

# **B4RN<sup>®</sup>**

## **Rules**

*of*

### **Broadband for the Rural North Limited**

*(A registered society under the Co-operative and Community Benefit Societies Act 2014)*

*Registration number: 31352R*

Registered office: Station Yard, Melling, Carnforth LA6 2QY

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# Rules of Broadband for the Rural North Limited

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## **A Name, number and main objects**

### **1 What is the society's name and number?**

- 1.1 The society's name is ***Broadband for the Rural North Limited***.
- 1.2 The society's registered number is **31352R**
- 1.3 The society's registered office is ***Station Yard, Melling, Carnforth LA6 2QY***.

### **2 What are the society's objects?**

- 2.1 The society aims to:
  - 2.1.1 Provide high speed broadband to domestic and business premises located in the rural United Kingdom, especially those areas which are poorly served;
  - 2.1.2 Promote the take up of broadband, the Internet and the use of ICT generally.
  - 2.1.3 Provide an opportunity for public-spirited people and organisations to contribute financially to the community, with the expectation of a social dividend, rather than personal financial reward.
- 2.2 Examples of the ways in which the society may carry out its objects may include:
  - 2.2.1 Building its own high speed broadband network(s) or working with other organisations to assist them to do so;
  - 2.2.2 Providing opportunities for members of the community to be trained in the skills required to build fibre networks and then operate them;
  - 2.2.3 Developing new or existing services to the local community that contribute to the local economy.
- 2.3 Those objects are carried on for the benefit of the community.
- 2.4 The society's members may, subject to the registration of a rule amendment by the Financial Services Authority, change the society's objects. See rule 31.

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## **B Rights of members of the society**

### **3 What types of share are there?**

- 3.1 All shares in the society are ordinary shares with a nominal value of one pound each. The 'par' or 'capital' value of shares may be reduced in some circumstances (see rule 16). 3.2 The society may issue some shares as designated for a particular purpose. Those shares may carry a risk or return which is different from that for other shares. (see rule 16.5). However, all shares irrespective of their issue will have the same voting rights.

## 4 What is the minimum shareholding?

- 4.1 Members of the society must have a minimum shareholding of *100 shares*.
- 4.2 Members that withdraw all their shares will no longer be members of the society.
- 4.3 A member's debt due to the society will give the society a lien on the member's shares. This debt may be offset against the member's share capital, share interest or loans to the society.

## 5 What is the maximum shareholding?

- 5.1 A member's total shareholding cannot exceed the maximum the law allows. Currently that is £100,000. But that limit does not apply if the member is an industrial and provident society.
- 5.2 In rule 5.1, a member's total shareholding includes all shares registered in the member's name, including (for example):
  - all shares jointly held with others; and
  - shares held on behalf of others.

## 6 How to become a member of the society

- 6.1 On formation of the society, the subscribers to these rules become members, each holding one share. (This rule does not apply to the society where the society is adopting these rules in substitution for an earlier set of rules).
- 6.2 The directors of the society will, from time to time, set the procedures and forms to be used for applying for shares and for the minimum allowable shareholding under rule 4.1. Those procedures should include the following:
  - 6.2.1 The directors will obtain legal advice, to confirm that any proposed financial promotion:
    - 6.2.1.1 does not contain any untrue or misleading statement; and
    - 6.2.1.2 gives a reasonable and fair description of the risks associated with holding withdrawable shares in this society; and
    - 6.2.1.3 complies with any voluntary code or guidance which the society may, from time to time, agree.
  - 6.2.2 For this rule, a proposed financial promotion is any document issued by the society to promote the issue of shares (or anything else which might be considered an investment if issued by a company, such as a bond, for example).
  - 6.2.3 For this rule a document also includes 'non-real time communications' and 'real time communications' (as described in article 7 of the Financial Services and Markets Act 2000 [Financial Promotion] Order 2001; SI 2001/1335), even if it is not in documentary form.
- 6.3 Members must pay one pound for each share for which they apply.
- 6.4 When shares are issued, the society will provide a share certificate in respect of those shares. At that time a member's details will be entered in to the society's register of members.

- 6.5 The society may operate a share purchase instalments scheme to help members to purchase the minimum shareholding. Some legal restrictions may govern the operation of that scheme.
- 6.6 The society will take reasonable steps to verify the identification of members. The society will retain a copy of all documents seen to verify the identity of a member.

## 7 How do members withdraw their shares?

- 7.1 All shares are withdrawable. When members withdraw shares, the society may at its sole discretion return the money paid for them. Subject to rule 16.1 this does not apply if the society has reduced the capital value of shares (by passing a board resolution, under rule 16.4.1). In that case the society will return only the reduced capital value of the shares.
- 7.2 If shares are withdrawn the society will pay any interest accrued to the date of withdrawal.
- 7.3 Shares may at the sole discretion of the society be withdrawn on 180 days' notice but are subject to the restrictions in rule 7.1. All withdrawals shall be in the order in which the notices are received by the society. Notice, whenever given, does not take effect before the third anniversary of:
- 7.3.1 the share being issued, or, if later
  - 7.3.2 the enterprise beginning to trade (with the trade relevant for the purposes of the Enterprise Investment Scheme).
- 7.4 Once the third anniversary of Rule 7.3.1 or if later Rule 7.3.2 has occurred, and NOT BEFORE, the society may waive the 180-day notice period, or accept a shorter notice period. That will be at the sole discretion of the society's directors and members have no right to insist that the society should waive or reduce the normal notice period.
- 7.5 Members must return their share certificates to the society 180 days after providing notice of withdrawal.
- 7.6 When members apply to withdraw shares, they will need to
- complete a withdrawal form (as set by the society's directors);
  - comply with any procedures the society's directors may set; and
  - produce evidence of identity (if not previously provided).
- 7.7 From time to time, the society may suspend (or limit) a member's right to withdraw shares.
- 7.8 There is a minimum number of members. The minimum is currently:
- two (if both members are industrial and provident societies) or
  - three (if any member is not an industrial and provident society).

