

Rules of

# Somerset Local Food Limited

Registered under the Co-operative and Community Benefit Societies Act 2014

Registered Address                      Unit 1 Thomas Way Glastonbury BA6 9LU

Register number                         R29356



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## **Reinvestment Rules – Enterprise Investment Model 2015**

## Rules of Somerset Local Food Limited

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# Rules of Somerset Local Food 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 Somerset Local Food Limited.
- 1.2 The society's registered number is 29356
- 1.3 The society's registered office is Unit 1, Thomas Way, Glastonbury BA6 9LU

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

- 2.1 The society aims to:
  - 2.1.1 Maintain or improve the physical, social and economic infrastructure within Somerset and the immediately surrounding area
  - 2.1.2 Advance education (particularly concerning asset based community development and enterprises with a community or environmental focus);
  - 2.1.3 Promote and protect the local environment;
- 2.2 Examples of the ways in which the society may carry out its objects may include:
  - 2.2.1 Creating training and employment opportunities;
  - 2.2.2 The provision of workspace, buildings or land to carry on these objects;
  - 2.2.3 The operation of one or more local amenities;
- 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 Conduct Authority, change the society's objects. See rule 32.

## **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).

### **4 What is the minimum shareholding?**

- 4.1 Members of the society must have a minimum shareholding of 10.
- 4.2 Members that withdraw all of 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. But that limit does not apply if the member is a registered mutual 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 society's board of directors 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 board of directors may 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 into 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 the board of directors passing a 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 90 days' notice. 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 7.3.1 or if later 7.3.2 has occurred, and NOT BEFORE, the society may waive that notice period, or accept a shorter notice period. That will be at the sole discretion of the society's board of 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 after receiving notice of withdrawal.

7.6 When members apply to withdraw shares, they will need to

- ◇ complete a withdrawal form (as set by the board of directors);
- ◇ comply with any procedures the board of 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 registered mutual societies) or
- ◆ three (if any member is not a registered mutual 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 of 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 board of directors 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 board of directors may allow the society to replace a lost or destroyed share certificate.

8.2 The board of 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.

12.1 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 member's 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 of directors 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 of directors 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 Co-operative and Community Benefit Societies Act 2014; 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 Co-operative and Community Benefit Societies Act 2014.
- 13.10 In all other cases when rule 13.8 applies, the board of directors 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 of directors 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 Part 9 of the Co-operative and Community Benefit Societies Act 2014.

- 14.2 Members are not to benefit financially if the society converts, or transfers its business or is wound up (see rule 33.5). 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 board of directors require, by which members give up any personal financial benefit from conversion, or transfer, or winding up.

## **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 board of directors 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 board of 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 board of 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 return, 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 board of 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 board of 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 educational purposes; and

15.6.2 charitable purposes.

- 15.7 The board of directors may propose payments authorised by rule 15.6. But, before the society can make the payment:

15.7.1 the board of 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 If the board of directors believe that the society's liabilities (plus issued share capital) may be more than the value of the society's assets they 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 If the accountants appointed under rule 16.2 report to the board of directors that the society's liabilities (plus issued share capital) are more than the value of the society's assets the board of 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 If the board of directors resolve to apportion the society's excess liabilities in accordance with rule 16.3 they 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).

## **17 Nominee shareholdings**

17.1 The board of directors may approve a person as an Approved Nominee. The board of directors may impose conditions when it approves an Approved Nominee, and may later vary them and add new conditions. For example, the board of directors may wish to ensure that:

17.1.1 the Approved Nominee is a fit and proper person to represent members of the society; and

- 17.1.2 the Approved Nominee is operating effective identification and money-laundering procedures at least equivalent to those operated by the society; and
- 17.1.3 the Approved Nominee will, on request, give full identification information about any member it represents; and
- 17.1.4 the Approved Nominee gives prospective members a reasonable and fair description of the risks associated with holding withdrawable shares in this society.
- 17.2 The board of directors may not approve more than five Approved Nominees at any time.
- 17.3 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.
- 17.4 When the board of directors 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.
- 17.5 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.
- 17.6 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).
- 17.7 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).
- 17.8 For the purposes of rules 28 and 29, 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).
- 17.9 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.
- 17.10 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.
- 17.11 An Approved Nominee must give this information to the society on each occasion that it casts any of its block of votes:

- 17.11.1 the total number of votes in its block.
  - 17.11.2 the number of votes it is casting for the motion.
  - 17.11.3 the number of votes it is casting against the motion.
  - 17.11.4 the number of abstentions from its block (all members whom it represents, but who are not voting for or against the motion).
  - 17.11.5 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).
- 17.12 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:
- 17.12.1 That Approved Nominee's net vote on that motion.
  - 17.12.2 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.
- 17.13 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).

