

South Australia

State Opera of South Australia Act 1976

An Act to establish The State Opera of South Australia; to constitute a Board of Management thereof and for matters incidental thereto.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *State Opera of South Australia Act 1976*.

4—Interpretation

In this Act, unless the contrary intention appears—

the Board means the Board of Management constituted under section 6;

financial year means any period of twelve months concluding on the thirtieth day of June in a year;

Member means a Member of the Board and includes the Member for the time being appointed to chair the Board;

the State Opera means The State Opera of South Australia established under section 5;

subscriber means a person for the time being a subscriber to the State Opera within the meaning of the regulations.

Note—

For definition of divisional (and divisional expiation fees) penalties see Appendix.

Part 2—The State Opera and the Board

5—The State Opera

- (1) For the purposes of this Act, a body by the name of *The State Opera of South Australia* is hereby established.
- (2) The State Opera—
 - (a) is a body corporate with perpetual succession and a common seal; and
 - (b) subject to this Act, is capable of acquiring, taking or letting out on lease, holding, selling and otherwise disposing of real and personal property; and
 - (c) is capable of suing and being sued; and
 - (d) has the powers, duties, functions and authorities conferred, imposed or prescribed by or under this Act.
- (3) Where an apparently genuine document purports to bear the common seal of the State Opera, it is to be presumed, in the absence of proof to the contrary, that the common seal of the State Opera was duly affixed to that document.

6—The Board of Management

- (1) The powers, duties, functions and authorities of the State Opera conferred, imposed or prescribed by or under this Act may be exercised, performed and discharged by the Board of Management.
- (2) The Board of Management is to consist of eight Members appointed by the Governor, of whom two must be subscribers elected, in the manner provided for by the regulations, by subscribers.
- (3) The Governor may appoint a Member to chair the Board and another Member to be the deputy of that Member.
- (4) Subject to this Act, a Member holds office for a term, not exceeding three years, specified in the instrument of appointment, except for a Member elected, in the manner prescribed by the regulations, by subscribers, who holds office for the term for which he or she is elected.
- (5) A Member appointed, or elected and appointed, to fill a casual vacancy in the office of a Member holds office only for the balance of the term of the Member in whose place he or she is appointed, or elected and appointed.
- (6) A Member is eligible for reappointment, or re-election and reappointment, as the case may be, but may not be reappointed, or re-elected and reappointed, for more than three consecutive terms.

7—Employees of State Opera

Notwithstanding any other Act or law, an employee of the State Opera is not disqualified from being a Member of the Board or from accepting or retaining any fees or other remuneration provided for by or under this Act, or otherwise, in respect of his or her service as a Member.

8—Removal from office of Member

The Governor may remove a Member from office for—

- (a) mental or physical incapacity; or
- (b) neglect of duty; or
- (c) dishonourable conduct; or
- (d) any other cause considered sufficient by the Governor.

9—Casual vacancies

The office of a Member becomes vacant if—

- (a) the Member dies; or
- (b) the Member's term of office expires; or
- (c) the Member resigns by written notice to the Minister; or
- (d) the Member is removed from office by the Governor pursuant to section 8.

10—Common seal, meetings and quorum

- (1) The common seal of the State Opera must not be affixed to any instrument except in pursuance of a resolution of the Board.

- (2) Any instrument executed in pursuance of such a resolution must be attested by the signature of any two Members.
- (3) The procedure for the calling of meetings of the Board and for the conduct of business at such meetings must, subject to this Act, be as determined by the Board.
- (4) Any four Members constitute a quorum at any meeting of the Board and any duly convened meeting at which a quorum is present is competent to transact any business of the State Opera.
- (5) A decision carried by the majority of the votes cast by the Members present at a meeting of the Board is a decision of the Board.
- (6) The Board must cause accurate minutes to be kept of its proceedings at meetings.

11—Chairing of meetings

- (1) The Member appointed to chair the Board must chair all meetings of the Board at which he or she is present.
- (2) If the Member appointed to chair the Board is absent from a meeting of the Board, the Member appointed as his or her deputy must, if present at the meeting, chair the meeting, and, if both are absent, the Members present at the meeting must choose one of their number to chair the meeting.
- (3) The Member chairing a meeting of the Board has, in the event of an equality of votes, a second or casting vote in addition to a deliberative vote.

12—Remuneration of Members

A Member may, if the Governor thinks fit, be paid such fees or other remuneration as may from time to time be fixed by the Governor and is entitled to receive such travelling and other expenses as are from time to time approved by the Minister.

