

# GUIDE TO CO-OPERATIVES IN MAURITIUS

## CONTENTS

PREFACE	1
1. Introduction	2
2. Formation and Registration	2
3. Powers, Privileges and Duties	7
4. Management	9
5. Rights and Obligations of Members	13
6. Organisation	14
7. Property, Funds and Distributions	15
8. Accounts, Records and Audits	16
9. Dissolution and Liquidation	17
ANNEX 1	18
ANNEX 2	19

## PREFACE

This guide covers the formation, registration, management and organisation of co-operative societies in Mauritius; their rights and obligations; also property, funds and distribution rights. There is also a brief overview of accounting records as well as dissolution and liquidation.

It takes account of changes brought about by the Co-operatives (Amendment) Act 2006.

All references in this Guide to "The Act" refers to the Co-operative Societies Act 2005 as amended from time to time and to "society(ies)" or "co-operative society(ies)" refers to the co-operative society as described by the Act.

We recognise that this Guide will not completely answer detailed questions which clients and their advisers may have; it is not intended to be comprehensive. If any such questions arise in relation to the contents, please use the [contact information](#) provided at the end of this Guide.

### **Appleby**

Mauritius

February 2015

## 1. INTRODUCTION

Co-operatives in Mauritius have over the last 100 years played a meaningful role as economic enterprises and self-help organisations in uplifting the socio-economic conditions of their members and the communities in which they operate. In 1913, the Co-operative Ordinance was introduced in Mauritius by the British Government to cater for the co-operative cane sector, and in 1945 the Co-operative Ordinance allowed for registration of all types of co-operative Societies. In June 2005, the Co-operative Societies Act 1976 was repealed and replaced by the Co-operatives Act 2005. The co-operative model has always been an effective model for grouped entrepreneurship, especially for those with limited means of production. The Mauritian Government appreciates the importance of the co-operative sector and is encouraging the development of the co-operative movement by providing appropriate financial, fiscal and policy support, given that co-operatives are democratic, member-run and member-financed self-help enterprises that have a great potential in contributing to the improvement of the economic and social conditions of individuals. The Co-operatives Act 2005 has been updated in 2006 to make provisions for greater transparency and accountability at the level of co-operative societies.

## 2. FORMATION AND REGISTRATION

### 2.1 Pre-Registration Process

No co-operative society may commence business until it has obtained a certificate of registration. The pre-registration process covers all the actions which must be undertaken for the co-operative society to be properly registered.

#### (a) The Steering Committee

Once the members and objects of the co-operative society have been properly identified, it is recommended that a steering committee be constituted. The president, secretary and other office bearers of the steering committee need to be selected. The steering committee will be responsible for the setting up of the co-operative society. It will also ensure that the co-operative works well and that formation meetings or all other meetings that may be necessary are held.

#### (b) The Rules of the Co-operative society

The rules of the co-operative society (the **Rules**) shall be in hard copy, divided in numbered paragraphs, signed and dated by at least three members of the proposed society.

The Second Schedule of the Act specifies the provisions which shall be included in the Rules. In the main, the Rules shall include the name, address and objects of the co-operative society; rights, duties and liabilities of Members; details on share types and amount; sources of funds; office bearers of the co-operative society; composition, rights and duties of the board of directors (the **Board**); the organs of control of the co-operative society; functioning of the co-operative society; general meetings; special decisions of the co-operative society; amendment of Rules and Disputes resolution of the co-operative society.

Upon registration and subject to the Act, the Rules shall have the effect of a contract between the co-operative society and its members and among the members themselves, whereby they agree to act in all respects according to the Rules.

#### (c) The Business Plan

The steering committee should compile a business plan which describes the aims of the co-operative society and the kind of business it is planning to undertake. It should be kept in mind that a co-operative society is a business and should therefore be sustainable. The business plan must state how the co-operative will meet its goals with the means available and must also

contain the volume of business it expects to do, the funds required to acquire the assets needed to run the business and whether experienced staff are available to manage the business.

(d) **Formation Meeting**

The steering committee must hold a formation meeting and choose a president and secretary for the meeting.

All members of the co-operative society should attend the formation meeting, members being described as those whose names are on the application form, and are conferred the right to questions on the co-operative society, which shall be answered by the steering committee.

The president of the formation meeting shall read out the business plan prepared by the steering committee and explain how the co-operative society aims at achieving its business prospects.

The applicants should choose the board of directors, also called the management committee, of the co-operative society during the formation meeting. The number of directors to be chosen is stated in the Rules of the co-operative society. The Act sets out that the board shall comprise of not less than three, but not more than nine directors.