*If...*

the society has no more than the minimum number of members...

*then...*

those members can withdraw some of their shares,

*but,*

those members cannot withdraw all their shares.

- 7.9 Members may end their membership of the society by withdrawing all their shares. Or, if the right to withdraw is suspended by rule 7.7, members may surrender all their shares. On surrender the directors of the society may (but do not have to) pay some or all of the money paid for the shares.

## **8 What if a member loses their share certificate?**

- 8.1 The members of the society are those whose names are on the register of members. So, at their discretion, the directors may allow the society to replace a lost or destroyed share certificate.
- 8.2 The directors may set conditions for the replacement. Members will have to meet those conditions before the society can issue the replacement.

## **9 Can a member sell their shares?**

- 9.1 A member cannot transfer any of their shares to any other person.

## **10 What are a member's voting rights?**

- 10.1 At the society's annual general meeting (and other general meetings of the society), each member has one vote. Members will have one vote each irrespective of the number of shares they may hold.

## **11 Can a member hold shares in joint names?**

- 11.1 A member may hold any shares in their own name. Or they may hold them jointly (with up to three others).
- 11.2 Suppose a member represents an unincorporated association (perhaps a club or society, for example). The association's shares must be held in the joint names of two or more persons. The association cannot hold shares in its own name (but the holders of its shares may ask the society to note the association's name and address in the society's register of members).
- 11.3 For voting and the payment of interest, the joint holders of a share are one shareholder and one member.
- 11.4 If a member holds a share jointly, the member and the other holders of that share may go to the society's general meetings (and speak at them). But only one of the holders of that share can vote. If the holders of the share cannot agree between them who is to vote, it will be the person named first (in the society's register of members).
- 11.5 Similarly, the society will send correspondence, notices, and the share certificate, only to the person named first (in the society's register of members), unless that person gives the society different, written, instructions.
- 11.6 Similarly, the society will pay interest only to the person named first (in the society's register of members), unless that person gives the society different, written, instructions.

11.7 Unless members give the society different, written, instructions, all joint holders of a share must sign an application to withdraw the share.

## 12 Can children own shares?

12.1 Members must be 16 years old, or older.

12.2 A person under 16 cannot be a member. But a member can hold shares on behalf of somebody who is under 16. The society has to treat those shares as belonging to that member (and not the child), for the purposes of rule 5.1 (which sets the greatest total value of shares a member can have in their name). Following that person's 16<sup>th</sup> birthday, they may become a member of the society and those shares can pass on to them.

## 13 What happens on death, bankruptcy or mental incapacity?

13.1 This rule 13.1 applies on the death of a member holding a share in their own name.

### **For shareholdings of £5,000 or less:**

*If ...*

the member has named a person to take the shares on their death (called the member's **nominee**),

*and if...*

the shares registered in the member's name have a total value of £5,000 (or less),

*then...*

the society will transfer the shares to the member's nominee.

### **For shareholdings greater than £5,000:**

*If ...*

the member has named a person to take the shares on their death (called the member's **nominee**),

*and if...*

the shares registered in the member's name have a total value of more than £5,000,

*then*

the society will transfer the shares to the member's nominee, but only for shares with a total value of £5,000. The society will decide which shares transfer to the member's nominee. The member's personal representatives will have to deal with the other remaining shares.

### **For shareholdings where the nominee is younger than 16 (when they could take the shares):**

*If ...*

the member has named a person to take the shares on their death (called the member's **nominee**),

*and if...*

the member's nominee is younger than 16 (when they could take the shares),

*then...*

the society may treat an adult (the member's nominee's mother, father, or guardian, for example) as having the rights of the member's nominee. The society will then transfer the member's shares to them. That adult must undertake to hold the shares on trust for the member's nominee.

**For shareholdings where the member has no nominee and the value is £5,000 or less:**

*If ...*

the member has NOT named a person to take the shares on their death,

*and if...*

the shares registered in the member's name (and any other interests the member may have with the society) have a total value of £5,000 (or less),

*then...*

the society may (at the society's discretion) transfer the shares to the person who seems to have the legal right to them (member's wife, husband, civil partner or children, for example). The society will ask for evidence of their right. The society is unable to transfer the shares to that person if the personal representative has applied for probate or letters of administration.

**For shareholdings where the member has no nominee and their personal representatives have applied for probate or letters of administration, and the value is £5,000 or less:**

*If ...*

the member has NOT named a person to take the shares on their death, BUT their personal representatives have applied for probate or letters of administration,

*and if...*

the shares registered in the member's name (and any other interests the member may have with the society) have a total value of £5,000 (or less),

*then...*

the society will transfer the shares to the member's personal representative. The society must see the probate or letters of administration.

**For shareholdings where the member has no nominee and the value is greater than £5,000:**

*If ...*

the member has NOT named a person to take the shares on their death,

*and if...*

the shares registered in the member's name have a total value of more than £5,000,

*then...*

the society will transfer the shares to the member's personal representative. The society must see the probate or letters of administration.