## **C Management of the society**

### **18 The directors**

- 18.1 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).
- 18.2 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).
- 18.3 The society has a minimum of 3 directors (see also rule 18.7). If the number falls below this minimum the remaining director/s may appoint directors.

- 18.4 The directors on the society's board are appointed by members at the annual general meeting. All candidates for a director's 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 of directors may appoint a director either:
- 18.4.1 to fill a vacancy; or
  - 18.4.2 as an additional director.
- 18.5 Directors appointed by the board of directors must stand down at the end of the next annual general meeting. The members may reappoint them, at that annual general meeting.
- 18.6 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 18.1) 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).
- 18.7 The members may increase the minimum number of directors (by changing rule 18.3, but any such increase would only take effect once an appropriate rule amendment had been registered by the Financial Conduct Authority).
- 18.8 Directors do not have to be members of the society. Directors may be members of the society. Directors must be individuals
- 18.9 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 of directors' 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 Prudential Regulation Authority (PRA) withdraws their approval (under the Financial Services and Markets Act 2000 (FSMA)); or
  - ◇ unable to conduct regulated activities because the PRA makes a prohibition order against them (under FSMA); or
  - ◇ (in the board of directors' opinion) physically or mentally unable to carry out their duties properly.
- 18.10 Directors must stand down if:
- 18.10.1 without good reason and without the board of directors' permission they fail to attend three board meetings in a row;

18.10.2 the board of directors resolves that they should be removed.

18.11 The society can pay its directors, but only if the members approve the basis for the payments.

18.12 The society will take reasonable steps to verify the identification of directors. The society will retain a copy of all documents seen to verify the identity of a director.

## **19 Retirement by rotation**

19.1 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 18.5), 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.

19.2 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.

## **20 The secretary**

20.1 The board of directors appoints the secretary. The secretary may be a director.

20.2 The board of directors may remove the secretary.

20.3 The secretary is responsible for preparing and sending all returns to be made to the Financial Conduct Authority.

## **21 Co-opted board members**

21.1 The board of directors may co-opt board members.

21.2 Co-opted board members:

- ◇ need not be members of the society (but the board of directors may require that they be members of the society);
- ◇ may attend board meetings (unless the board of directors decide that they may not);
- ◇ may speak at board meetings (unless the board of directors decide that they may not);
- ◇ may not vote at board meetings;
- ◇ must stand down at the next annual general meeting (but the board of directors may reappoint them).

## **22 Board meetings**

22.1 Two directors are a quorum for board meetings (unless the board of directors decide on a higher number).

22.2 Any director may request the secretary to call a board meeting.

22.3 The secretary must call a board meeting on request from a director.



## **23 Decisions of the board of directors**

- 23.1 The board of directors may make decisions by a majority vote. The chair has a casting vote if votes are equal.
- 23.2 The board of directors may appoint any director to chair board meetings generally, or to chair a particular board meeting.
- 23.3 The board of directors 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.
- 23.4 This rule 23.4 applies to rules 23.3. 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.

## **24 Directors' interests**

- 24.1 Directors must disclose – to the full board – any material interest they may have in any matter being considered by the board of directors. The director may not then:
  - 24.1.1 be treated as part of the quorum of the meeting discussing that matter; or
  - 24.1.2 vote on that matter.
- 24.2 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.
- 24.3 For the purposes of rule 24.1, a director need not disclose an interest:
  - 24.3.1 that does not conflict with the interests of the society; or
  - 24.3.2 that arises out of the director's membership (or proposed membership) of the society; or
  - 24.3.3 which – for good reasons – the director does not know about.
- 24.4 For the purposes of rule 24.1, a director must disclose an interest:
  - 24.4.1 even if it is an indirect interest; or
  - 24.4.2 of a person 'connected' with him (see rule 39.2).
- 24.5 Before any meeting of the board of directors, 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.
- 24.6 A director who complies with rule 24.1 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.

## **25 Indemnity for directors**

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



- 25.2.1 any liability they may incur in the performance of their duties; and
- 25.2.2 in defending themselves (successfully) against any proceedings (criminal or civil) for breach of duty.