After completion of the above, the co-operative society is now legally formed but not yet registered. The Registration is now subject to the Registrar of Co-operative Societies (the **Registrar**).

(e) **First Meeting of the Board of Directors (Pre-Registration)**

After the formation meeting has been held, a meeting of the board of directors should be held to select a president and a vice-president. The meeting should also appoint a secretary who will be responsible for submitting the application for registration of the co-operative society to the Registrar. It is to be noted that when sending the application for registration, one of the required documents includes a list of persons appointed as interim president, secretary and treasurer of the proposed co-operative society. (More on Registration below)

## 2.2 Registration Process

(a) **Application for Registration**

The appointed secretary shall apply to the Registrar for registration of the co-operative society not later than seven days after the formation meeting has been held.

The following documents are required to be sent to the Registrar for the application of registration of the co-operative society:

- copy of minutes of proceedings made and signed by the secretary stating that all requirements have been met;
- three copies of the draft rules of the proposed co-operative society;
- a project write-up on the activities of the proposed co-operative society, which sets out its aims, business plan as well as viability of the project;
- documents showing the manner in which the proposed shares of the proposed co-operative society shall be subscribed;
- a list of persons appointed as interim President, Secretary and Treasurer of the proposed co-operative society; and
- the prescribed application fee.

(b) **Processing of Application**

A decision on an application shall be communicated to the applicant within 14 days of its receipt.

Where the applicant does not receive a reply in relation to his application within 14 days, he may apply to the Permanent Secretary for an order directing the Registrar to make a reply.

Where, in the course of an application, the Registrar requests further information, the 14 days period referred to above shall start from the day the last document was submitted.

Where the Registrar rejects an application, he shall communicate his decision in writing and shall state in clear terms the reasons for his decision.

(c) **Types of co-operative societies**

The Act provides for three categories of co-operative societies:

- Primary Society
- Secondary Society
- Tertiary Society

(i) **Membership of a Primary Society**

A body of persons may be registered as a primary society if it consists of at least five individuals.

A co-operative society and a body corporate (other than a co-operative society) may also be registered as a primary society.

A non-citizen or a body corporate not incorporated or registered in Mauritius shall not be admitted as a member of a primary society unless the person or body corporate has been authorised to do so under the Non-Citizens (Property Restriction) Act. The membership of a body corporate not incorporated or registered in Mauritius shall be subject to the below paragraph.

The Act provides that a body corporate, whether registered in Mauritius or elsewhere, may be admitted as a member of a primary society if it undertakes to bring in the society know-how and technology which may contribute to the growth of the co-operative society.

(ii) **Membership of a Secondary Society**

Only primary societies may be members of a secondary society.

A body of persons may be registered as a secondary society if it consists of at least two primary societies.

(iii) **Membership of a Tertiary Society**

Only secondary societies may be members of a tertiary society.

A body of persons may be registered as a tertiary society if it consists of at least two secondary societies.

(iv) **Salient differences between a Primary, Secondary and Tertiary Society**

**Termination of membership**

The Act provides that a member may withdraw from a society subject to such notice as the Rules may provide, but the notice shall not exceed one year in the case of a primary society, and two years for a secondary or tertiary society.

**Voting at General Meetings**

A member of a primary society shall have one vote, which shall be exercised in person and not by proxy.

A member of a secondary or tertiary society shall have as many votes as may be provided for in the rules.

#### **Removal of directors**

Please refer to section on removal of directors below for more details.

#### **(d) Societies which may be registered**

A co-operative society may be registered if it is established with the objects of promoting the economic and social betterment of its members or it is established with the objects, amongst other things, of facilitating the operations of its members.

The following classes of co-operative society are prescribed by the Act:

- Consumer society
- Farming society
- General society
- Housing society
- Industrial society
- Marketing society
- Multi-purpose society
- Resource society

Please refer to Annex 1 for more details on the above types of societies.

A co-operative society may, by a resolution passed at a special meeting, convert the co-operative society into another class of society.

Upon receipt of a notice of the proposed conversion from the co-operative society, the Registrar may register the new converted society where he is satisfied that all creditors have been informed of the conversion, all dissenting members and creditors have received the sums due to them and all legal conditions necessary for the conversion of the co-operative society have been fulfilled.

#### **(e) Registered office, hours of business and names of co-operative societies**

Every co-operative society shall have a registered office to which any communication addressed to it shall be sent. The co-operative society shall submit to the Registrar the place at which and the hours during which business is carried out by the society. It should also post up at its registered office a notice indicating the name of the society and the hours of business.

Every society shall, unless the Minister otherwise determines, have the word "Co-operative" as part of its name.