13.2 After the society has transferred the member's share to their personal representative, the personal representative:

- may apply to withdraw the share;
- may apply to receive any interest that may become due on the share before they withdraw it;

- but cannot exercise any other membership rights for that share.
- 13.3 Any other person to whom the society transfers a member's shares (under rule 13.1) will have all the membership rights previously enjoyed by the member.
- 13.4 This rule 13.4 applies on the death of a member who held a share jointly with others.
  - If...**  
the member has not given the society written instructions...
    - ...then...**  
the society will treat the surviving owner (or owners) as the only (joint) owner of that share.
  - If...**  
the member has given the society written instructions to do so...
    - ...then...**  
rule 13.1 tells the society who to register in the member's place.
- 13.5 This rule applies to the member's replacement (the person to whom the society transfers the member's shares under rules 13.1 or 13.4). Rules 13.1 and 13.4 do not allow the member's replacement to hold (on their own or jointly, with others) shares with a total value greater than the law allows. See rule 5.1.
- 13.6 After the society receives written proof that a member is bankrupt, the trustee of their estate may apply to withdraw the share. The trustee may also then apply to receive any interest that may become due on the share before they withdraw it. The trustee cannot exercise any other membership rights for that share. This rule 13.6 applies if the share was in the member's sole name.
- 13.7 This rule 13.7 applies when the society receives written proof that a joint holder of a share is bankrupt. The society will then substitute the interest of the trustee of their estate for the name of that joint holder (in the society's register of members). The trustee will be substituted as the last named person (of the joint holders of that share) registered as holding that share. The society will automatically cancel any written instructions that vary the effect of rules 11.5, 11.6, or 11.7.
- 13.8 This rule 13.8 applies when a member (or a person claiming through a member) is mentally incapable. The board should treat that individual as mentally incapable when satisfied (after considering medical evidence) that the individual is incapable, through disorder or disability of mind, of managing their own affairs.
- 13.9 When rule 13.8 applies, the board should deal with the individual's donee or deputy if:
  - 13.9.1 the individual lacks capacity (as described in the Mental Capacity Act 2005) for the purposes of the Industrial and Provident Societies Act 1965); and
  - 13.9.2 there is, for that individual:
    - 13.9.2.1 a donee of an enduring power of attorney (as described in the Mental Capacity Act 2005); or
    - 13.9.2.2 a donee of a lasting power of attorney (as described in the Mental Capacity Act 2005); or
    - 13.9.2.3 a deputy, appointed by the Court of Protection; and
  - 13.9.3 that donee, or deputy, has power for that individual for the purposes of the Industrial and Provident Societies Act 1965.

13.10 In all other cases when rule 13.8 applies, the board may pay, to any person they judge proper, the value of that individual's shares, loans and deposits with the society. But first the board must be satisfied that:

13.10.1 no other person has been appointed to administer that individual's property;  
and

13.10.2 it is just and expedient to pay that person.

## **14 Will members get a windfall if the society converts?**

14.1 The society may convert itself into a company, amalgamate with another society or company, or transfer its business to another society or company. The society or company (into which the society converts, or with which it amalgamates, or to which it transfers its business) must have objects similar to those of the society. The procedures and conditions for that are in ss50-52 and s54 of the Industrial and Provident Societies Act 1965.

14.2 Members are not to benefit financially if the society converts, or transfers its business or is wound up (see rule 32.5). The society may make it a condition of membership that members sign a contract with the society prior to becoming a member, in such form as the society's directors require, by which members give up any personal financial benefit from conversion, or transfer, or winding up.

The society may also make it a condition that for any members that were not previously subject to such a contract, that such a contract becomes a condition of their ongoing membership, subject to the agreement of members at an AGM and where relevant, the registration with the Financial Services Authority of any related rule amendments.

14.3 Members appoint the society's secretary as their attorney (for this purpose only and no other). The society's secretary may sign the contract referred to in rule 14.2 above for members if members do not sign it and return it within 14 days after the society asks them to. That appointment is irrevocable and granted to secure members' obligation in rule 14.2.

## **15 Will the society pay interest on shares?**

15.1 The society may use its property and profits only to promote its objects. The society will not pay members any dividend, bonus or other share in profits.

15.2 Rule 15.1 does not prevent the society from paying interest on shares. The directors of the society will set the rate of interest (if any). It will be a variable interest rate. Subject to the agreement of members at an AGM, the directors may decide to pay interest to members on their shares by issuing further shares.

15.3 The society will not pay a rate of interest that is higher than needed to fund the society's activities. In setting the rate, the society's directors will take particular account of the society's intention to provide an opportunity for public-spirited people and organisations to contribute financially to the community, with the expectation of a social dividend, rather than personal financial reward.

15.4 The society will calculate the interest on the money paid for the shares (unless their capital value has been written down under rule 16.4.1). While shares are written

down under rule 16.4.1 the society will calculate the interest on that written down value.

- 15.5 Rule 15.1 does not prevent the society from setting aside a reserve fund. The society's directors are to decide how much is to be transferred to the reserve fund. The reserve fund may be used to meet any contingency which affects the society's business. But, before the society can use the reserve fund:
- 15.5.1 the directors have to recommend its use to a general meeting of members; and
  - 15.5.2 the general meeting must approve its use (by a simple majority).
- 15.6 Rule 15.1 does not prevent the society from paying money to support:
- 15.6.1 co-operative development; and
  - 15.6.2 educational purposes; and
  - 15.6.3 charitable purposes.
- 15.7 The directors may propose payments authorised by rule 15.6. But, before the society can make the payment:
- 15.7.1 the directors have to recommend it to a general meeting of members; and
  - 15.7.2 the general meeting must approve it (by a simple majority).
- 15.8 Rule 15.1 does not prevent the society from paying (in good faith):
- 15.8.1 (at a reasonable and proper rate) for services rendered to the society by any of its employees, officers or members, and reimbursement of their expenses; and
  - 15.8.2 (at a reasonable and proper rate) rent, for premises let to the society by any of its employees or officers.