13—Delegation of powers to Members

- (1) The Board may by instrument in writing delegate to any Member any of the powers and functions conferred on the Board by or under this Act (except this power of delegation) so that the delegated powers and functions may be exercised by the delegate with respect to the matters or in relation to a locality specified in the instrument of delegation.
- (2) A delegation under subsection (1) is revocable in writing at will and no delegation prevents the exercise of any power or function by the Board conferred on it by or under this Act.

14—Validity of act etc of Board

No act, proceedings or determination of the Board is invalid on the ground only of any vacancy in the office of any Member or of any defect in the appointment of any Member.

16—Member to declare interest

- (1) Subject to subsection (2) where a Member becomes aware that he or she has a financial interest in any matter before the Board he or she must not—
 - (a) refuse or fail to declare that interest to the secretary to the Board; or

- (b) take part in the deliberations of the Board in relation to that matter.

Penalty: Division 7 fine.

- (2) For the purposes of subsection (1) a Member, who is a subscriber, is not to be taken to have a financial interest in a matter where that financial interest arises only by reason of the fact that he or she is a subscriber.

17—Board subject to general control and direction of the Minister

The Board is, in the performance of its powers and functions, subject to the general control and direction of the Minister.

18—Objects, powers etc of State Opera

- (1) Subject to this Act, the State Opera may—
 - (a) present, produce, manage and conduct theatrical and operatic performances of any kind as may in its opinion tend to promote the art of the opera and related theatrical arts; and
 - (b) promote or commission the scoring and writing of operas and other theatrical works for operatic or theatrical performance; and
 - (c) promote the training of all persons concerned in the production, presentation or performance of operatic or other related theatrical presentations; and
 - (d) assist financially or otherwise in the presentation, production, management or conduct of any theatrical or operatic production in this State; and
 - (e) promote public interest and participation in the art of the opera and related theatrical arts; and
 - (f) establish and conduct schools, courses, lectures, seminars and discussions on the art of the opera and related theatrical arts; and
 - (g) contract for the performance of services with artists, entertainers, performers, writers, composers, choreographers, designers and directors; and
 - (h) buy or build any theatre or purchase and install any fittings or equipment in any theatre; and
 - (i) make charges for admission to any operatic or theatrical performance; and
 - (j) grant or dispose of rights to televise, broadcast or record any operatic or theatrical performances undertaken under its auspices; and
 - (k) enter into agreements or arrangements with any other person or body for the promotion of any operatic or theatrical activity; and
 - (l) acquire patents or licences to use any inventions or devices that may be used in connection with any operatic or related activity and dispose of such patents or licences for the use of any such inventions or devices; and
 - (m) undertake any business which is ancillary to its objects and powers; and
 - (n) do all things which in its opinion are necessary for or incidental to the exercise and performance of any of its powers or to the fulfilment of any of its objects.

19—Power to acquire land compulsorily

- (1) The State Opera may, with the consent of the Minister, compulsorily acquire land for the purposes of this Act.
- (2) The *Land Acquisition Act 1969* applies to the acquisition of land under this section.

20—State Opera may make use of services of employees of Public Service

The State Opera may, with the approval of the Minister and the consent of the Minister controlling any Department of the Public Service of the State and on such terms as may be mutually arranged, make use of the services of any of the officers or employees of that Department.

Part 3—Employees of the State Opera

21—Employment of employees

- (1) For the purposes of this Act the Board may employ such persons as employees of the State Opera as it thinks fit.
- (2) The Board may, with the approval of the Minister, determine that, for the purposes of the accrual of, or the payment of a lump sum in lieu of the grant of, long service leave or for the purposes of the accrual of leave on account of illness, previous service of an employee of the State Opera with an employer other than the State Opera may to the extent approved of by the Minister be regarded as service as an employee of the State Opera.
- (3) For the purposes of this section the State Opera may enter into an arrangement of a kind contemplated by section 5 of the *Superannuation Act 1988* with the South Australian Superannuation Board.

22—Secretary to the Board

- (1) There must be a secretary to the Board.
- (2) The secretary must be an employee of the State Opera.
- (3) The secretary to the Board may exercise, perform and carry out such powers, functions and duties as are conferred on the secretary by or under this Act or as are directed by the Board to be exercised, performed or carried out.