No person other than a co-operative society shall, without the written approval of the Minister, trade or carry on business under any name or title of which the word "co-operative", or its abbreviation, or its equivalent in any other language, forms part.

Where the liability of members of the co-operative society is limited, the word "Limited" shall appear as the last word in the name of every such co-operative society.

No co-operative society shall be registered under a name which is identical with or so nearly resembles the name of an existing society or statutory corporation as to be likely to mislead or, in the opinion of the Registrar, is undesirable or misleading.

Where the Registrar deems that a co-operative society should not have been registered under a name, the Registrar may cancel its registration unless the society changes its name to a name which may be registered within 30 days from the date the Registrar requests it to do so.

Except with the Minister's approval, no society shall be registered under a name which includes the word "Municipal", "Chartered", "company", "association", "Chamber of Commerce", "Municipal" or "Chartered" or any other word which, in the Minister's opinion, suggests, or is likely to suggest, connection with a local authority in Mauritius or elsewhere.

(f) **Effect of Registration**

No co-operative society shall commence business until it has obtained a certificate of registration.

The certificate of registration shall state that the co-operative society has been duly registered, its date of registration and whether the co-operative society is a primary, secondary or tertiary society.

The co-operative society shall be deemed to be a body corporate from the date of issue of the certificate of registration.

Upon the issue of the certificate of registration, the co-operative society shall have perpetual succession and shall also have a common seal.

(g) **Liability of a co-operative society**

A co-operative society may be registered with limited or unlimited liability.

The liability of the members of a co-operative society registered with limited liability shall be limited to the amount unpaid on shares held by them, and such other amounts as they may undertake under the rules of the co-operative society.

Where the Government has contributed to the share capital of a society, the liability of the Government shall be limited to the amount of the shares held by it.

(h) **Minimum share capital and types of shares issued by a co-operative society**

The minimum issued and paid up share capital of a co-operative society at the time of registration shall be not less than 5,000 rupees divided into ordinary shares of a denomination of ten rupees, which shall be maintained by the co-operative society at all times.

Other than the minimum issued and paid up capital, a co-operative society may also issue non-redeemable preference shares and redeemable preference shares of a denomination of ten rupees each.

The rights and obligations attached to the non-redeemable and redeemable preference shares shall be specified in the Rules.

### 2.3 **Registration Fees**

No co-operative society shall carry out any operation without the payment of the prescribed annual fee. Reference can be made to Annex 2 of this document for more details on prescribed fees.

The annual fee shall be payable within two months of the end of the financial year, failing which the co-operative society shall be liable to the surcharge described in Annex 2.

Where the co-operative society fails to pay the prescribed annual fee within four months of the end of its financial year, the Registrar may cancel its registration.

### 2.4 **The Co-operative Development Fund**

The Co-operative Development Fund has been set up by the Act.

Any money payable under the Act, including any fees, charges and surcharges and any surplus arising on the liquidation of a society, shall be paid and credited to the Co-operative Development Fund.

### 3. POWERS, PRIVILEGES AND DUTIES

#### 3.1 Legal Powers of Co-operative Societies

Every co-operative society pursuing its objects shall have all the powers of a natural person.

A co-operative society may initiate any legal action against the secretary, a member, a director, the internal controller or an employee, or a creditor, or a debtor, or a past Secretary, a past member, a past director, a past internal controller or a past employee, or a past creditor, or a past debtor, if any such person has done any act detrimental to the interests of the co-operative society.

A co-operative society may sue any member or past member for breach of the rules and the contractual obligations arising from the rule (refer to clause 2.1(b) of this document for further details on effects of the rules).

#### 3.2 Shares and Register of Members

##### (a) Shares

No individual shall hold more than 30% of the issued share capital of a society.

Where all the members of the co-operative society are societies, the rules shall not limit the percentage of shares that may be held by any member and any restriction on the percentage of shares that may be held by any member shall be of no effect.

Subject to the above provisions, the co-operative society shall fix in its rules the maximum number of shares, or a maximum percentage of the share capital of the co-operative society, that any member may hold.

No share shall be issued at less than its value.

Shares shall be registered and shall be indivisible.

If provided for in its rules, the co-operative society may issue shares to its members with calls spread over a period of time where at least 10% of the amount is paid by the members on subscription and the aggregate period up to the final call does not exceed 18 months.

##### (b) Conditions for membership participation

The co-operative society shall lay down in its rules the conditions for members' participation in the capital of the co-operative society including the minimum contribution that each member has to make in the form of a fixed minimum number of shares or in the form of a number of shares in proportion to the business done by the member with the co-operative society.