## **16 Can members have their shares taken from them?**

- 16.1 The society may reduce the value of shares if the society's liabilities (plus issued share capital) become more than the value of the society's assets. The circumstances in which this may happen are described below (in rules 16.2 to 16.4). Those rules 16.2 to 16.4 also describe the procedures the society must follow to do that.
- 16.2 Suppose that the society's directors believe that the society's liabilities (plus issued share capital) may be more than the value of the society's assets. The directors then may instruct accountants to report to them. The accountants may be the society's auditors, or they may be independent qualified accountants.
- 16.3 Suppose that the accountants appointed under rule 16.2 report to the directors that the society's liabilities (plus issued share capital) are more than the value of the society's assets. The directors may then decide to apportion the excess liabilities (or part of them) among the shareholders. When the excess liabilities are apportioned, the total of the excess will be apportioned among the shareholders in proportion to the total nominal value of shares held by each member. The total nominal value, for these purposes, will be taken to be that at the close of business on the date of the apportionment.
- 16.4 Suppose that the directors resolve to apportion the society's excess liabilities in accordance with rule 16.3. The directors must then resolve either:
- 16.4.1 That the capital value of each share then in issue is reduced accordingly, but:

- 16.4.1.1 the society shall not reduce the capital value of any share below zero (that is to say a member will not owe any money to the society); and
  - 16.4.1.2 the society may restore the capital value, by a similar procedure to that described in rules 16.2 to 16.4 (but only where the value of the society's assets is more than the liabilities [plus nominal issued share capital]); and
  - 16.4.1.3 if the society restores the capital value, the society shall not increase it above one pound; and
  - 16.4.1.4 all shares the society may issue later (after the society has reduced the capital value of any shares) are to be issued at par (and for a nominal value of one pound each).
- 16.5 Rules 16.2 to 16.4 may not apply to assets, liabilities and share capital which are designated to specific purposes in accordance with rule 3.2. Shares may be issued on the bases that:
- 16.5.1 they are designated to a specific purpose (under rule 3.2); and
  - 16.5.2 the funds for that purpose are treated as separate from the society's other funds.
- 16.6 If shares are issued on those bases (in rules 16.5.1 and 16.5.2), this rule 16.6 applies. The assets, liabilities and share capital for each of those purposes (the **Special Purpose Funds**) are treated separately from the society's other assets, liabilities and share capital (the **General Purpose Funds**) in following the procedures in rules 16.2 to 16.4. And the procedures in rules 16.2 to 16.4 do not have to be applied to any of the Special Purpose Funds when they are applied to the General Purpose Funds. Similarly, the procedures in rules 16.2 to 16.4 may be applied to any of the Special Purpose Funds in isolation; they do not have to be applied to any other of the Special Purpose Funds (or the General Purpose Funds) at the same time.

## 16A Nominee shareholdings

- 16A.1 The board may approve a person as an Approved Nominee. The board may impose conditions when it approves an Approved Nominee, and may later vary them and add new conditions. For example, the board may wish to ensure that:
- 16A.1.1 the Approved Nominee is a fit and proper person to represent members of the society; and
  - 16A.1.2 the Approved Nominee is operating effective identification and money laundering procedures at least equivalent to those operated by the society; and
  - 16A.1.3 the Approved Nominee will, on request, give full identification information about any member it represents; and
  - 16A.1.4 the Approved Nominee gives prospective members a reasonable and fair description of the risks associated with holding withdrawable shares in this society.
- 16A.2 The board may not approve more than five Approved Nominees at any time.
- 16A.3 An Approved Nominee may apply for membership of the society on its own behalf, or on behalf of others. When applying for membership on behalf of another, the

Approved Nominee must name that other, and identify the number of shares for which that other is applying.

- 16A.4 When the board approve an application for shares by an Approved Nominee (acting as such), the society will enter the member in its register of members, and issue the share certificate as: '*[name of Approved Nominee] re [name of member]*'. The society will enter the address of the Approved Nominee as the address of that member for those shares.
- 16A.5 For the purposes of rules 5.1 and 7.8, each member represented by the Approved Nominee is a separate member and their shareholding through the Approved Nominee is treated as part of their total shareholding. The Approved Nominee itself (if it owns shares other than on behalf of others) is a separate member.
- 16A.6 For the purposes of rule 7.3, an Approved Nominee may give notice on behalf of a member it represents (but only for those shares registered in its name on behalf of that member).
- 16A.7 The society will return capital and pay interest payable under rule 15.2 to the Approved Nominee on behalf of the members it represents (but only for those shares registered in its name on behalf of those members).
- 16A.8 For the purposes of rules 27 and 28, the society need give only one notice to an Approved Nominee, with one set of papers, and that is regarded as good notice of the general meeting, to the Approved Nominee and each member it represents (for all shares owned by that member).
- 16A.9 At general meetings the Approved Nominee is automatically the proxy of each member it represents, without the need for any further proxy form. In counting for the quorum at a general meeting, each member represented by the Approved Nominee is regarded as present.
- 16A.10 At general meetings, the Approved Nominee does not have to cast all votes under its control in the same manner. So, for example, some of its block of votes may be cast for a particular resolution, some against, and some might abstain. Nothing in these rules gives any member or officer of the society any right to compel the Approved Nominee to disclose why it has cast the votes under its control in any particular way.
- 16A.11 An Approved Nominee must give this information to the society on each occasion that it casts any of its block of votes:
- 16A.11.1 the total number of votes in its block.
  - 16A.11.2 the number of votes it is casting for the motion.
  - 16A.11.3 the number of votes it is casting against the motion.
  - 16A.11.4 the number of abstentions from its block (all members whom it represents, but who are not voting for or against the motion).
  - 16A.11.5 its net vote (the difference between the number of votes it is casting for the motion and the number it is casting against the motion).
- 16A.12 The size of the block of votes cast by any Approved Nominee is limited. The net vote cast by an Approved Nominee for or against any motion is counted as no more than the lower of:
- 16A.12.1 that Approved Nominee's net vote on that motion.
  - 16A.12.2 such number of votes as constitutes 5% of the total votes cast for and against the motion. In counting the total votes cast for and against the motion the society must count the net vote of each Approved Nominee

voting (each limited to 5% of the total). In counting the total votes cast for and against the motion, the society must not count any abstentions.

- 16A.13 The society may terminate the approval of the Approved Nominee on reasonable notice following failure to comply with any condition applied by the society. The Approved Nominee is then treated as having given notice to withdraw all shares it holds (for itself and on behalf of others).

