

SOUTH AUSTRALIA

PUBLIC CORPORATIONS (TREASURER) REGULATIONS 1994

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REGULATIONS UNDER THE PUBLIC CORPORATIONS ACT 1993

Public Corporations (Treasurer) Regulations 1994

being

No. 163 of 1994: *Gaz.* 29 September 1994, p. 870¹

¹ Came into operation 29 September 1994: reg. 2.

2.

PART 1
PRELIMINARY

Citation

1. These regulations may be cited as the *Public Corporations (Treasurer) Regulations 1994*.

Commencement

2. These regulations will come into operation on the day on which they are made.

Interpretation

3. In these regulations, unless the contrary intention appears—

"**the Act**" means the *Public Corporations Act 1993*;

"**the board**" means the board of directors established as the governing body of the subsidiary under Part 3;

"**the Crown**" means the Crown in right of the State of South Australia and includes any instrumentality or agency of the Crown;

"**director**" means a person appointed or holding office as a member of the board under Part 3;

"**risks of the Crown**" includes—

- (a) a direct risk of the Crown; and
- (b) a risk accepted by the Crown; and
- (c) a risk arising under a guarantee or indemnity given by the Crown,

whether or not the risk relates to an officer, employee or agent of the Crown or property owned by or held on behalf of the Crown;

"**the subsidiary**" means the *South Australian Government Captive Insurance Corporation* established under Part 3;

"**the Treasurer**" means the Treasurer for the State of South Australia.

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PART 2
APPLICATION OF ACT TO TREASURER

Application of Act to the Treasurer

4. The following provisions of the Act apply to the Treasurer:

- (a) Part 1;
- (b) sections 24 and 25;
- (c) the schedule.

PART 3
SOUTH AUSTRALIAN GOVERNMENT CAPTIVE INSURANCE CORPORATION
DIVISION 1—ESTABLISHMENT AND CONSTITUTION OF SOUTH AUSTRALIAN
GOVERNMENT CAPTIVE INSURANCE CORPORATION

Establishment of South Australian Government Captive Insurance Corporation (s. 24)

5. (1) The *South Australian Government Captive Insurance Corporation* is established as a subsidiary of the Treasurer.

(2) The subsidiary—

- (a) is a body corporate; and
- (b) has perpetual succession and a common seal; and
- (c) is capable of suing and being sued in its corporate name.

Establishment of board

6. (1) A board of directors is established as the governing body of the subsidiary.

(2) Anything done by the board in the administration of the subsidiary's affairs is binding on the subsidiary.

Composition of board

7. (1) The board is to consist of not more than five members appointed by the Treasurer.

(2) One director will be appointed by the Treasurer to chair meetings of the board.

(3) The Treasurer may appoint a director to be the deputy of the director appointed to chair the board and the deputy may perform or exercise the functions and powers of that director in his or her absence.

(4) On the office of a director becoming vacant, a person may be appointed in accordance with this regulation to the vacant office.

Conditions of membership

8. (1) A director will be appointed for a term, not exceeding two years, specified in the instrument of appointment and, at the expiration of a term of appointment, will be eligible for reappointment.

(2) The office of a director becomes vacant if the director—

- (a) dies; or
- (b) completes a term of office and is not reappointed; or
- (c) resigns by written notice to the Treasurer; or
- (d) becomes bankrupt or applies to take the benefit of a law for the relief of insolvent debtors; or

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- (e) is convicted of an indictable offence; or
- (f) is removed from office by the Treasurer by written notice on any ground that the Treasurer considers sufficient.

Vacancies or defects in appointment of directors

9. An act of the board is not invalid by reason only a vacancy in its membership or a defect in the appointment of a director.

Remuneration

10. A director is entitled to be paid from the funds of the subsidiary such remuneration, allowances and expenses as may be determined by the Treasurer.

Proceedings

11. (1) A quorum of the board consists of one half the total number of its members (ignoring any fraction resulting from the division) plus one.

(2) The director appointed to chair the board will preside at meetings of the board at which he or she is present.

(3) If the director appointed to chair the board is absent from a meeting of the board—

- (a) where another director has been appointed as that director's deputy and is present at the meeting—the deputy; or
- (b) in any other case—a director chosen by the directors present at the meeting,

will preside.

(4) A decision carried by a majority of the votes cast by directors at a meeting is a decision of the board.

(5) Each director present at a meeting of the board has one vote on any question arising for decision and, if the votes are equal, the director presiding at the meeting may exercise a casting vote.

(6) A telephone or video conference between directors will, for the purposes of this regulation, be taken to be a meeting of the board at which the participating directors are present if—

- (a) notice of the conference is given to all directors in the manner determined by the board for that purpose; and
- (b) each participating director is capable of communicating with every other participating director during the conference.

(7) A proposed resolution of the board becomes a valid decision of the board despite the fact that it is not voted on at a meeting of the board if—

- (a) notice of the proposed resolution is given to all directors in accordance with procedures determined by the board; and

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(b) a majority of the directors express their concurrence in the proposed resolution by letter, telex, facsimile transmission or other written communication setting out the terms of the resolution.

(8) The board must cause accurate minutes to be kept of its proceedings.

(9) Subject to these regulations, the board may determine its own procedures.

Functions of subsidiary

12. The subsidiary's functions are limited to the following:

(a) to undertake and carry on in South Australia and elsewhere the business of insurers, re-insurers and co-insurers of all or any risks of the Crown;

(b) to take out with other persons or bodies insurance or re-insurance of any class, of all or any risks of the Crown;

(c) to satisfy or compromise any claims made against the Crown in respect of risks of the Crown (including claims that may not necessarily be valid in law);

(d) to take, with the prior written approval of the Treasurer, such action as may be necessary or expedient for the realisation, enforcement, assignment or extinguishment of rights against third parties arising out of or in connection with the subsidiary's undertaking, including, for example—

(i) taking possession of real or personal property;

(ii) dealing with or disposing of real or personal property;

(iii) carrying on a third party's business as a going concern;

(e) to do all acts necessary or convenient for enabling the subsidiary to carry out its functions in any foreign jurisdiction, including obtaining the registration or legal recognition of the subsidiary in foreign jurisdictions;

(f) to provide advice to the Crown on issues relating to the insurance and management of risks of the Crown;

(g) to carry out any other function conferred on the subsidiary by the Treasurer.

Loans, etc., require Treasurer's approval

13. The subsidiary must not lend or advance to, or deposit with, any person any money, securities or property without the prior written approval of the Treasurer.

Common seal and execution of documents

14. (1) The common seal of the subsidiary must not be affixed to a document except in pursuance of a decision of the board, and the affixing of the seal must be attested by the signatures of two directors.

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(2) The board may, by instrument under the common seal of the subsidiary, authorise a director an employee of the subsidiary (whether nominated by name or by office or title) or any other person to execute documents on behalf of the subsidiary subject and limitations (if any) specified in the instrument of authority.

(3) Without limiting subregulation (2), an authority may be given so as to authorise two or more persons to execute documents jointly on behalf of the subsidiary.

(4) A document is duly executed by the subsidiary if—

- (a) the common seal of the subsidiary is affixed to the document in accordance with this regulation; or
- (b) the document is signed on behalf of the subsidiary by a person or persons in accordance with authority conferred under this regulation.