Part 4—Financial

23—State Opera to keep proper accounts

- (1) The State Opera must keep proper accounts of its financial affairs.
- (2) The State Opera must—
 - (a) ensure that all money payable to the State Opera is properly collected; and
 - (b) ensure that all liabilities and expenditures of the State Opera are properly authorised; and
 - (c) ensure that adequate control is maintained over its assets; and
 - (d) ensure efficiency and economy of operations and the avoidance of waste and extravagance; and

- (e) develop and maintain an adequate budgeting and accounting system; and
 - (f) develop and maintain an adequate internal audit system.
- (3) The Auditor-General must, in respect of each financial year of the State Opera, audit the accounts of the State Opera.

24—Power to borrow

- (1) The State Opera may with the consent of the Treasurer, for the purposes of exercising or performing its powers and functions under this Act, borrow money at interest from any person upon such security (if any) by way of mortgage or charge over any of the assets of the State Opera as the State Opera may think fit to grant.
- (2) The Treasurer may upon such terms and conditions as the Treasurer thinks fit guarantee the repayment on any moneys (together with interest thereon) borrowed by the State Opera under this section.
- (3) Any moneys required to be paid in satisfaction of a guarantee given pursuant to subsection (2) may be paid out of the General Revenue of the State which is hereby to the necessary extent appropriated accordingly.

25—Funds of the State Opera

- (1) The moneys required by the State Opera for the purposes of the exercise and performance of its powers and functions under this Act are—
- (a) all moneys received by the State Opera in the exercise and performance of its powers or functions; and
 - (b) all moneys borrowed by the State Opera pursuant to section 24; and
 - (c) all moneys being gifts to the State Opera or derived from the disposition by the State Opera of gifts to the State Opera; and
 - (d) all moneys paid to the State Opera by way of grants by the Treasurer out of moneys to be provided by Parliament for the purpose.
- (2) Such of the moneys of the State Opera as are not immediately required by the State Opera may be lodged on deposit with the Treasurer or invested in any other manner approved of by the Treasurer.

26—Budget

- (1) The State Opera must, on or before 31 August in each year, present to the Minister a budget showing its estimates of its receipts and payments for the current financial year.
- (2) The Minister may approve of any budget presented pursuant to subsection (1) or may direct or allow the State Opera to amend a budget before so approving of the budget.
- (3) The State Opera must not, without the consent of the Minister, make any expenditure that is not authorised by an approved budget.
- (4) In this section—

approved budget means a budget that has been approved of by the Minister or a budget that, having been amended, has been approved of by the Minister.

Part 5—Miscellaneous

27—Protection of Members

No action, suit or proceeding may be brought or maintained against any Member in respect of any act or thing done or omitted to be done in his or her capacity as such in the exercise or purported exercise in good faith of his or her powers or functions under this Act.

28—Annual report

- (1) The State Opera must, on or before 30 September in each year, present a report to the Minister on the activities of the State Opera during the preceding financial year.
- (2) A report under this section must incorporate the audited statement of accounts of the State Opera for the financial year to which the report relates.
- (3) The Minister must, within 12 sitting days after receipt of a report under this section, cause copies of the report to be laid before both Houses of Parliament.

29—Gifts etc

- (1) The State Opera may accept—
 - (a) grants, conveyances, transfers and leases of land whether from the Crown or any instrumentality thereof or any other person; and
 - (b) rights to the use, control, management or occupation of any land; and
 - (c) gifts of personal property of any kind to be used or applied by it for the purposes of this Act.
- (2) Notwithstanding anything contained in the *Stamp Duties Act 1923*, no stamp duty is payable on any instrument by which land or any interest in or right over land is granted or assured to or vested in the State Opera.

30—Summary offences

Proceedings for offences against this Act must be disposed of summarily.

31—Regulations

- (1) The Governor may make such regulations as are necessary or expedient for the purposes of this Act.
- (2) Without limiting the generality of the provisions of subsection (1), the regulations may—
 - (a) provide for the disposition by the State Opera of any unclaimed property left in or on any premises owned or controlled by the State Opera; and
 - (b) provide for—
 - (i) the manner in which a person may become, and the conditions under which he or she may remain, a subscriber to the State Opera;
 - (ii) the subscriptions or other moneys to be paid by subscribers;

- (iii) the election of Members of the Board by subscribers, and the term of office of Members so elected;
- (iv) the rights and privileges to be enjoyed by subscribers; and
- (c) provide for the securing of order in or on any premises owned or controlled by the State Opera; and
- (d) prescribe fines not exceeding a division 9 fine for contravention of, or non-compliance with, any regulation.

