

[Subsidiary]

SUBSIDIARY LEGISLATION

Orders under section 31

L.N. 204/1969.

THE LAND (GROUP REPRESENTATIVES) (PRESCRIBED PROVISIONS) ORDER

1. This Order may be cited as the Land (Group Representatives) (Prescribed Provisions) Order.

2. (1) The constitution of every group in respect of which a certificate of incorporation of the group representatives is issued by the registrar under section 7 of the Act shall—

(a) provide, to the satisfaction of the registrar, for all the matters specified in the First Schedule to this Order, and shall not be amended so that it ceases so to provide;

(b) subject to the power of exemption hereinafter contained be deemed at all times to contain the provisions prescribed in the Second Schedule to this Order.

(2) The registrar may, by writing under his hand, exempt any specified group from all or any of the provisions contained in the Second Schedule subject to such conditions if any, as he may think fit, and may at any time cancel any such exemption or amend any such condition.

3. In so far as the constitution of any group does not exclude or modify the provisions contained in the Third Schedule to this Order, those provisions shall, so far as applicable, be deemed to be provisions contained in the constitution of the group, but may thereafter be excluded or modified by any amendment made in accordance with that constitution.

FIRST SCHEDULE (para. 2)

MATTERS TO BE PROVIDED FOR IN THE CONSTITUTION OF EVERY GROUP

1. The name of the group.

Cap. 284. 2. A description of the area, determined in accordance with the Land Adjudication Act, being the land in or over which the group has, under recognized customary law, exercised rights recorded under that Act.

3. The persons who are the original members of the group.

4. The persons to whom membership is open.

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FIRST SCHEDULE—(Contd.)

5. The titles of group representatives, officers and auditors and their terms of office, method of election, appointment, dismissal and suspension.

6. The composition of committees (if any) of the group, the term of office of members of such committees, the method of their election, appointment, dismissal and suspension.

7. The authority for and the method of filling vacancies occurring amongst the officers of the group, and on committees.

8. The frequency of, quorums for, method of calling and dates of the annual general meeting referred to in section 15 of the Act.

9. The custody, and investment of the funds and property of the group, and the designation of the persons responsible.

10. The purposes for which the funds and property of the group may be used.

11. The maintenance and inspection of books of account, the register of members and the record of interests, by any member or officer of the group, and by or on the order of the registrar.

12. The periodic audit of accounts.

13. The manner of making rules of the group.

14. The manner of amending the name, constitution or rules of the group.

15. The manner of the dissolution of the group and the disposal of its property on dissolution.

SECONDSCHEDULE

(para. 2)

PROVISIONS WHICH ARE DEEMED TO BE CONTAINED IN THE
CONSTITUTION OF EVERY GROUP

This constitution relates to the area of the land determined as being in the ownership of the group, or in respect of which that group has an interest, in the adjudication register for the adjudication area district, forwarded to the Chief Land Registrar on the..... day of and therein described in manner following:

All persons who are recorded in the said adjudication register as having an interest in the group land shall be entitled to become members of the group.

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SECOND SCHEDULE (*Contd.*)

If he is not recorded in the said adjudication register as a member of the group, no person shall be admitted to membership of the group unless—

- (a) that person has inherited an interest from a person who was recorded on that register; or
- (b) (i) the group representatives all agree; and
(ii) the representatives' decision is confirmed at an annual general meeting of the group; or
- (c) a court so orders.

The rights of membership shall extend to all members regardless of how membership was obtained.

Every member shall be deemed to share in the ownership of the group land in undivided shares.

Every member shall be entitled to reside free of charge on the group land together with his family and dependants.

Every member shall be entitled to permit any other person to reside with him on the group land unless a majority of the group representatives decide otherwise in any particular case.

Every member shall be entitled to the use of the land, water rights, machinery, credit facilities, veterinary services, marketing arrangements, transport and other assets in the group ownership subject to such conditions as may from time to time be imposed in accordance with this constitution, which may include the levy of a cess, fees or other charges.

Every member shall be entitled to attend, to speak and to be heard, and to vote at all general meetings of the group.

The obligations of membership shall extend to all members regardless of how membership was obtained.

No disposition of any of the group land, or any interest therein, may be made except with the approval of the Registrar of Group Representatives and of all the group representatives.

With the approval of the Registrar of Group Representatives and of all the group representatives, the group land, or any interest therein, may be charged as security for any loan raised for the purpose of developing the area, but for no other purpose.

Unless the registrar otherwise directs, action to implement any decision which is the subject of an appeal under this constitution, shall be stayed pending the disposal of that appeal.

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The group representatives shall hold the land and other assets of the group on behalf and for the collective benefit of all members of the group.

The group representatives shall inform the members of the group of the activities carried on in the preceding period at each general meeting.