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## C Management of the society

### 17 The directors

- 17.1 The people nominated (as directors) by the subscribers to these rules became the first directors of the society, when it was formed. (This rule does not apply to the society where the society is adopting these rules in substitution for an earlier set of rules).
- 17.2 The directors:
- manage the business of the society;
  - may (at any board meeting at which there is a quorum) exercise any of the society's powers;
  - may delegate any of their powers to a committee (of 2 or more directors);
  - may delegate any of their powers to a sole director;
  - may appoint any person to act as the agent of the society (and they may authorise that person to delegate their powers).
- 17.3 The society has a minimum of two directors (see also rule 17.7). If there is one director, the sole director has authority to appoint a second director.
- 17.4 The directors on the society's board are appointed by members at the annual general meeting. All candidates for a board position must find members to act as a proposer and seconder and then declare their intention to stand for the board 14 days before the annual general meeting. Between annual general meetings, the board may appoint a director either:
- to fill a vacancy; or
  - as an additional director.
- 17.5 Directors appointed by the board must stand down at the end of the next annual general meeting. The members may reappoint them, at that annual general meeting.
- 17.6 The society will hold a special general meeting within six months after the society is formed. The directors appointed by the subscribers to these rules (see rule 17.1) must stand down at the end of that special general meeting. The members may reappoint them, at that special general meeting. (This rule does not apply to the society where the society is adopting these rules in substitution for an earlier set of rules).
- 17.7 The members may increase the minimum number of directors (by changing rule 17.3, but any such increase would only take effect once an appropriate rule amendment had been registered by the Financial Services Authority).
- 17.8 Directors have to be members of the society and must demonstrate that they have been actively involved in achieving the stated goals of the B4RN project. Directors must be individuals.

- 17.9 A director, chief executive or secretary cannot be appointed if they are (and must stand down if they become):
- bankrupt; or
  - convicted of an offence of dishonesty; or
  - convicted of another offence (which, in the board's opinion, makes them unsuitable to hold office); or
  - disqualified from acting as a director (under the Company Directors Disqualification Act 1986); or
  - unable to conduct regulated activities on behalf of another organisation because the Financial Services Authority (FSA) withdraws their approval (under the Financial Services and Markets Act 2000 (FSMA)); or
  - unable to conduct regulated activities because the FSA makes a prohibition order against them (under FSMA); or
  - (in the board's opinion) physically or mentally unable to carry out their duties properly.
- 17.10 Directors must stand down if:
- without good reason and without the board's permission they fail to attend three board meetings in a row;
  - the board resolves that they should be removed.
- 17.11 The society can pay its directors, but only if the members approve the basis for the payments.
- 17.12 The responsibilities and functions of the board include those of a "committee of management", as described in the FSA Handbook, and the "society's committee" as described in the Industrial and Provident Societies Act 1965.

## 18 Retirement by rotation

- 18.1 At least one third of the directors appointed by the members must stand down (as well as any directors who must stand down under rule 17.5), at each annual general meeting. The members may reappoint them, at that annual general meeting. If any director is not reappointed, they will stand down at the end of the annual general meeting.
- 18.2 The directors who stand down, at an annual general meeting, will be those directors who have held office for the longest time (since their appointment, or last reappointment). The chair may decide, by drawing lots, who is to be treated as in office for the longest time, if more than one director was appointed or reappointed on the same day.

## 19 The secretary

- 19.1 The board appoints the secretary. The secretary may be a director.
- 19.2 The board may remove the secretary.
- 19.3 The secretary is responsible for preparing and sending all returns to be made to the Financial Services Authority.

## 20 Co-opted committee members

- 20.1 The board may co-opt committee members.
- 20.2 The committee members co-opted by the board:
- need not be members of the society (but the board may require that they be members of the society);
  - may attend board meetings (unless the board decide that they may not);
  - may speak at board meetings (unless the board decide that they may not);
  
  - may not vote at board meetings;
  - must stand down at the next annual general meeting (but the board may reappoint them).

## **21 Board meetings**

- 21.1 Two directors are a quorum for board meetings (unless the directors decide on a higher number).
- 21.2 Any director may request the secretary to call a board meeting.
- 21.3 The secretary must call a board meeting on request from a director.

## **22 Decisions of the board**

- 22.1 The board may make decisions by a majority vote. The chair has a casting vote if votes are equal.
- 22.2 The board may appoint any director to chair board meetings generally, or to chair a particular board meeting.
- 22.3 The board may make any decision by signing a written resolution, rather than at a board meeting. All directors must sign the resolution for it to be effective.
- 22.4 This rule 22.4 applies to rules 22.3. The directors need sign only a copy of the text of the resolution. They do not each have to sign the same piece of paper.

## **23 Directors' interests**

- 23.1 Directors must disclose – to the full board – any material interest they may have in any matter being considered by the board. The director may not then:
- be treated as part of the quorum of the meeting discussing that matter; or
  - vote on that matter.
- 23.2 Directors may disclose their interest by a general notice giving details of their interest in transactions of a particular nature, or with a particular person.
- 23.3 For the purposes of rule 23.1, a director need not disclose an interest:
- that does not conflict with the interests of the society; or
  - that arises out of the director's membership (or proposed membership) of the society; or
  - which – for good reasons – the director does not know about.

- 23.4 For the purposes of rule 23.1, a director must disclose an interest:
- even if it is an indirect interest; or
  - of a person 'connected' with him (see rule 37.2).
- 23.5 Before any meeting of the board, the chair may decide whether a director (other than himself) has a material interest in the matter to be discussed. The chair's ruling is final.
- 23.6 A director who complies with rule 23.1 will not be treated as in breach of any duty of good faith to the society, to the extent that they have made a fair disclosure of their interest.

## 24 Indemnity for directors

- 24.1 The society may maintain insurance for the benefit of its directors, secretary, auditors and other officers, against liabilities they may incur:
- in the performance of their duties; or
  - in defending themselves (successfully) against any proceedings (criminal or civil) for breach of duty.
- 24.2 The society will indemnify its directors, secretary, auditors and other officers against:
- any liability they may incur in the performance of their duties; and
  - in defending themselves (successfully) against any proceedings (criminal or civil) for breach of duty.