## **26 Audit and accounts**

- 26.1 Every year and within the period prescribed by statute, the secretary shall send to the Financial Conduct Authority the annual return, in the form prescribed by the Authority, relating to its affairs for the period required under the Co-operative and Community Benefit Societies Act 2014 to be included in the return together with:
  - 26.1.1 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
  - 26.1.2 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.
- 26.2 The members shall vote annually, as allowed by the Co-operative and Community Benefit Societies Act 2014, at a 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.
- 26.3 If a full audit or a report is required, a person who is a qualified auditor under Part 7 of the Co-operative and Community Benefit Societies Act 2014 shall be appointed.
- 26.4 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.
- 26.5 Lay auditors shall be chosen by the board of directors from the general membership and/or others.
- 26.6 If the membership vote for unaudited accounts, the society's Income/Expenditure Ledger shall be scrutinised by the secretary and directors of the society only and signed, as a true record, by the secretary and two directors of the society 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.
- 26.7 The board of directors may appoint an auditor if, for any reason, there is no auditor.
- 26.8 The auditor may not be a person whom Part 7 of the Co-operative and Community Benefits Act 2014 prevents from being appointed as an auditor.
- 26.9 The auditor may be removed by the procedure in Part 7 of the Co-operative and Community Benefits Act 2014.

## **27 The seal of the society**

- 27.1 If the society has a seal with the society's name on it then...
  - 27.1.1 The secretary of the society keeps the seal.
  - 27.1.2 The society needs the authority of a board of directors' resolution to use the seal.
  - 27.1.3 When the society seals a document, the seal must be countersigned by either:

27.1.3.1 a director and the secretary of the society; or

27.1.3.2 two directors of the society.

## **D Meetings of members**

### **28 The annual general meeting**

28.1 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 board of directors will call the annual general meeting.

28.2 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).

28.3 The society will give members (and its auditors) at least 21 clear days' notice of the annual general meeting. The notice shall include-

- the accounts;
- request for members' resolutions to be received by the society at least 14 days before the AGM;
- application form for prospective board members to be received by the society at least 14 days before the AGM.

28.4 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 any auditor's report;
- ◇ vote on audit exemption or auditor appointment;
- ◇ approval of any alterations or additions to any standing orders;
- ◇ resolutions tabled by members for the AGM;
- ◇ election of directors;
- ◇ any other business.

### **29 Special general meetings**

29.1 A special general meeting is any general meeting of members, which is not an annual general meeting.

29.2 The board of directors may decide to call a special general meeting.

- 29.3 The society will give members (and its auditors) at least 21 clear days' notice of a special general meeting. The only business the society can do at that meeting is that which is identified in the notice.
- 29.4 The board of 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.

### **30 Procedure at general meetings**

30.1 The quorum for a general meeting is:

30.1.1 two members; or

30.1.2 (if the society has more than 20 members) 10% of the society's members.

- 30.2 If there is no quorum when the meeting is due to start, the chair will wait for 30 minutes.
- 30.3 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 board of directors will decide where and when the society will hold the adjourned meeting.
- 30.4 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.
- 30.5 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.
- 30.6 The chair of the board of directors, 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.
- 30.7 Any director may attend and speak at general meetings.
- 30.8 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. Proxies count towards quoracy.

### **31 Voting at general meetings**

31.1 All members have one vote regardless of how many shares they hold.

31.2 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.

- 31.3 The chair will decide the procedure for the ballot.
- 31.4 The chair may vote as a member (if they are a member). The chair also has a casting vote if votes are equal.
- 31.5 The board of directors may decide to call a postal ballot. They cannot use a postal ballot to let members vote:
  - 31.5.1 on anything that – by statute – must be passed at a meeting of the Society; or
  - 31.5.2 to appoint or reappoint auditors; or
  - 31.5.3 to remove auditors.
- 31.6 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 board of directors decide to call it.
- 31.7 If the postal ballot is on a particular resolution passed by members at a meeting, the board of directors have 30 days from the date of the meeting to decide whether to call a postal ballot. If the board of directors fail to decide to call a postal ballot within those 30 days, they lose the right to call a postal ballot.
- 31.8 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.

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

### **32 Changes to the rules**

- 32.1 The society may change its rules:
  - 32.1.1 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
  - 32.1.2 subject to registration of the amendments by the Financial Conduct Authority.
- 32.2 The chair has no casting vote on resolutions that need a 75% majority.
- 32.3 A resolution to alter or amend rule 2 (the society's objects), rule 15 (interest on shares), rule 14 (conversion of the society), rule 33 (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.