##### (c) Maintaining register of members

Every co-operative society shall keep and maintain an updated register of members and a register of shares which shall constitute *prima facie* evidence of the date on which the name of a person was entered in the register as a member; the date on which a person ceased to be a member; the number of shares, by category, held by each member.

It is to be noted that each member needs to appoint in writing, at least a nominee at the time he joins the co-operative society, to whom his share or interest in the society shall be transferred or paid out to on his death or in case of insanity. The member may at any time revoke and replace in writing a nominee previously appointed by him.

Every appointment of a nominee shall be recorded in the register of members.

##### (d) Issue of share certificate

Every member shall be issued with a share certificate on payment of the amount due by him in respect of the shares.



**(e) Transfer of shares or interest**

No shares shall be transferred by a member unless the share has been fully paid up by him.

A member may transfer his share in the co-operative society where the transfer is made in accordance with the rules and the person to whom the share is transferred is eligible to be admitted as a member.

A member shall transfer his share or interest in the society where he has held the share for a period of not less than one year or such longer period as may be stipulated in the rules but which period shall not exceed three years and the transfer is effected to another member or to a person who has applied for membership and such membership has been approved by the Board.

Where upon the death of a member, no person has been nominated as his nominee, the share or interest of the deceased member shall accrue to his heirs.

Where a nominee or heir is not qualified for membership in the co-operative society under its rules, or where the nominee or heir does not intend to apply for membership, the co-operative society shall pay to the latter a sum representing the value of the deceased or insane member's share or other interest based on the latest valuation of the shares as the rules of the society may provide, together with any money due to the deceased or insane member by the society.

**3.3 Records to be kept by the Co-operative Society**

Every co-operative society shall at all times keep at its registered office the following documents in an updated form:

- its registration certificate;
- a copy of the Act;
- a copy of the regulations made under the Act;
- a copy of its rules;
- the register of its members;
- the register of shares;
- a copy of its approved accounts and balance sheets over the immediately preceding five years; and
- a register showing any declaration of interest by any director.

The above documents shall be open for inspection free of charge and at all reasonable times to the Permanent Secretary or his representative, to the members of the co-operative society and to the Registrar and his officers.

**3.4 Attachment, Charge and Set-off on the Shares or Interests of Members and of the Co-operative Society**

The share or interest of a member shall not be liable to be charged, seized or attached by a creditor of the member under the order of a court in respect of any debt or liability incurred by the member and where the latter is adjudged bankrupt, the Official Receiver shall have no claim on the share or interest of the member.

The co-operative society shall have a charge which shall rank in priority on the shares and on the deposits of a member or past member or deceased member. The priority charge shall also be applicable on any dividend or bonus payable to a member or past member or to the estate of a deceased member, in respect of a debt due to the society by any of the former.

No bank shall have a charge on any sum invested in the bank by the society if the bank is not the sole creditor of the society or if the sum has been invested from any provident fund.

### 3.5 **Privilege on Bankruptcy of Members**

Where a member is adjudged bankrupt, the claim of a co-operative society in respect of any amount due to it by the member shall be a privileged claim and shall rank immediately after any claim by a landlord in respect of rent or an employee in respect of wages.

A co-operative society may however, with the approval of the Registrar, cede the priority of claim that it has on the member to any other institution.

### 3.6 **Fiscal Exemptions of Co-operative Societies and Members**

No stamp duty shall be levied on an instrument executed by any co-operative society and on an instrument executed by a member in relation to business transacted with the co-operative society, in accordance with its rules.

No fee shall be payable by any society under any enactment relating to registration dues, transcription or inscription fees, except on a declaration or deed of transfer, of ownership of a motor vehicle or trailer.

The co-operative society shall benefit from the above fiscal exemptions provided that it has held its annual general meeting and it has paid any sum due to Co-operative Development Fund, to a secondary society, in case it is a member of that society and to a tertiary society, in case it is a member of that society.

Upon satisfaction that the above requirements have been fulfilled, the Permanent Secretary may issue to the society a certificate to that effect, which shall relate to the financial year preceding the date on which the certificate is issued.

The co-operative society shall benefit from the above-mentioned fiscal exemptions when a member of the co-operative society produces the said certificate.

## 4. **MANAGEMENT**

A co-operative society may contract out the management of its business on such terms and conditions as it may determine, to a management organisation provided that a resolution to that effect has been passed at a special meeting of the co-operative society.

The Registrar shall be informed of the decision and a copy of the contract shall be submitted to him within seven days of the resolution.

### 4.1 **Composition of Management of a Co-operative Society**

Every co-operative society shall have a Board of Directors, a President, a Secretary, a Treasurer and an internal controller.

The co-operative society may provide for the appointment of such other office bearers as it considers necessary in its rules.