## 25 Audit and accounts

- 25.1 Every year and within the period prescribed by statute, the secretary shall send to the Financial Services Authority the annual return, in the form prescribed by the Authority, relating to its affairs for the period required under the Industrial and Provident Societies Act 1965 to be included in the return together with:
- 25.1.1 a copy of the report by the auditor on the society's accounts for the period included in the return or with a copy of such other report (if any) as is required by statute for such period; and
- 25.1.2 a copy of each balance sheet made during that period and of the report (if any) of the auditor or other appropriate person on that balance sheet as required by statute.
- 25.2 The members shall vote annually, as allowed by the Deregulation (Industrial and Provident Societies) Order 1996, at the Annual General Meeting, to have, when necessary in law, or where the membership require, an audit carried out by a registered auditor, or unaudited accounts, where the conditions for such prevail.
- 25.3 If a full audit or a report is required, a person who is a qualified auditor under section 7 of the Friendly and Industrial and Provident Societies Act 1968 shall be appointed.
- 25.4 The qualified or lay auditors, if so appointed, shall not be officers or servants of the society and nor shall they be partners of, or in the employment of, or employ, an officer or servant of the society.
- 25.5 Lay auditors shall be chosen by the board from the general membership and/or others.
- 25.6 If the membership vote for unaudited accounts, the society's Income/Expenditure Ledger shall be scrutinised by the secretary and board members only and signed, as a

true record, by the secretary and two board members or such other number as may be required by legislation. An Income/Expenditure report will be prepared to present to the society's members at each Annual General Meeting.

- 25.7 The directors must appoint an auditor within three months after the society is formed.
- 25.8 The directors may appoint an auditor if, for any reason, there is no auditor.
- 25.9 The auditor may not be a person whom s8 of the Friendly and Industrial and Provident Societies Act 1968 prevents from being appointed as an auditor.
- 25.10 The auditor may be removed by the procedure in s6 of the Friendly and Industrial and Provident Societies Act 1968.

## 26 The seal of the society

- 26.1 If the society has a seal with the society's name on it then:
  - 26.1.1 The secretary of the society keeps the seal.
  - 26.1.2 The society needs the authority of a board resolution to use the seal.
  - 26.1.3 When the society seals a document, the seal must be countersigned by either:
    - a director and the secretary of the society; or
    - two directors of the society.

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## D Meetings of members

### 27 The annual general meeting

- 27.1 The society will hold an annual general meeting of its members in each calendar year. The society will hold each annual general meeting 12 months after the previous one, but this need not be on the anniversary of the previous meeting but must be held within three months before or after that anniversary. The directors will call the annual general meeting.
- 27.2 The society will hold its first annual general meeting within 15 months after the society is formed (but it need not be in the calendar year in which the society is formed). (This rule does not apply to the society where the society is adopting these rules in substitution for an earlier set of rules).
- 27.3 The society will give members (and its auditors) at least 21 clear days' notice of the annual general meeting.
- 27.4 The business for the annual general meeting is:
  - approval of the minutes of the last annual general meeting (and any more recent special general meeting);
  - the directors' report;
  - approval of the accounts and auditor's report;
  - appointment of auditors;
  - election of directors;
  - any other business.

### 28 Special general meetings

- 28.1 A special general meeting is any general meeting of members, which is not an annual general meeting.
- 28.2 The directors may decide to call a special general meeting.
- 28.3 The society will give members (and its auditors) at least 21 clear days' notice in writing of a special general meeting. The only business the society can do at that meeting is that which is identified in the notice.
- 28.4 The directors must call a special general meeting:
- if the greater of five of the society's members or 10% of the society's membership sign written requests for a special general meeting;
  - to be held within six weeks after they receive the requests.

## 29 Procedure at general meetings

- 29.1 The quorum for a general meeting is:
- two members; or
  - (if the society has more than 20 members) 10% of the society's members up to a maximum of 50 members.
- 29.2 If there is no quorum when the meeting is due to start, the chair will wait for 30 minutes.
- 29.3 If there is no quorum after the chair has waited for 30 minutes, the chair must adjourn the meeting. The chair must also adjourn the meeting if the number of members present becomes fewer than the quorum. The directors will decide where and when the society will hold the adjourned meeting.
- 29.4 The chair may adjourn a meeting when a quorum is present. But the meeting must agree to the adjournment. The chair must adjourn the meeting if the members call for an adjournment.
- 29.5 If a meeting is adjourned for more than 14 days, the society will give members at least 7 clear days' notice of the adjourned meeting.
- 29.6 The chair of the board, if present, will chair the general meeting. Otherwise, the directors at the meeting will choose a director present to chair that meeting. If only one director is at the meeting, they will chair it. If there is no director at the meeting, the members must choose a member present at the meeting to chair it.
- 29.7 Any director may attend and speak at general meetings.
- 29.8 Members may appoint a proxy to represent them at any general meeting. The society will send the member a suitable form with the formal notice of the meeting. The proxy may vote in the member's place on the member's instructions.

## 30 Voting at general meetings

- 30.1 All members have one vote regardless of how many shares they hold.
- 30.2 All votes will be on a show of hands unless:
- two members; or
  - the chair

call for a ballot. They may call for a ballot before a vote on a show of hands, or after the vote. If members call for a ballot, they can – if the chair agrees – withdraw the call before the ballot is held. If no ballot is held, the decision on the show of hands is valid.