### **33 Winding up the society**

- 33.1 The society may be wound up in accordance with the provisions of the Co-operative and Community Benefit Societies Act 2014. It may enter into administration or a voluntary arrangement with creditors if the Directors deem it to be more appropriate.
- 33.2 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.

- 33.3 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.
- 33.4 If 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 less than 100 pence for every pound due to them (for the withdrawal of all of their shares). The society will apply the same discount to all shares in a class. (Where there are “special purpose” shares in addition to “general purpose” shares, under rules 16.5 and 16.6, the reduction in value for “special purpose” shares will be calculated separately and will be the same for all shares in that class).
- 33.5 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:
- 33.5.1 members will not, under any circumstances, have any right to any payment out of the surplus.
- 33.5.2 the board of directors will choose an organisation with similar purposes to the society’s to receive the surplus (and whose members have no right to any surplus on its winding up or conversion) having taken advice from the appropriate regulator such as HMRC or the Charity Commission, if required.

## **34 Restriction on use**

34.1 Pursuant to regulations made under section 1 of the Co-operatives and Community Benefit Societies Act 2003:

34.1.1 All of the society's assets are subject to a restriction on their use.

34.1.2 The society must not use or deal with its assets except—

- 34.1.2.1 where the use or dealing is, directly or indirectly, for a purpose that is for the benefit of the community;
- 34.1.2.2 to pay a member of the society the value of his withdrawable share capital or interest on such capital;
- 34.1.2.3 to make a payment pursuant to Section 39 (Section 37: procedure on death), or Section 36 (Payments in respect of persons lacking capacity) of the Cooperative and Community Benefit Societies Act 2014;
- 34.1.2.4 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;
- 34.1.2.5 where the society is to be dissolved or wound up, to pay its creditors; or
- 34.1.2.6 to transfer its assets to one or more of the following—
- 34.1.2.6.1 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;
- 34.1.2.6.2 a community interest company

- 34.1.2.6.3 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;
- 34.1.2.6.4 a charity (including a community benefit society that is a charity); or
- 34.1.2.6.5 a body, established in Northern Ireland or a State other than the United Kingdom, that is equivalent to any of those persons.

34.1.3 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.

## **35 Powers**

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

- 35.1.1 acquire and dispose of assets and property which, in the board of directors' opinion, may benefit the society's objects;
- 35.1.2 set up subsidiary companies, societies and other organisations;
- 35.1.3 take and hold shares, memberships, stock, debentures and other interests in other companies, societies and other organisations for the society and others;
- 35.1.4 buy, lease, hire, rent and own any real or personal property (tangible and intangible) of any description which, in the board of directors' opinion, is appropriate for the needs of the society's objects;
- 35.1.5 make arrangements with any government or authority (local, municipal, national or international) that, in the board of directors' opinion, is appropriate for the society's objects;
- 35.1.6 invest the society's funds in such property and investments as the board of directors may consider appropriate, and subject to any applicable legal restrictions;
- 35.1.7 carry on any other activity which, in the board of directors' opinion, may benefit the society's objects;
- 35.1.8 act as agent;
- 35.1.9 act as trustee;
- 35.1.10 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);
- 35.1.11 make or procure grants, gifts, donations and investments of a social nature;
- 35.1.12 take mortgages, charges, liens and other security to secure obligations of others to the society;
- 35.1.13 borrow money and accept credit and grant mortgages, charges, liens and other security to secure the society's obligations, but

- 35.1.13.1 the society may not carry on a deposit taking business (within the meaning of the Banking Act 1987; and
- 35.1.13.2 where:
  - 35.1.13.2.1 the loan is unsecured, and
  - 35.1.13.2.2 the lender is not itself authorised under the Banking Act 1987,
- 35.1.13.3 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 board of 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 return, rather than personal financial reward;
- 35.1.14 provide and procure services such as giving advice in relation to financial and non-financial facilities for people, undertakings and businesses of all kinds;
- 35.1.15 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;
- 35.1.16 do such other things that the board of 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.
- 35.2 Registration of a society 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 a successful authorisation application. Carrying on such activities without authorisation may lead to prosecution.
- 35.3 The society's borrowing limit is £10,000,000.
- 35.4 Rules 2 and 35 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.
- 36 Registered Office**
- 36.1 The society's registered office is the address given – for that purpose – to the Financial Conduct Authority.
- 36.2 The board of directors may change the address of the registered office. Any change to the address of the registered office must be registered by the Financial Conduct Authority.
- 37 The Euro**
- 37.1 This rule 37 applies if a currency, other than sterling, becomes legal currency in England and Wales. In this rule 37, that currency is called the Euro.
- 37.2 The board of 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:

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

## **38 Notices**

### **38.1 Notices by post**

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

### **38.2 Notices by email**

- 38.2.1 The society may send formal notices to members by email, but only if:
  - 38.2.1.1 the society has a current consent, from that member, to receive notices by email: and
  - 38.2.1.2 that member has provided an email address for the purpose.
- 38.2.2 The society may assume- for all purposes- that members receive formal notices one working day after the society posts them, but only if:
  - 38.2.2.1 the society keeps a copy of the email which shows:
    - 38.2.2.1.1 all documents attached to the email; and
    - 38.2.2.1.2 the time and date the society sent the email; and
    - 38.2.2.1.3 the email address to which the email was sent; and
  - 38.2.2.2 the society does not receive a response to suggest that the member's email address was no longer current.

### **38.3 Notices on websites**

- 38.3.1 The society may send formal notices to members by posting them on a website, but only if:
  - 38.3.1.1 the society has a current consent from that member to receive notices by posting them on a website; and
  - 38.3.1.2 the society sends that member a notice to tell them:
    - 38.3.1.2.1 that the document is available on the website; and
    - 38.3.1.2.2 the address of the website; and
    - 38.3.1.2.3 any password they may need to view the document or download it; and



38.3.1.2.4 they may request a paper copy of the document - at no extra charge - with details how to do that; and

38.3.1.3 the society keeps the document available on the website for three months or longer (from any date the society sends the notice).

38.3.2 The society may assume - for all purposes - that members receive formal documents:

38.3.2.1 one working day after they receive the notice about how to view or download them on the website; or, if later

38.3.2.2 one working day after the society first posts the document on the website.

#### **38.4 Definitions**

38.4.1 'Formal notices' and 'notices' are phrases used interchangeably in this rule 38 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.

38.4.2 This rule 38 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.

38.4.3 In this rule 38, Saturday, Sunday and public holidays are not working days.

38.4.4 The references to emails and websites are intended to include other electronic communication methods adopted after the society adopts these rules.

#### **39 What words mean – definitions**

39.1 In rule 14.2 the word 'contract' includes a declaration of trust and a deed.

39.2 In rule 24.4, the word 'connected' is used in the same sense in which it is used in s346 Companies Act 1985.

39.3 In rules 25.1.2 and 25.2.2, the phrase 'breach of duty' includes (for example), negligence, default, breach of trust or misfeasance.

39.4 In rule 33.2, 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.

39.5 In rules 15.8.2, the word 'officers' includes the society's directors and secretary.

39.6 The age restrictions in rule 12 apply to members only if they are individuals.

39.7 References to (any provision of) an Act of Parliament are treated as referring to:

39.7.1 it as amended (whether before today or later) and

39.7.2 any provision which replaces it (unchanged or amended) after today.

39.8 Any reference these rules make to the Financial Conduct Authority, FCA, includes reference to the statutory successor carrying on the relevant function.

## **40 Disputes**

- 40.1 In the event of an unresolved dispute between the society and a member or a former member of the society, the dispute shall be referred to an independent arbitrator.
- 40.2 The appointment of the independent arbitrator is to be acceptable to both parties to the dispute. The arbitrator's decision shall be binding.
- 40.3 The arbitrator will decide how the costs of the arbitration will be paid.
- 40.4 If the dispute cannot be concluded by reference to an arbitrator, the matter can be referred to the County Court (or in Scotland, to the Sheriff).

To be completed by three founder members and secretary (who may also be one of the three founders), **or** by three members and secretary (who may also be one of the three members) of a society adopting these rules.

We apply on behalf of Somerset Local Food Limited to adopt these rules

<b>Name</b>		<b>Signature:</b>
<b>Address</b>		<hr/> <b>Date:</b>

<b>Name</b>		<b>Signature:</b>
<b>Address</b>		<hr/> <b>Date:</b>

<b>Name</b>		<b>Signature:</b>
<b>Address</b>		<hr/> <b>Date:</b>

<i>for</i> <b>Somerset Local Food Limited</b>	<b>Signature:</b>
<b>Secretary</b> Name	<hr/> <b>Date:</b>