#### (a) **The Board of Directors**

A co-operative society shall be managed by a Board which shall comprise of not less than three and not more than nine directors, elected in accordance with the rules.

The President, duly appointed in accordance with the rules, shall be the Chairperson of the co-operative society.

No person shall hold office as President of a society for a continuous period of more than three Years.

Where the Treasurer or the Secretary is not a director of the Board, the Treasurer or Secretary may attend a meeting of the Board, but shall not have a right to vote.

The Registrar may, subject to the approval of the Permanent Secretary, and after having taken such steps as he thinks necessary to safeguard the interests of the society remove the Board and appoint a person to manage the affairs of the society on such terms and conditions as he may determine, where he is of the opinion that the Board has persistently failed to perform, or is negligent in the performance of its duties, has committed, is committing or is about to commit an act which is prejudicial to the interests of the society or its members or is otherwise not functioning properly.

The Registrar shall not take any such steps as described above unless the Board has been given a reasonable opportunity of showing cause against the making of the proposed order.

The Registrar shall be informed in writing of any changes in the composition of the Board of the co-operative society within 14 days of the change.

(i) **Sub-committees of the Board**

The Board may appoint such sub-committees of its own directors and may delegate to the sub-committee any of its powers and functions. However, no decision of a sub-committee shall be implemented unless such decision has been ratified by the Board.

(ii) **Meetings of Directors**

The Board shall meet at least once every month and as often as the interest of the society requires.

The meeting can be convened by either of the below:

- the President of the co-operative society, or in his absence, by any director elected to act as President;
- at the request of two directors or one third of the total number of directors of the co-operative society, whichever is higher; or
- by the Registrar.

A decision of the Board shall not be valid unless a quorum is present. A majority of the number of directors of the Board shall constitute a quorum.

Every decision shall be taken by a majority of votes. In case of equality of votes, the Chairperson shall have a casting vote.

The proceedings at all Board meetings shall be recorded in minutes which shall be signed and approved by the President and by the Secretary at the next Board meeting.

The rules may provide for all directors to sign the minutes.

(b) **Directors**

Directors are elected at the annual general meeting of the co-operative society and in accordance with the rules.

Directors are generally members of the co-operative society. Subject to the rules, a person not being a member may be elected as director and he must have been recommended for election by a majority of the Board.

The number of non-members who are elected as directors shall not exceed one third of the total number of directors or such lower proportion as per the rules.

Non-members who are elected as directors are issued with a number of shares determined by the Board on payment of the appropriate fee and the said directors shall be refunded the share at par value when they cease to be directors.

Directors should disclose any interest, direct or indirect, before the Board and shall not take part in the deliberation of the Board relating to that matter.

All directors of the co-operative society have a duty of skill, care and due diligence as well as a fiduciary duty to the co-operative society.

(i) **Qualifications of directors**

No person shall be eligible to serve as a director or remain a director if he:

- is under 18 years of age;
- is involved directly or indirectly in any activity which is in conflict with or is likely to be prejudicial to the activities of the society;
- has been convicted of an offence involving fraud, dishonesty or financial malpractice;
- is an undischarged bankrupt;
- has been convicted of an offence under the Act;
- has been found to have misused, mismanaged or misappropriated the funds of a society; or
- is in arrears with the repayment of a loan from a society.

The co-operative society shall inform the Registrar in writing of the names, occupations, addresses and academic and professional qualifications and experience of its directors within 14 days of their election.

(ii) **Removal of directors**

A director shall cease to hold office where:

- he fails to meet the requirements for eligibility provided under the above section with regards to qualification of directors, or by the rules during his term of office;
- he fails to attend three consecutive meetings of the Board without reasonable cause;
- he resigns by notice in writing, and his resignation is duly approved by the board;
- he is removed from office by a resolution of a general meeting provided that not less than seven days prior notice is issued to him of the intended resolution.
- in case of a secondary or tertiary society:
  - the primary or secondary society which he represents, makes a written request for his removal;
  - the primary or secondary society which he represents contravenes this Act or is dormant, in liquidation or wound up; or
  - he ceases to be a member of the primary or secondary society he represents.

Where a vacancy on the Board arises as a result of the removal by a resolution of a general meeting or the death, resignation or insanity of any director, and the number of directors falls below the minimum prescribed by the Act, the Board shall fill the vacancy, pending the next general meeting, by co-opting from the members.

Where more than two directors or more than one quarter of the total number of directors, whichever is the lesser, cease to be directors of the society, the Board shall, within 30 days of such occurrence initiate procedures for convening a general meeting for the purpose of electing new directors to fill the vacancies.

