

South Australia

Co-operatives (South Australia) Regulations 2015

under the *Co-operatives National Law (South Australia) Act 2013*

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Legislative history

1—Short title

These regulations may be cited as the *Co-operatives (South Australia) Regulations 2015*.

3—Interpretation

- (1) In these regulations—
 - Act* means the *Co-operatives National Law (South Australia) Act 2013*;
 - CNL (SA)* or *the Law* means the *Co-operatives National Law (South Australia)*;
 - CNR (SA)* means the *Co-operatives National Regulations (South Australia)*.
- (2) Terms used in these regulations and also in the CNL (SA) have the same meanings as they have in the CNL (SA).

3A—Time limit for application for review (section 9(4)(b) of Act)

For the purposes of section 9(4)(b) of the Act, an application to the South Australian Civil and Administrative Tribunal for review must be made within 21 days of the date of the relevant decision of the Registrar (or such longer period as the Tribunal may allow).

4—Secrecy (section 13 of Act)

For the purposes of section 13(1)(d) of the Act, the following entities are prescribed:

- (a) the Independent Commissioner Against Corruption;

- (b) the Office for Public Integrity.

5—Unsuitable names for co-operatives (section 220(5) of CNL (SA) and regulation 3.7 of CNR (SA))

For the purposes of section 220(5) of the CNL (SA) and regulation 3.7 of the CNR (SA), a name is to be regarded as an unsuitable name if the Registrar is satisfied that it is likely to mislead.

6—Prohibited names for corporations (section 18(c) of Act and section 220(7) of CNL (SA))

- (1) For the purposes of section 220(7) of the CNL (SA), an entity is exempt from section 220(4) of the Law if the entity is—
 - (a) an entity that is allowed under an Act of any jurisdiction or of the Commonwealth to use the word "co-operative" or "cooperative" or the abbreviation "co-op" or "coop" in its name; or
 - (b) an entity—
 - (i) that has taken over, or that is to take over, the undertaking (or a part of the undertaking) of a transitioning housing co-operative under clause 15 of Schedule 3 of the *Community Housing Providers (National Law) (South Australia) Act 2013*; and
 - (ii) that is registered under the *Community Housing Providers National Law*; or
 - (c) an entity that is exempted by the Registrar by written notice from the operation of section 220(4) of the Law and that complies with any conditions to which the exemption is made subject.
- (2) The following provisions apply in relation to an exemption granted by the Registrar under subregulation (1)(c):
 - (a) the exemption may be limited as to time;
 - (b) the Registrar may vary the conditions of the exemption, or revoke the exemption, by written notice to the entity.

7—Restrictions on use of word co-operative or similar words (section 225(2) of CNL (SA))

- (1) For the purposes of section 225(2) of the CNL (SA), an entity is exempt from section 225(1) of the Law if the entity is—
 - (a) an entity referred to in regulation 6(1)(a) or (b); or
 - (b) a housing co-operative within the meaning of the *South Australian Co-operative and Community Housing Act 1991*; or
 - (c) an entity that is exempted by the Registrar by written notice from the operation of section 225(1) of the Law and that complies with any conditions to which the exemption is made subject.

- (2) The following provisions apply in relation to an exemption granted by the Registrar under subregulation (1)(c):
- (a) the exemption may be limited as to time;
 - (b) the Registrar may vary the conditions of the exemption, or revoke the exemption, by written notice to the entity.

8—Application for transfer (section 403 of CNL (SA))

For the purposes of section 403(b) of the CNL (SA), a co-operative may apply to become registered, incorporated or otherwise established as a corporation under—

- (a) the *Associations Incorporation Act 1985*;
- (b) the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* of the Commonwealth;
- (c) any other legislation of any jurisdiction or of the Commonwealth that provides for the incorporation of a building society, credit union or friendly society.