- 30.3 The chair will decide the procedure for the ballot.
- 30.4 The chair has a casting vote if votes are equal. The chair may also vote as a member (if they are a member).
- 30.5 The directors may decide to call a postal ballot. They cannot use a postal ballot to let members vote:
- 30.5.1 on anything that – by statute – must be passed at a meeting of the society; or
  - 30.5.2 to appoint or reappoint auditors; or
  - 30.5.3 to remove auditors.
- 30.6 The chair will decide the procedure for the postal ballot, but the ballot must be held within 30 days of the date on which the directors decide to call it.
- 30.7 If the postal ballot is on a particular resolution passed by members at a meeting, the directors have 30 days from the date of the meeting to decide whether to call a postal ballot. If the directors fail to decide to call a postal ballot within those 30 days, they lose the right to call a postal ballot.
- 30.8 If the postal ballot is on a particular resolution passed by members at a meeting, the operation of the resolution is suspended until the decision of the postal ballot.

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## **E The constitution of the society**

### **31 Changes to the rules**

- 31.1 The society may change its rules:
- with the approval of a resolution passed by a 75% majority (or a simple majority, to change the society's name) of members voting at a general meeting; and
  - subject to registration of the amendments by the Financial Services Authority.
- 31.2 The chair has no casting vote on resolutions that need a 75% majority.
- 31.3 A resolution to alter or amend rule 2 (the society's objects), rule 15 (interest on shares), rule 14 (conversion of the society), rule 32 (winding up) and this rule shall not be passed if 10% or more of members present or represented at a general meeting and who vote on the resolution vote against it.

### **32 Winding up the society**

- 32.1 The society may be wound up in accordance with the provisions of s55 of the Industrial and Provident Societies Act 1965.
- 32.2 If the society is wound up, members may not withdraw any of their shares until all the society's liabilities are paid (or provided for) in full.
- 32.3 If the society is wound up, the society will use the funds available (after all liabilities are paid - or provided for - in full) to pay to members any money due to them on the withdrawal of their shares.

- 32.4 Supposing the society is wound up with insufficient funds to pay, in full, all money due to all shareholders (for the withdrawal of their shares). The society will then pay members a dividend of less than 100 pence for every pound due to them (for the withdrawal of all their shares). The society will pay the same rate of dividend to all shareholders. (Where there are “special purpose” shareholders in addition to “general purpose” shareholders, under rules 16.5 and 16.6 the dividend for “special purpose” shareholders will be calculated separately and will be the same for all “special purpose” shareholders).
- 32.5 There may be a surplus if the society is wound up with enough funds to pay, in full, all money due to members, for the withdrawal of all their shares. Then:
- 32.5.1 members will not, under any circumstances, have any right to any payment out of the surplus.
- 32.5.2 the society will pay the surplus to another organisation with similar purposes to the society’s (and whose members will have no right to any surplus on its winding up or conversion), or to a charity. The directors will choose the organisation or charity.

## 32A Restriction on use

- 32A.1 Pursuant to regulations made under section 1 of the Co-operatives and Community Benefit Societies Act 2003:
- 32A.1.1 all of the society's assets are subject to a restriction on their use.
- 32A.1.2 the society must not use or deal with its assets except—
- 32A.1.2.1 where the use or dealing is, directly or indirectly, for a purpose that is for the benefit of the community;
- 32A.1.2.2 to pay a member of the society the value of his withdrawable share capital or interest on such capital;
- 32A.1.2.3 to make a payment pursuant to section 24 (proceedings on death of nominator), 25 (provision for intestacy) or 26 (payments in respect of mentally incapable persons) of the Industrial and Provident Societies Act 1965;
- 32A.1.2.4 to make a payment in accordance with the rules of the society to trustees of the property of bankrupt members or, in Scotland, members whose estate has been sequestrated;
- 32A.1.2.5 where the society is to be dissolved or wound up, to pay its creditors; or
- 32A.1.2.6 to transfer its assets to one or more of the following:
- 32A.1.2.6.1 a prescribed community benefit society whose assets have been made subject to a restriction on use and which will apply that restriction to any assets so transferred;
- 32A.1.2.6.2 a community interest company;
- 32A.1.2.6.3 a registered social landlord which has a restriction on the use of its assets which is equivalent to a restriction on use and which will

apply that restriction to any assets so transferred;

32A.1.2.6.4 a charity (including a community benefit society that is a charity); or 32A.1.2.6.5 a body, established in Northern Ireland or a State other than the United Kingdom, that is equivalent to any of those persons.

32A.1.3 any expression used in this rule which is defined for the purposes of regulations made under section 1 of the 2003 Act shall have the meaning given by those regulations.

## 33 Powers

33.1 To carry out the society's objects, the society may:

33.1.1 acquire assets and property which, in the directors' opinion, may benefit the society's objects;

33.1.2 set up subsidiary companies, societies and other organisations;

33.1.3 take and hold shares, memberships, stock, debentures and other interests in other companies, societies and other organisations for the society and others;

33.1.4 buy, lease, hire, rent and own any real or personal property (tangible and intangible) of any description which, in the directors' opinion, is appropriate for the needs of the society's objects;

33.1.5 make arrangements with any government or authority (local, municipal, national or international) that, in the directors' opinion, is appropriate for the society's objects;

33.1.6 invest the society's funds in such property and investments as the directors may consider appropriate, and subject to any applicable legal restrictions;

33.1.7 carry on any other activity which, in the directors' opinion, may benefit the society's objects;

33.1.8 act as agent;

33.1.9 act as trustee;

33.1.10 give or procure guarantees and indemnities for the payment of money or for the performance of obligations by any person (even where the society receives no direct or indirect financial benefit);

33.1.11 make or procure grants, gifts, donations and investments of a social nature;

33.1.12 take mortgages, charges, liens and other security to secure obligations of others to the society;

33.1.13 borrow money and accept credit and grant mortgages, charges, liens and other security to secure the society's obligations, but

33.1.13.1 the society may not carry on a deposit taking business (within the meaning of the Banking Act 1987; and

33.1.13.2 where:

- 33.1.13.2.1 the loan is unsecured, and
      - 33.1.13.2.2 the lender is not itself authorised under the Banking Act 1987,
    - 33.1.13.3 the society will not pay a rate of interest that is higher than the society needs to fund its activities; in setting the rate, the directors will take particular account of the society's intention to provide an opportunity for other public-spirited people and organisations to contribute financially to the community, with the expectation of a social dividend, rather than personal financial reward;
  - 33.1.14 provide and procure services such as giving advice in relation to financial and non-financial facilities for people, undertakings and businesses of all kinds.
  - 33.1.15 create, make, draw, accept, endorse, execute, issue, discount, buy, sell, negotiate and deal in bills, notes, bills of lading, warrants, coupons, debentures and other negotiable or transferable instruments;
  - 33.1.16 do such other things that the directors regard as incidental or conducive to the pursuit of the society's objects and the exercise of the society's express and implied powers.
- 33.2 Registration of a society or its rules under the Industrial and Provident Societies Act 1965 does not give any permission for a society to carry on financial services as regulated by the Financial Services and Markets Act 2000 ("FSMA"). Any society which wishes to carry on such activities must seek advice and make an authorisation application to the FSA under Part IV of FSMA. Carrying on such activities without authorisation from the FSA under FSMA may lead to prosecution.
- 33.3 The society's borrowing limit is £10,000,000.
- 33.4 Rules 2 and 33 should be interpreted in the broadest way possible and not to limit or restrict the society's objects. Each object should be read as an independent main object.

## **34 Registered Office**

- 34.1 The society's registered office is the address given – for that purpose – to the Financial Services Authority.
- 34.2 The society's directors may change the address of the registered office. Any change to the address of the registered office must be registered by the Financial Services Authority.

## **35 The Euro**

- 35.1 This rule 35 applies if a currency, other than sterling, becomes legal currency in England and Wales. In this rule 35, that currency is called the Euro.
- 35.2 The directors may make regulations to allow the society to issue shares denominated in the Euro (and convert shares then in issue into shares denominated in the Euro). Those regulations may:

- 35.2.1 allow the issue of shares, with rights similar to shares then in issue, with such value as the board thinks appropriate;
- 35.2.2 deal with the conversion of shares then in issue into their Euro denominated equivalents;
- 35.2.3 deal with the conversion of Euro denominated shares into shares equivalent to those then in issue.

## **36 Notices**

### **36.1 Notices by post**

- 36.1.1 The society may post formal notices to members at the address recorded in the society's register of members.
- 36.1.2. The society may assume – for all purposes – that members receive formal notices two working days after the society posts them.

### **36.2 Notices by email**

- 36.2.1 The society may send formal notices to members by email, but only if:
  - 36.2.1.1 the society has a current consent, from that member, to receive notices by email: and
  - 36.2.1.2 that member has provided an email address for the purpose.
- 36.2.2 The society may assume - for all purposes - that members receive formal notices one working day after the society posts them, but only if:
  - 36.2.2.1 the society keeps a copy of the email which shows:
    - 36.2.2.1.1 all documents attached to the email; and
    - 36.2.2.1.2 the time and date the society sent the email; and
    - 36.2.2.1.3 the email address to which the email was sent; and
  - 36.2.2.2 the society does not receive a response to suggest that the member's email address was no longer current.

### **36.3 Notices on websites**

- 36.3.1 The society may send formal notices to members by posting them on a website, but only if:
  - 36.3.1.1 the society has a current consent from that member to receive notices by posting them on a website; and
  - 36.3.1.2 the society sends that member a notice to tell them:
    - 36.3.1.2.1 that the document is available on the website; and
    - 36.3.1.2.2 the address of the website; and
    - 36.3.1.2.3 any password they may need to view the document or download it; and
    - 36.3.1.2.4 they may request a paper copy of the document - at no extra charge - with details how to do that; and
  - 36.3.1.3 the society keeps the document available on the website for three months or longer (from any date the society sends the notice).
- 36.3.2 The society may assume - for all purposes - that members receive formal documents:

- 36.3.2.1 one working day after they receive the notice about how to view or download them on the website; or, if later
- 36.3.2.2 one working day after the society first posts the document on the website.

## 36.4 Definitions

- 36.4.1 'Formal notices' and 'notices' are phrases used interchangeably in this rule 36 to refer to all documents and notices a society may send to its members where there is a legal or regulatory requirement to do so.
- 36.4.2 This rule 36 does not allow the society to deliver a document by post, email or website where the law requires the delivery to be by other means.
- 36.4.3 In this rule 36, Saturday, Sunday and public holidays are not working days.
- 36.4.4 The references to emails and websites are intended to include other electronic communication methods adopted after the society adopts these rules.

## 37 What words mean – definitions

- 37.1 In rules 14.2 and 14.3, the word 'contract' includes a declaration of trust and a deed.
- 37.2 In rule 23.4, the word 'connected' is used in the same sense in which it is used in s346 Companies Act 1985.
- 37.3 In rule 24.2, the phrase 'breach of duty' includes (for example), negligence, default, breach of trust or misfeasance.
- 37.4 In rule 32.2, the expression 'if the society is wound up' is used to mean 'from the commencement of the winding up'. The phrase 'commencement of the winding up' is used in the same sense as it is used in the Insolvency Act 1986.
- 37.5 In rules 15.8.2, the word 'officers' includes the society's directors and secretary.
- 37.6 The age restrictions in rule 12 apply to members only if they are individuals.
- 37.7 In rule 14.3, the appointment of the society's secretary as the members' attorney is an appointment of the person from time to time holding that office.
- 37.8 References to (any provision of) an Act of Parliament are treated as referring to:
  - 37.8.1 it as amended (whether before today or later) and
  - 37.8.2 any provision which replaces it (unchanged or amended) after today.
- 37.9 Where these rules make reference to the Financial Services Authority, FSA, they include reference to the statutory successor carrying on the relevant function.

## Rule changes history

- 13<sup>th</sup> January 2016 change to rule 17.8 (directors)
- 10<sup>th</sup> October 2017 change to rule 2.1.1 (society's aims - geographic area)
- 10<sup>th</sup> October 2017 change to rule 29.1 (quorum)