(c) **Internal controller**

A co-operative society shall appoint at least one internal controller. The appointment shall be made at the annual general meeting.

The internal controller shall ensure that the affairs of the co-operative society are conducted in accordance with the rules and the Act and shall, within a reasonable period, identify errors or irregularities in transactions already processed, and missing assets/invalid disbursements.

The co-operative society shall inform the Registrar in writing of the name, occupation, address and academic and professional qualification and experience of the internal controller within 14 days of his appointment.

(i) **Functions, powers and duties of the internal controller**

The internal controller shall have access to all books, accounts and documents of the society and shall have power to call upon any person to produce any information or such books, accounts and documents as he deems necessary.

The internal controller shall:

- ensure that all the activities follow approved policies and established procedures;
- ensure that all the books of the co-operative society are up to date at all times;
- carry out inspections of the money, stocks, books and other assets of the co-operative society;
- ascertain the authority and validity of all expenditures, payments, loans and advances, as the case may be; and
- examine the accounts of the co-operative society at regular intervals and ensure that all transactions of the society are properly recorded in the respective books, accounts and other documents.

The internal controller shall, within 15 days from the end of each quarter, make a report of his findings in two copies, one to be forwarded to the Registrar and the other to the Board.

The Registrar may appoint an inspector to inquire into the affairs of the co-operative society where the internal controller fails to submit his quarterly report within the prescribed delay.

The internal controller shall, at least seven days before the next annual general meeting, make an annual report which shall be accessible at the seat of the society.

(ii) **Liabilities of the internal controller**

The internal controller shall keep any information obtained in the exercise of his functions confidential.

The internal controller shall be personally liable for any loss sustained or damage caused by wilful disclosure of confidential information or by any act or omission in breach of any duty cast upon him by law.

(iii) **Revocation of the internal controller**

The Registrar may revoke the internal controller and appoint a new internal controller at the expense of the society after taking cognizance of the report of the inspector. The

appointed internal controller shall be appointed for a maximum period of six months within which period the Registrar shall cause a general meeting to be held.

The co-operative society shall inform the Registrar in writing of any changes in the internal controller within 14 days of such change.

## 5. RIGHTS AND OBLIGATIONS OF MEMBERS

### 5.1 Conditions for Membership Participation in the Capital of the Co-operative Society

The co-operative society shall lay down in its rules, the conditions for membership participation in the capital of the co-operative society, including the minimum contribution that each member has to make in the form of a fixed minimum number of shares or in the form of a number of shares in proportion to the business done by the member with the society.

### 5.2 Rights of Members

A person shall not exercise any right as member unless he has paid the membership fee or he has become member upon acquisition.

Every member has the right to:

- attend general meetings, participate in decisions taken at such meetings and vote;
- stand as candidate for election as director of the co-operative society;
- at all reasonable times, consult the rules, registers, minutes of proceedings of general meetings, the annual reports, final accounts and balance sheets, the reports of the internal controller and the audit reports at the society's registered office;
- call, together with other members, for a special general meeting;
- call, together with other members, for an inquiry to be held into the constitution, organisation or financial situation of the society;
- claim, subject to the rules, a share of the surplus, if any, at the end of the financial year after approval of the accounts at the annual general meeting;
- withdraw from the society in accordance with the conditions prescribed in the Act and in the rules.

### 5.3 Appointment of Nominee

Please refer to paragraph 3.2(c) "Maintaining register of members" for more details on nominees.

### 5.4 Obligation of Members

Every member shall abide by the Act, the rules of the co-operative society, by the decisions of the general meeting and of the Board. Each member shall be loyal to the society and shall abstain from any act detrimental to the interest of the society.

An individual may be a member of more than one society, the main objects of which are similar, provided the rules of the societies of which he is a member so provide, and subject to this, no member shall pledge the same product or his salary to more than one society, the main objects of which are similar.

### 5.5 Termination of Members

A person shall cease to be a member where he withdraws from the society as member in accordance with the Act and the rules, he transfers all his shares or he is expelled from the society.

An individual shall cease to be a member where he dies, becomes insane or becomes bankrupt.

A body corporate shall cease to be a member where it becomes insolvent or is dissolved following liquidation.

A co-operative society may provide for the termination of membership of inactive or dormant members in its rules.

## 5.6 Expulsion of Members

Where a member has committed or has attempted to commit an act detrimental to the society or has failed to comply with any obligation of members as defined by the Act, he may be expelled by a decision of the general meeting.

The rules of the co-operative society shall lay down the procedure for the expulsion of a member.

## 6. ORGANISATION

### 6.1 General Meetings

The general meeting shall be the supreme authority of the society.

