present at the meeting, adjourn the meeting from time to time and from place to place.
- (2) The person presiding must, if directed by a majority of members present at the meeting, adjourn the meeting to a date and time agreed.
- (3) No business may be transacted at an adjourned meeting other than business unfinished at the meeting which was adjourned.
- (4) This rule only applies if there is a quorum at the meeting to be adjourned.

33. *Standing orders at meetings*

- (1) Subject to sub-rule (3), the following standing orders must be observed at general meetings of the co-operative -
 - (a) The mover of a proposition must not speak for more than 10 minutes. Subsequent speakers are allowed 5 minutes, and the mover of the proposition 5 minutes to reply. The meeting may however by simple majority extend in a particular instance the time permitted by this rule.

- (b) that vote may be exercised by the member whose name appears first in the register of members unless the other joint members otherwise direct.
- (6) Subject to the CNL (Vic) and these rules, a question for decision at a general meeting, other than a special resolution, must be determined by a majority of members present at the meeting and voting.
- (7) In accordance with section 256 of the CNL (Vic), unless a poll is demanded by at least 5 members, a question for decision at a general meeting must be determined by a show of hands.
- (8) In the case of an equality of votes at a meeting of the co-operative, whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands takes place or at which the poll is demanded may exercise a second or casting vote.

35. Postal ballot

- (1) The manner of voting shall be in accordance with the regulations.
- (2) A special postal ballot or a postal ballot must be held -
 - (a) when required by the CNL (Vic); or
 - (b) in accordance with section 250 of the CNL (Vic), on the written requisition of the number of active members of the co-operative who together are able to cast at least 20% of the total number of votes able to be cast at a meeting of the co-operative; or
 - (c) if approved by the members by ordinary resolution.

36. Poll at general meetings

- (1) If a poll (or ballot) is demanded by at least 5 members, it must be conducted in a manner specified by the person presiding and the result of the poll is the resolution of the meeting on that question.
- (2) A poll demanded for the election of a person presiding or on a question of adjournment must be taken immediately, but any other poll may be conducted at any time before the close of the meeting.

37. Special and ordinary resolutions

- (1) A special resolution is a resolution which is passed in accordance with sections 239 and 240 of the CNL (Vic) -

- b) not be a represented person within the meaning of the Guardianship and Administration Act 1986.
- c) have completed, or commit to completing within the 6 month of their appointment or election as a director, formal directors governance training as approved by the Registrar.
- d) have a current criminal record check from a police or a Crimtrac agency issued no more than 6 months to the date of their nomination or appointment as a director.

40. Retirement of directors

- 1) At the first annual general meeting held following the end of the 2016-17 financial year of the co-operative 3 directors must retire after being a director for the 4 years and at the following annual general meeting 4 of the directors must retire and this pattern of rotation is to continue every 4 years following.
- 2) A retiring director retains office until the close of the meeting at which his or her successor is elected.
- 3) The directors to retire in any one year are, subject to the provisions as to the filling of causal vacancies, those that have been longest in office since their last election and if there are 2 or more directors who became directors on the same day, those who retire must be determined by lot, unless they otherwise agree among themselves.
- 4) A retiring director is eligible for re-election.

41. Election of directors

- (1) At least 6 weeks before an annual general meeting, the board must –
 - a) notify all members of the number of directors retiring at the annual general meeting; and
 - b) advise the members of –
 - (i) their eligibility to nominate as a director; and
 - (ii) the duties and responsibilities of a director; and
 - (iii) the anticipated remuneration (if any); and
 - (iv) the nomination and election procedures.

- (a) a returning officer is elected at the meeting. The directors, the secretary and anyone who has a conflict of interest in the election are not eligible to be the returning officer.
 - (b) all nominees are to be listed on the ballot form in alphabetical order.
 - (c) the returning officer is responsible for determining the validity of an counting of the votes.
 - (d) if there is an equality of votes, the outcome must be determined by lot.
 - (e) the returning officer is to declare the election results.
- (4) If any vacancies remain at the end of the meeting, the vacancies are to be casual vacancies and must be filled in accordance with rule 43.

43. Casual vacancy

If there is a casual vacancy in the office of director under section 179 of the CNL (Vic), the board may appoint a person to fill that vacancy but the person appointed must retire at the next annual general meeting.

44. Removal from the office of director

The co-operative may by ordinary resolution in accordance with section 180 of the CNL (Vic) remove any director from office before the end of the director's period of office.

45. Vacation from office of director

A director vacates office in the circumstances provided for in section 179 of the CNL (Vic) and in addition a director vacates office if the director becomes indebted to the co-operative to the sum of \$590 or more.

46. Remuneration

In accordance with section 203 of the CNL (Vic) a director of a co-operative must not be paid any remuneration for services as a director other than fees, concessions and other benefits that are approved at a general meeting of the co-operative.

47. Deputy directors

The co-operative will not appoint deputy-directors.

