

HIGHLIGHT OF THE NEW CO-OP LAW

Nº 5764 of 12/16/71

"CHARACTERISTICS OF COOPERATIVES"

- Art. 4: (a) While the one man, one vote principle continues for cooperatives, federations and/or centrals can opt for proportionate representation, either according to the number of members of their affiliates, or to their volume of business with the Federation/Central (these two denominations now being interchangeable);
- (b) rendering of services to members can include to employees of the Co-op, if so provided in the by-laws;
- (c) the sphere of activity of a Co-op is limited only by its ability to render services, and maintain communications and controls.

"CLASSIFICATION OF COOPERATIVES"

Art. 6 Co-ops can exceptionally admit juridical persons which have the same or related economic objectives as its physical member persons, or even non-profit organizations. Centrals and/or Federations can, as before, admit individuals, but such will be inscribed and treated in groups with a view to their forming eventually a cooperative. This does not however apply to Co-ops with Credit activities.

Art. 8 To Centrals and/or Federations can belong, in the common interest of rendering services, cooperatives of various objectives.

Art.10 As Mixed Cooperatives will be considered those with more than one activity , and only such can open and maintain a Credit Section.

AUTHORIZATION OF CO-OPS

Art. 17 & 18 Apart from the usual documentation, there will be required a

feasibility (or viability) study.

BOOKS

Art. 22 Loose Leaf systems are now permitted. The vote can now be delegated, but the delegate can not represent more than 3 members incl. himself. Where

CAPITAL

Art. 24 No member can subscribe more than 1/3 of the total, save in such co-ops where the subscription is directly proportional to the physical or financial volume of his dealings with the Co-ops, or to the cultivated area, or the number of plants or animals.

Art. 47 The Board of Directors can be elected for a period of up to 4 years. Except for accrued interests and/or non-distributed profits no benefits can be distributed to members and no values can be credited to members' capital accounts (thus continuing the practice of indivisible funds, once such funds have been created-see later, including the revaluation fund for updating Fixed Assets).

FUNDS

Art. 28 Obligatory are the 10% Legal Reserve, and a 5% Technical, Educational and Social Assistance Fund. Apart from these, a Co-op can establish others, incl. the rotating type, with specific objectives and techniques for formation, application and liquidation.

MEMBERS

Art. 29 Repeats permission for juridical persons to become members;; and lifts the restriction of "equal or related economic activities" for co-ops of rural electrification, irrigation and telecommunication. Also Art. 53 prohibits admission of merchants or agents who work in the same field as the Co-op. rights to the product and allows the Co-op to use it in any manner concordant with the objectives of the Co-op, except where,

MEETINGS

Art. 42 Where members live more than 50 kms distant from the seat of the Co-ops (or in cases of proven illness), votes can now be delegated, but the delegate can not represent more than 3 members incl. himself. Where the Co-op has more than 1000 but less than 3000 members, this number may be four. In cases of over 3000 members, the by-laws may determine the number of votes which can be delegated.

ADMINISTRATION

Art. 47 The Board of Directors can be elected for a period of up to 4 years, but only 2/3 can be re-elected. In co-ops with credit activities, the elected Directors can not assume their duties until and unless confirmed by the BC.

TRANSACTIONS

Art. 79 For tax purposes, all transactions between the members and their cooperative (or vice versa), and between affiliated cooperatives, are considered cooperative transactions.

Art. 80 The co-ops are permitted to recover variable expenses from those members who worked with the Co-op, in proportion to their volumes, and fixed expenses from all, by allocation according to the number of members inscribed.

Art. 82 The Co-op can register its Warehouse as "General Warehouse" and issue "Warrants", with the personal guarantees of the Board of Directors instead of "bonds".

Art. 83 With the delivery of his products to the Co-op, the member gives up all identity rights to the product and allows the Co-op to use it in any manner concordant with the objectives of the Co-op, except where,

Art. 98 according to custom, or specific producers' interests, the by-laws state otherwise.

Art. 85, 86 and 87 Producers Co-ops can buy from or sell to non-members in order to fill contracts or unused capacity, but such transactions have to be separately accounted for because they are taxable, and any profits from them must be credited to the Technical etc. Assistance Fund.

Art. 88 By and after special authorization can Co-ops participate in non-cooperative enterprises, public or private, in the interest of complementary objectives, but any investments connected with this must be listed specifically, and any profits derived from them, credited to the Technical etc. Assistance Fund.

FISCALIZATION AND CONTROLS

Art. 92 Credit Co-ops or Credit Sections of Mixed Co-ops are under the jurisdiction of the Central Bank; Housing Co-ops under the BNH; all others under INCRA.

NATIONAL CO-OP COUNCIL

Art. 95 Is composed of Planning Ministry, Central Bank, National Housing Bank, INCRA, BNCC, and the Organization of Brazilian Cooperatives which latter has 3 (three) votes.

Art. 97 Provides a.o. aspects for the Council to authorize regional councils where conditions exist, and to define their attributes; to establish, from case to case or in a normative ruling, the limit to which cooperatives can do business with non-members; to issue such norms

CREDIT and regulations as are necessary to complement and interpret the new

Art. 99 Law. its: the BNCC to receive deposits from Credit Co-ops or Credit

Art. 98 The Executive Secretary of the Councils is the INCRA Co-op Director.

Art.102 Re-establishes the National Cooperative Fund, application of whose resources to be decided by the Council.

REPRESENTATION OF CO-OP SYSTEM

Art. 105 Establishes the OCB as technical and consultative Government organ, with the following attributes:

Art. 110 (a) maintain political neutrality, and racial, religious and social indiscrimination;

GENERAL (b) integrate all branches of cooperative activities;

Art. 111 (c) maintain a register of all cooperative societies; subject to

(d) maintain juridical, operational and social assistance services;

Art. 112 (e) denounce before the Council activities harmful to Co-op development;

(f) opine on processes sent to it by the Council; to be issued by

(g) have special consulting services wherever needed;

(h) establish the policy of the organ based on the proposition of its technical organs;

(i) execute such other activities as are incumbent on an organ for the representation and defense of cooperatives;

(j) maintain relations for the purpose of integration, with similar organs of other countries and their cooperatives.

Art. 107 Obliges all cooperatives to register with the OCB, and fixes an entrance fee, in terms of capital paid-up and minimum salaries.

Art. 108 Fixes the annual contribution at 0,2% of the paid-up Capital, of which one-half will go to the State affiliates (where existent).

CREDIT

Art. 109 Permits the BNCC to receive deposits from Credit Co-ops or Credit

Sections of Mixed co-ops;

To deal with non-cooperative physical or juridical persons, where and when this is beneficial for the cooperatives and such enter into the bank operation;

Provides for the Bank to maintain a line of credit for the financing of members capital contributions.

Art. 110 Extinguishes completely previous obligatory contributions by the co-ops to the Bank's capital.

GENERAL

Art. 111 Repeats that sales to and purchases from non-members are subject to taxation.

Art. 112 Annual financial and operating statements, to be submitted by the co-ops to INCRA, should be accompanied by audit reports to be issued by independent auditors who must be accredited with OCB:

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