#### (a) Quorum at general meetings

Where a co-operative society consists of not more than 40 members, one half of the number of members or five members, whichever is the lesser shall constitute the quorum.

Where a co-operative society consists of more than 40 and less than 400 members, one quarter of the number of members or 40, whichever is the lesser shall constitute the quorum.

Where a co-operative society consists of more than 400 and less than 800 members, one quarter of the number of members or 80, whichever is the lesser shall constitute the quorum.

Where a co-operative society consists of more than 800 and less than 1600 members, one quarter of the number of members or 160, whichever is the lesser shall constitute the quorum.

Where a co-operative society consists of more than 1600 members, one quarter of the number of members or 200, whichever is the lesser shall constitute the quorum.

#### (b) Voting at general meetings

A decision at a general meeting shall be taken by a simple majority of votes cast.

Voting shall be conducted in accordance with the rules of the co-operative society.

#### (c) First general meeting

The first general meeting of a newly registered society shall be convened by the interim President not later than one month after receipt of the certificate of registration.

The first general meeting shall have the same powers as the annual general meeting, except that the first general meeting shall elect directors of the Board, appoint the internal controller and appoint an auditor.

#### (d) Special general meetings

A special general meeting may be convened by the Board at any time.

A special general meeting may also be convened at the request of one fifth of the total number of members or two members, whichever is the higher, such members holding 20% of the ordinary shares or 30% of the preference shares of the co-operative society within 21 days of the request, or at the request of the Registrar within 30 days from the date of the request.

A special general meeting may conduct any business that may be conducted at an annual general meeting except the approval of accounts.

**(e) Annual general meetings**

The annual general meeting shall be convened by the Board.

The co-operative society shall at its annual general meeting approve, amongst others, the programme of the activities of the society prepared by the Board for the coming year, approve the estimates of income and expenditure for the next financial year, elect the directors of the Board, consider the financial statement of the society for the preceding year duly audited together with the audit report, the report of the Board on the activities of the preceding year and the manner of disposing of the surplus.

The minutes of the preceding annual general meeting shall also be approved at the annual general meeting.

**7. PROPERTY, FUNDS AND DISTRIBUTIONS****7.1 Funds of Co-operative Societies**

The funds of a co-operative society shall consist exclusively of:

- the membership fee as may be provided for by its rules;
- any payment made in respect of shares subscribed pursuant to the Act and its rules;
- any undistributed net surplus required to be allocated to the Reserve Fund;
- any undistributed net surplus allocated to any fund established under its rules;
- grants, donations and other contributions from public or private donors legally obtained;
- loans from members, other societies, banks and public or private financial institutions;
- deposits from members and other societies;
- surplus in terms of patronage refund, the disbursement of which is deferred subject to conditions provided by its rules;
- any other contribution by members to the capital of the society pursuant to its rules; and
- premiums arising on the issue of shares.

**7.2 Reserve Fund**

Every co-operative society shall maintain a reserve fund into which it shall contribute not less than 10% of its surplus.

The co-operative society may contribute a lesser percentage of its surplus to the reserve fund, where upon application by the co-operative society to the Minister, the latter is satisfied that the co-operative society has accumulated adequate funds in its reserve fund.

The co-operative society shall not pay dividend out of the reserve fund.

The co-operative society may issue bonus shares to its members from its reserve fund.

**7.3 Order of Distribution of Net Surplus of the Co-operative Society**

The surplus of a co-operative society shall be distributed in the following order of priority:

- reserve fund;
- dividend on preference shares, both redeemable and non-redeemable;
- special reserve funds;
- bonus to employees;
- bonus to a member in proportion to the business done by the member with the society; and
- dividend on ordinary shares.



#### 7.4 **Payment of Bonus and Dividend**

No assets of a co-operative society, other than its surplus, shall be distributed by way of bonus or dividend or otherwise among its members.

No co-operative society shall pay any bonus or dividend or distribute any part of any special reserve fund unless the annual balance sheet has been certified by an auditor and has been approved by the general meeting.

No co-operative society shall pay dividend on ordinary shares unless the payment has been approved by the general meeting.

#### 7.5 **Investment of Assets of the Co-operative society**

A co-operative society may invest its assets in such manner as may be provided in its rules or decided by the general meeting.

When investing the assets of the co-operative society, the Board shall consider the liquidity as well as the security aspect of the investments.

The rules shall specify the amount of the assets which the board may invest without the approval of the general meeting and above which the board shall have to obtain the approval of the general meeting before investing the assets.

### 8. **ACCOUNTS, RECORDS AND AUDITS**

#### 8.1 **Financial Year**

The financial year of a co-operative society shall be the period starting on 1 July and ending on 30 June in the next year.