- (b) The name of the directors present at each meeting of the board and of a committee of the board; and
 - (c) Any declaration of interests or conflict of interest made by a director; and
 - (d) All resolutions and proceedings at all meetings of the board.
- (2) Minutes must be entered in the appropriate records within 28 days of the meeting to which they relate.
 - (3) The minutes are to be signed within a reasonable time after the meeting to which they relate either by the chairperson of that meeting or the chairperson of the next meeting.

52. Chief executive officer

- (1) The board may, if it considers it appropriate, appoint a person to be responsible for the day to day management of the co-operative. The person may be a director or the secretary or a member of the co-operative or some other person.
- (2) The appointed person is the chief executive officer of the co-operative, and may be called the chief executive officer or (if a director of the board) the managing director.
- (3) The conditions and the period of appointment, including termination, must be decided by the board.
- (4) The chief executive officer is not entitled to be present or to vote at a meeting of directors on a motion concerning the conditions of his or her own appointment, conditions of service or termination of service.
- (5) The chief executive officer cannot be required to be an active member of the co-operative.
- (6) In the event of any conflict between the terms of appointment of a person as chief executive officer and that person's obligations or privileges under the CNL (Vic) the terms of the CNL (Vic) prevail over the terms of appointment.

53. Financial year

The financial year of the co-operative ends on the 30 June.

57. Safekeeping of securities

The co-operative must keep the securities of the co-operative safely in the manner and with the provision for their safety that the board directs.

58. Audit

- (1) The accounts of the co-operative must be audited in accordance with section 283 of the CNL (Vic).
- (2) Auditors must be appointed in accordance with the provisions of the Commonwealth Corporations Act 2000 as applied by section 283 of the CNL (Vic).

59. Co-operative funds

- (1) The income and property of the Co-operative when so ever derived, shall be applied solely towards the promotion of its primary activities and no portion thereof shall be paid directly or indirectly by way of dividend, bonus or otherwise how so ever by way of profit or gain to members: provided that nothing herein shall prevent the payment, in good faith, of reasonable and proper remuneration to any officer or servant or to any member in return for any services actually rendered to the Co-operative nor prevent the payment for out-of-pocket expenses interest on money lent or reasonable and proper rent for premises demised or let by any officer, servant or member of the Co-operative.
- (2) There must be no return or distribution on surplus or share capital to members other than any entitlement they have to the nominal value of shares at winding up.

60. Provision for loss

- (1) The board must make appropriate provision for losses in the co-operative's accounts and when reporting to members is to indicate whether the loss is expected to continue and whether there is any real prejudice to the co-operative's solvency.
- (2) Subject to section 355 of the CNL (Vic), the board may resolve to retain part of the surplus arising from the business of the co-operative in any year to be applied to meet any loss on the transactions of the co-operative.

in Part 3.3 of the CNL (Vic). Small co-operatives are not required to lodge financial reports with the Registrar but are required to lodge an annual return under section 293 of the CNL (Vic) and provide members with basic minimum financial statements set out in the Regulations. If the basic minimum reports prescribed in the Regulations are not considered sufficient for a particular co-operative, the rules may include additional financial statements or information.

63. Winding up

- (1) The winding up of the co-operative shall be in accordance with Part 4.5 of the CNL (Vic).
- (2) If, on the winding up or dissolution of the co-operative, any property remains after the satisfaction of all its debts and liabilities and the costs, expenses and charges of the winding up, that property:
 - (a) must not be paid to or distributed among the members; and
 - (b) must be given or transferred to an entity:
 - (i) which has objects similar to those of the co-operative; and
 - (ii) whose constitution prohibits the distribution of property among its members; and
 - (iii) which has been chosen by the members of the co-operative at or before the time of dissolution.

Appendix 2

Part 1

Name of co-operative -

Murray Valley Aboriginal Co-operative Limited

Part 2

Primary activity -

The primal activities of the Co-operative are to provide, and/or facilitate the provision of:

1. Health and related services;
2. Cultural and educational activities;
3. Crisis accommodation;
4. Aged and Child care;
5. Employment, training and education; and
6. A Juvenile Justice Program

Part 3

Active membership requirements -

A member of the co-operative will be an active member if he or she does any one of the following:

- (a) utilises or facilitates the use of the health or related services provided by the co-operative;
- (b) be involved in the delivery of cultural and educational facilities;
- (c) be a recipient of Aged care or be involved in the provision of Aged or Childcare;
- (d) in undertaking any employment training or educational programs approved by the board;
- (e) is involved in the provision of the Juvenile Justice Program;

Appendix 3

Part 1

The nominal value of a share and amount payable per share is - \$1.

In addition to the amount required to be paid in respect of the allotment of shares in the Co-operative (being \$1.00 per share as per Part 2 of Appendix 3), the following fees, charges and subscriptions are payable by a person seeking membership of the Co-operative.

Fees - Nil

Charges - Nil

Terms -