The group representatives shall ensure that the rights of any person under recognized customary law are safeguarded in so far as that is compatible with the operations of the group.

The group representatives elected at the general meeting held in accordance with section 5 of the Land (Group Representatives) Act at which this constitution was adopted shall be the first group representatives of the group.

A group representative shall hold office until—

- (a) he is replaced by a resolution of the group in general meeting;
- (b) he is convicted of a crime involving fraud or dishonesty;
- (c) he becomes incapable of performing the functions of his office, whether arising from illness or any other cause; or
- (d) he retires.

The secretary shall be responsible for the conduct of all correspondence on behalf of the group, for the maintenance of proper records of such correspondence, registers, minutes and of all other documents relating to the group's activities, except for those for which the treasurer is responsible.

The treasurer shall be responsible for the maintenance of proper books of account containing details of all moneys received and payments made by him on behalf of the group, and of records of all the group's assets and liabilities of all kinds, and for the safe custody of all such records and of the group's funds or other valuables.

If—

- (a) the registrar of group representatives;
- (b) a majority of the group representatives;
- (c) one-fifth of the group members;
- (d) any person who considers that the affairs of the group are being conducted in a manner oppressive to some part of the members and who has obtained the written consent of the Registrar of Group Representatives; or
- (e) the District Agricultural Committee,

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so request the chairman (or in his absence the vice-chairman, secretary or the Registrar of Group Representatives) shall convene a general meeting of the group within twenty-one days after the date the request was made.

THIRD SCHEDULE

(para. 3)

PROVISIONS WHICH ARE DEEMED TO BE CONTAINED IN THE CONSTITUTION OF EVERY GROUP, UNLESS SPECIFICALLY EXCLUDED OR MODIFIED

There shall be not more than ten and not less than three group representatives, elected from among the members of the group in general meeting by a majority representing not less than sixty per cent of the votes of all the members present at the meeting.

If at any time there are less than three group representatives those remaining shall call a general meeting for the purpose of holding new elections.

The group representatives shall consult the members of the group in general meeting before disposing of any land held in their names on behalf of the group or any interest in such land.

The group representatives may issue instructions to the committee or to any member in any case in which, in their opinion, such instructions are in the best interests of the group.

The group representatives shall meet whenever required and not less than once in every six months. Unless otherwise required by the Act or these rules the group representatives may establish their own procedure provided that no business shall be transacted at any meeting unless three group representatives are present in person.

The group shall in each year hold a general meeting as its annual general meeting in addition to any other meetings in that year, and shall specify the meeting as such in the notices calling it.

Not more than fifteen months shall elapse between the date of one annual general meeting of the group and the next.

Notice of the dates on which any general meeting of the group is to be held shall be given to all members not less than two weeks in advance.

The chairman of the committee, (or in his absence, the vice-chairman) shall preside at any general meeting of the group subsequent to the meeting

THIRD SCHEDULE—(Contd.)

held in accordance with section 5 of the Land (Group Representatives) Act, at which this constitution was adopted.

The person presiding at a meeting may, whether or not a quorum is present, adjourn the meeting from time to time, and from place to place:

Provided that, if a meeting at which a quorum is not present is adjourned, notice of the adjourned meeting shall be given in the same way as notice of the original meeting.

The quorum for a general meeting of the group shall be not less than sixty per cent of the total number of members of the group.

The accidental omission to give notice of a meeting to, or the non-receipt of a notice by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless not less than sixty per cent of the members present agree to a demand for a ballot.

Unless a ballot be demanded, a declaration by the chairman of the meeting that a resolution has on a show of hands been carried, or lost, and an entry to that effect in the book containing the minutes of the proceedings shall be conclusive evidence of the fact.

In the case of an equality of votes, whether on a show of hands or on a ballot, the chairman of the meeting shall be entitled to a second or casting vote.

No member shall be entitled to vote at any general meeting otherwise than in person unless he is recorded in the register of members as being under disability. A proxy for a member under a disability need not be a member of the group.

Except with the approval of the registrar, nominations for office under the constitution of the group shall be of members only, and may be made and seconded by members only, and no member may nominate or second a nomination of himself.

The committee of the group shall consist of a chairman, vice-chairman, secretary, treasurer, and three other members, of whom not less than two shall be elected from amongst the group representatives.

All the members of the committee shall be elected by open ballot at the group's annual general meeting, or at any subsequent annual general meeting convened for that purpose, and shall hold office until the next annual general meeting.

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THIRD SCHEDULE—(Contd.)

At the end of his period of office any member of the committee shall be eligible for re-election.

In the event of a member of the committee being convicted of a crime involving fraud or dishonesty, or failing to carry out his duties satisfactorily, the committee may suspend such office-holder until the commencement of the general meeting and such person shall then be deemed to have retired.