The first financial year of a co-operative society shall start from the date of its registration and end on 30 June next following.

#### 8.2 **Keeping of accounts and records**

Every co-operative society shall keep proper books of accounts and other books for the purpose of recording all transactions relating to its undertakings, funds, activities and properties.

#### 8.3 **Operating and freezing of bank accounts**

A co-operative society shall maintain one or more bank accounts into which all money received by it shall be paid and out of which all payments required to be made by it shall be paid.

The Registrar may certify to the banks concerned the persons who are entitled to sign cheques or other documents on behalf of a society, freeze the bank account of a society or give to the bank instructions regarding the operation of the account where, in his opinion, such measures are necessary to prevent loss or misuse of funds.

The rules shall state the amount that may be kept by the society in the form of petty cash.

#### 8.4 **Audit**

Every co-operative society shall at its first annual general meeting and at each subsequent annual general meeting appoint the Registrar or an auditor through an ordinary resolution of members to hold office from the conclusion of the meeting until the conclusion of the next annual general meeting and to audit the financial statements of the society for the accounting period next after the meeting.

A co-operative society shall not appoint the Registrar as auditor where its annual turnover exceeds ten million rupees.

Where the Registrar is appointed as auditor of a co-operative society, he shall not be remunerated.

Where a co-operative society appoints a person other than the Registrar as auditor, it shall so inform the Registrar within 14 days of the appointment.

Every co-operative society shall, within a period of three months after the closing of the financial year, submit to the Registrar or to the auditor, as the case may be, the final accounts and balance sheet together with all relevant documents as well as such statistical returns as may be required by the Registrar or the other appointed auditor.

The Registrar or the auditor shall, within three months after the receipt of the final accounts and balance sheet together with all relevant documents, submit a report on the audit carried out to the President of the co-operative society.

The auditor shall also submit a copy of his report to the Registrar.

## 9. DISSOLUTION AND LIQUIDATION

Co-operative societies may be dissolved voluntarily or by the Registrar.

A voluntary dissolution can be made by members, where the latter have obtained the consent in writing of not less than 75% of the total number of members who hold not less than 75% of the ordinary shares and in the case of a society which has preference shares, not less than 75% of the preference shares.

The Registrar may order the dissolution of a co-operative society where:

- the society has contravened the Act;
- the society has failed to comply with any condition as to registration or management imposed by the Act or the rules;
- the number of members falls below the minimum required level;
- the share capital falls below 5,000 rupees for a period of more than three months; or
- where the sum of the share capital plus reserves is less than the accumulated losses of the society.

Where the Registrar has made an order for winding up a society, he may appoint a liquidator on such terms and conditions as he thinks fit.

No person shall be appointed as liquidator unless he is an auditor or a person who holds or has held an office not below the level of Senior Co-operative Officer.

## ANNEX 1

## Classes of Society as per Fourth Schedule of the Co-Operatives Act 2005

CLASS OF SOCIETY		OBJECTS
1.	Consumer society	To obtain, produce, process, distribute goods to, or perform other services for, its members and share among its members the profits derived from the supply, production, processing or distribution in such proportion as may be fixed by the rules.
2.	Farming society	To promote the development of land and better methods of cultivation.
3.	General society	To perform any act which is not specified in this column in respect of items 1, 2, 4, 5, 6, 7 or 8.
4.	Housing society	To provide its members with residential accommodation.
5.	Industrial society	To produce and dispose of the goods of its members on a collective basis.
6.	Marketing society	To market any produce.
7.	Multi-purpose society	To have for objects the objects of any two or more of the societies specified in items 1, 4, 5 and 8.
8.	Resource society	To obtain for its members the credit, goods or services required by them.

## ANNEX 2

## Annual Fees, Fines and Penalties

## 1. Fees accruing to the Co-operative Development Fund

Section 14(1)(e)	Application fee	Rs500.00 per application
Section 18(6)(a)	Annual fee	Rs200.00 per society
Section 20(3)	Fee per copy of rules	Rs50.00 per copy

## 2. Fines accruing to the Co-operative Development Fund

		Per Day Rupees	Maximum Rupees
Section 18(7)	Annual fee surcharge	10	500

For more specific advice on co-operative societies in Mauritius, we invite you to contact one of the following:

**Mauritius**

**Malcolm Moller**

Managing Partner, Mauritius and Seychelles

Corporate

+230 203 4301

mmoller@applebyglobal.com

**Gilbert Noel**

Partner

Corporate

+230 203 4302

gnoel@applebyglobal.com

For the convenience of clients in other time zones, a list of contacts available in each of our jurisdictions may be found [here](#).