Legislative history

Notes

- Amendments of this version that are uncommenced are not incorporated into the text.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1976	73	<i>The State Opera of South Australia Act 1976</i>	2.12.1976	24.3.1977 (<i>Gazette</i> 24.3.1977 p885)
1987	13	<i>Statutes Amendment (Finance and Audit) Act 1987</i>	9.4.1987	1.10.1987 (<i>Gazette</i> 17.9.1987 p886)
1989	71	State Opera of South Australia Act Amendment Act 1989	29.10.1989	1.12.1989 (<i>Gazette</i> 23.11.1989 p1562)
2006	41	<i>Statutes Amendment (Public Sector Employment) Act 2006</i>	14.12.2006	Pt 23 (ss 103—108)—1.4.2007 (<i>Gazette</i> 29.3.2007 p930)

Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Pt 1		
<i>ss 2 and 3</i>	<i>deleted by 71/1989 Sch</i>	<i>1.12.1989</i>
s 4		
the Board	amended by 71/1989 Sch	1.12.1989
<i>appointed Member</i>	<i>deleted by 71/1989 s 3(a)</i>	<i>1.12.1989</i>
<i>elected Member</i>	<i>deleted by 71/1989 s 3(a)</i>	<i>1.12.1989</i>
Member	amended by 71/1989 s 3(b)	1.12.1989
the State Opera	amended by 71/1989 Sch	1.12.1989
Pt 2		
s 5		
s 5(2) and (3)	amended by 71/1989 Sch	1.12.1989
s 6		
s 6(2)—(6)	substituted by 71/1989 s 4	1.12.1989
s 6(7)	<i>deleted by 71/1989 s 4</i>	<i>1.12.1989</i>
ss 7, 9 and 10	amended by 71/1989 Sch	1.12.1989
s 11	substituted by 71/1989 s 5	1.12.1989
s 12	amended by 71/1989 Sch	1.12.1989
s 13		

s 13(2)	amended by 71/1989 Sch	1.12.1989
s 14	amended by 71/1989 Sch	1.12.1989
s 15	<i>deleted by 71/1989 Sch</i>	<i>1.12.1989</i>
s 16	amended by 71/1989 Sch	1.12.1989
s 17	substituted by 71/1989 s 6	1.12.1989
s 18		
s 18(1)	amended by 71/1989 Sch	1.12.1989
s 19		
s 19(2)	amended by 71/1989 Sch	1.12.1989
Pt 3		
s 21		
s 21(2) and (3)	amended by 71/1989 Sch	1.12.1989
s 22	amended by 71/1989 Sch	1.12.1989
Pt 4		
s 23		
s 23(1)	amended by 71/1989 Sch	1.12.1989
s 23(2)	substituted by 13/1987 s 11	1.10.1987
	substituted by 71/1989 s 7	1.12.1989
s 23(3)	deleted by 13/1987 s 11	1.10.1987
	inserted by 71/1989 s 7	1.12.1989
s 24		
s 24(2) and (3)	amended by 71/1989 Sch	1.12.1989
s 25		
s 25(1)	amended by 71/1989 Sch	1.12.1989
s 26		
s 26(1)	substituted by 71/1989 s 8	1.12.1989
s 26(2) and (3)	amended by 71/1989 Sch	1.12.1989
Pt 5		
s 27	amended by 71/1989 Sch	1.12.1989
s 28	substituted by 71/1989 s 9	1.12.1989
s 29		
s 29(2)	amended by 71/1989 Sch	1.12.1989
s 29(3) and (4)	<i>deleted by 71/1989 Sch</i>	<i>1.12.1989</i>
s 30	amended by 71/1989 Sch	1.12.1989
s 31		
s 31(2)	amended by 71/1989 Sch	1.12.1989

Appendix—Divisional penalties and expiation fees

At the date of publication of this version divisional penalties and expiation fees are, as provided by section 28A of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	\$60 000	—

State Opera of South Australia Act 1976—1.12.1989 to 31.3.2007
Appendix—Divisional penalties and expiation fees

Division	Maximum imprisonment	Maximum fine	Expiation fee
2	10 years	\$40 000	—
3	7 years	\$30 000	—
4	4 years	\$15 000	—
5	2 years	\$8 000	—
6	1 year	\$4 000	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	—	\$500	\$100
10	—	\$200	\$75
11	—	\$100	\$50
12	—	\$50	\$25

Note: This appendix is provided for convenience of reference only.