Any vacancy arising in the membership of the committee whether by reason of the suspension of a member or otherwise may be filled by a nominee appointed by the committee until such time as the office is filled by election at a general meeting.

Where two or more temporary appointments have been made the committee shall convene a general meeting of the group for the filling of those posts by election unless the annual general meeting is due to be held within three months.

The committee shall meet not less frequently than once every three months.

The committee shall have power to co-opt suitable persons for such periods as they think fit but such persons shall not have the right to vote.

The chairman shall bear overall responsibility for the conduct of all business by the committee on behalf of the group.

The vice-chairman shall assist the chairman and shall deputize for him in his absence.

The chairman, secretary and treasurer of the committee may attend all meetings of the group representatives and may speak but may not vote except in their personal capacity as a group representative, should they be so elected.

Every member shall be entitled to pledge his own private property, including stock, as security for any loan. The group, the group representatives and the committee shall not in any circumstances be responsible for anything to do with such a loan.

The committee shall assist and encourage members to manage the land or graze their stock in accordance with sound principles of land use, range management, animal husbandry and commercial practice.

The committee shall be responsible for conducting the affairs of the group with a view to achieving the greatest practicable social and economic benefit for the members.

The committee shall be empowered to raise credit and to hold and use moneys for the benefit of members.

THIRD SCHEDULE—(Contd.)

Every member who has a loan outstanding granted to him through his membership of the group shall inform the committee, through the secretary, of the details of any transaction, including the price paid or received, which affects the stock or assets to which that loan relates.

The committee shall be responsible for preparing a plan for the development of the land and for the implementation of that plan. In the preparation of that plan the committee shall consult the appropriate officers of the Ministry of Agriculture and shall thereafter submit it to the registrar and to the group in general meeting for approval.

Any substantial change from the approved plan shall first be put to the Ministry of Agriculture for advice and shall thereafter be submitted to the group in general meeting.

In collaboration with the officers of the Ministry of Agriculture the committee may establish a procedure for the marketing of stock and produce owned by members of the group. The committee may, with the consent of the member concerned effect the sale or purchase of stock or other assets on behalf of members.

The committee may levy a cess, fees or other charges in respect of the services it performs and for the purposes of the group generally. Except with the consent of the Registrar of Group Representatives the funds accruing from the imposition of a cess shall not be used for any purpose other than the servicing of loan funds unless the revenue received exceeds five times the annual requirements for the servicing of all loans then outstanding.

Every member shall pay any cess, fees or other charges levied against him under this constitution and shall contribute such labour as may be reasonably required.

The committee may issue instructions to members and may make rules for the purpose of the working of the operations of the group.

The committee shall conform to any instructions received from a majority of the group representatives in any matters relating to membership.

Every member shall accept and comply with the decisions of the committee regarding membership of the group and the rights and obligations of any person in matters relating to the use of the group land and other assets.

Any person who is aggrieved by a decision of the committee may, if the group representatives so agree, appeal to the group representatives.

Any person who is aggrieved by a decision of the committee may, if the group representatives will not agree to decide the matter appeal to the Registrar of Group Representatives.

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THIRD SCHEDULE—(Contd.)

Any person who is aggrieved by a decision of the group representatives may appeal to the Registrar of Group Representatives

Any person who is aggrieved by a decision of the committee, of the group representatives, or of the Registrar of Group Representatives may, and if so directed by the registrar shall, apply to a subordinate court having jurisdiction in the area to determine the question.

Any person making an appeal under these rules shall inform the secretary of the nature and grounds of the application.

The committee shall be responsible—

(1) for maintaining—

- (a) a register of all members of the group;
- (b) full and accurate minutes of all general meetings of the group, and of all meetings of the committee, and of the group representatives;
- (c) a full and accurate account of the income and expenditure and of the assets and liabilities of the group; and

(2) for presenting such accounts within three months of the end of the financial year to the registrar for approval.

The provision of this constitution, other than this provision and those which may from time to time be prescribed, may be altered, repealed or added to by a resolution passed by a sixty per cent majority of the members of the group present in person or by proxy at a special general meeting convened for that purpose and of which due notice has been given.

Upon a written application to the registrar signed by a majority of the group representatives pursuant to a resolution passed by a sixty per cent majority of the group present in person or by proxy at a special general meeting convened for that purpose and of which due notice has been given, or upon an order to that effect given under the hand of the registrar, the affairs of the group shall be wound up in such manner as the registrar may approve, or in default of approval in such manner as the High Court may direct, and thereupon the debts and liabilities of the group shall be discharged and the assets of the group remaining thereafter, if any, shall be distributed accordingly and the incorporated group representatives shall stand dissolved.