9—Examination of involved person—fees and expenses (section 522(4) of CNL (SA))

An involved person who attends for examination by an investigator is entitled to be paid the allowance and expenses that would be payable for expenses and loss of time that he or she would be entitled to receive on attending to give evidence, or to produce a document, at the trial of civil proceedings before the District Court of South Australia.

10—Procedures regarding giving of exemptions (section 621 of CNL (SA))

For the purposes of section 621 of the CNL (SA), the procedure for the giving of exemptions that are provided for under the Law is as follows:

- (a) an application for an exemption must be made in the approved form but, if there is no relevant approved form, the application must be made in writing;
- (b) where relevant, the application must be made within a reasonable time before the event or the occurrence of the matter for which the exemption is sought;
- (c) the application must be accompanied by the relevant fee prescribed by Schedule 1.

11—Fees

- (1) Fees for anything done by or in relation to the Registrar under provisions of the Corporation Act as applied by the CNL (SA) will, if not prescribed in a fee notice for the purposes of the Act, be the same as the fees for chargeable matters under the *Corporations (Fees) Act 2001* of the Commonwealth and the regulations under that Act.
- (2) The Registrar may waive, reduce or refund payment of any fee prescribed by fee notice for the purposes of the CNL (SA).
- (3) In this regulation—
fee notice has the same meaning as in the *Legislation (Fees) Act 2019*.

12—Co-operatives may continue to operate under old rules

- (1) Subject to subregulation (2), a co-operative may continue to operate under the rules (*old rules*) applying to the co-operative that were in force immediately before the commencement of the Act.
- (2) While a co-operative is operating under the old rules—
 - (a) if there is any inconsistency between a provision of the old rules and a provision of the Act, the CNL (SA), the CNR (SA) or these regulations, the provision of the Act, the CNL (SA), the CNR (SA) or these regulations prevails; and
 - (b) if there is a reference in the old rules to a requirement contained in the *Co-operatives Act 1997* or the *Co-operatives Regulations 2012*, that reference is to be read as a reference to the equivalent requirement contained in the Act, the CNL (SA), the CNR (SA) or these regulations; and
 - (c) if there is a reference in the old rules to—
 - (i) the co-operative being a trading co-operative—that reference is to be read as a reference to the co-operative being a distributing co-operative; and
 - (ii) the co-operative being a non-trading co-operative—that reference is to be read as a reference to the co-operative being a non-distributing co-operative.

Legislative history

Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- 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.

Legislation revoked by principal regulations

The *Co-operatives (South Australia) Regulations 2015* revoked the following:

Co-operatives Regulations 2012

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2015	45	<i>Gazette 7.5.2015 p1679</i>	22.5.2015: r 2
2016	117	<i>Gazette 23.6.2016 p2310</i>	1.7.2016: r 2
2017	132	<i>Gazette 22.6.2017 p2352</i>	1.7.2017: r 2
2018	12	<i>Gazette 30.1.2018 p578</i>	22.2.2018: r 2
2018	143	<i>Gazette 21.6.2018 p2388</i>	1.7.2018: r 2
2019	80	<i>Gazette 13.6.2019 p1879</i>	1.7.2019: r 2
2020	98	<i>Gazette 4.6.2020 p2906</i>	1.7.2020: r 2

Provisions varied

New entries appear in bold.

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

Provision	How varied	Commencement
r 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>1.7.2016</i>
r 3A	inserted by 12/2018 r 4	22.2.2018
r 11	substituted by 98/2020 r 4	1.7.2020
<i>Sch 1</i>	<i>substituted by 117/2016 r 4</i>	<i>1.7.2016</i>
	<i>substituted by 132/2017 r 4</i>	<i>1.7.2017</i>
	<i>substituted by 143/2018 r 4</i>	<i>1.7.2018</i>
	<i>substituted by 80/2019 r 4</i>	<i>1.7.2019</i>
	<i>deleted by 98/2020 r 5</i>	<i>1.7.2020</i>

<i>Sch 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>1.7.2016</i>
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Historical versions

1.7.2016
1.7.2017
22.2.2018
1.7.2018
1.7.2019