SOUTH AUSTRALIA

ELECTORAL ACT REGULATIONS, 1985

REGULATIONS UNDER THE ELECTORAL ACT, 1985

Electoral Act Regulations, 1985

being

No. 158 of 1985: *Gaz*. 22 August 1985, p. 525

as varied by

No. 77 of 1988: *Gaz*. 5 May 1988, p. 1129[1]
No. 74 of 1989: *Gaz*. 1 June 1989, p. 1486
No. 95 of 1993: *Gaz*. 3 June 1993, p. 1837[2]
No. 167 of 1994: *Gaz*. 6 October 1994, p. 919[3]
No. 259 of 1996: *Gaz*. 23 December 1996, p. 2262[4]

[1] Came into operation 5 May 1988: reg. 2.
[2] Came into operation 3 October 1993: reg. 2.
[3] Came into operation 6 October 1994: reg. 2.
[4] Came into operation 3 February 1997: reg. 2.

1. These regulations may be cited as the *Electoral Act Regulations, 1985*.

2. In these regulations, unless the contrary intention appears:

"Act" means the *Electoral Act, 1985*.

3. Pursuant to section 53 of the Act, the prescribed amount for the purposes of subsection (1) is $200.

4. (1) The lot to determine:

(a) the order of the groups referred to in paragraph *(b)* of section 59(1) of the Act;

(b) the order of the names of the candidates referred to in paragraph *(c)* of section 59(1) of the Act; and

(c) the order of the names of the candidates referred to in paragraph *(a)* of section 60 of the Act,

must be carried out in the manner described in subregulations (2) to (11) of this regulation.

(2) The lot shall be carried out by the Electoral Commissioner as soon as is reasonably practicable after the hour of nomination.

(3) Each group or name, as the case may be, must be written on a piece of paper, a separate piece of paper being used for each group or name.

(4) Each separate piece of paper must be of the same kind, shape, size and colour.

(5) Each separate piece of paper must be placed into a separate envelope and if it is necessary to fold the piece of paper to make it fit into the envelope, each piece of paper must be folded in the same manner so as to make it the same size and thickness.

(6) Each envelope into which a piece of paper is placed must be opaque and of the same kind, shape, size and colour.

(7) After a piece of paper has been placed in an envelope it must be sealed.

(8) All the envelopes must be placed into a container and shuffled.

(9) After the envelopes have been shuffled, the Electoral Commissioner shall draw them, one at a time, from the container.

(10) The order in which an envelope is drawn from the container shall determine the order of the group or the names of the candidates, as the case may be, the first to be drawn being the first in the order, and so on, until the order has been determined, the last to be drawn being the last in the order.

(11) Each of the procedures set out in subregulations (2) to (10) of this regulation must be carried out in the presence of an officer and any candidate or his representative who chooses to be present.

5. Pursuant to section 61 of the Act, the forms of ballot paper for the purposes of subsection (1) are:

(a) for the purposes of a Legislative Council election, set out in Schedule 1;

and

(b) for the purposes of a House of Assembly election, set out in Schedule 2.

6. Pursuant to section 64 of the Act the requirements with which a candidate's photograph must comply for the purposes of paragraph *(b)* of subsection (3) are that it must:

(a) be in black and white;

(b) be a full-faced vertical portrait of the candidate's head and shoulders;

(c) be at least 12.75 centimetres in length and at least 8.75 centimetres in width;

(d) have written on the reverse side the full name of the candidate and a statement signed by the candidate to the effect that the photograph was taken within the period referred to in paragraph *(a)* of section 64(3) of the Act.

7. (1) Pursuant to section 66 of the Act a how-to-vote card submitted for inclusion in posters under paragraph *(a)* of subsection (1) must:

(a) be printed;

(b) where a candidate contests a seat in the Legislative Council, be 90 millimetres in height and 190 millimetres in length;

(c) where the candidate contests a seat in the House of Assembly, be 190 millimetres in height and 90 millimetres in length;

(d) have printed on it the following:

(i) the name of the candidate, group of candidates or all candidates;

(ii) where a candidate contests a seat in the Legislative Council the name of the Council district being contested;

(iii) where a candidate contests a seat in the House of Assembly the name of the Assembly district being contested;

(iv) the words 'how-to-vote';

(v) immediately before the surname of all candidates contesting a House of Assembly election, figures surrounded by a square indicating the order of preference the candidate recommends for each candidate;

(vi) in the case of a Legislative Council election, immediately before the surname of all candidates whose names appear on the how-to-vote card, figures surrounded by a square indicating the order of preference the candidate or group of candidates recommends for each of those candidates together with a statement to the effect that an elector must express a preference for all other candidates;

(vii) where a candidate or group of candidates contesting a Legislative Council election has lodged a voting ticket under section 63 of the Act, a figure '1' in a voting ticket square together with a statement to the effect that where there is an expression of a preference in that square there is no necessity for an elector to express a preference for all the candidates;

(viii) where a candidate or group of candidates is contesting a Legislative Council election and chooses to print the names of all candidates on the card, a statement directing the voter to express a preference for all the candidates;

(ix) the name and address of the person who authorized the printing of the card;

(x) the name and address of the person who printed the card;

(xi) a statement to the effect that the Electoral Commissioner is satisfied that the card is in the prescribed form.

(2) Pursuant to section 66 of the Act a how-to-vote card submitted for inclusion in posters under paragraph *(a)* of subsection (1) may have printed on it the following:

(a) the name of the registered political party (or composite name if there is more than one such party) supporting the candidate or group of candidates; and

(b) in relation to a candidate or group of candidates, the description 'independent' or such description followed by not more than five words.

(3) Except for the matters referred to in subregulations (1) and (2) of this regulation no other matter shall be printed on or otherwise appear on the card.

8. (1) Before a candidate submits a how-to-vote card for inclusion in posters under section 66 of the Act he must forward a copy of the card to the Electoral Commissioner so as to enable the Electoral Commissioner to satisfy himself that it is in the prescribed form.

(2) Where a how-to-vote card forwarded to the Electoral Commissioner under subregulation (1) of this regulation is in the prescribed form the Electoral Commissioner shall notify the candidate that he is satisfied that the card is in the prescribed form.

(3) Where a how-to-vote card forwarded to the Electoral Commissioner under subregulation (1) of this regulation is not in the prescribed form the Electoral Commissioner shall notify the candidate that the card is not in the prescribed form.

(4) A candidate shall not submit a how-to-vote card for inclusion in posters under section 66 of the Act until the Commissioner has notified him that the card is in the prescribed form.

9. The lot to determine the order referred to in section 66(4) of the Act must be carried out *mutatis mutandis* in the manner described in subregulations (2) to (11) of regulation 4 of these regulations.

10. (1) Pursuant to section 73 of the Act an oral application made under subsection (2) must be made in the manner set out in subregulations (2) to (4) of this regulation.

(2) The application must be made in person to a returning officer, an officer employed at a polling booth or any other officer authorized for the purpose.

(3) In order to make an application the applicant must attend before such an officer where he must complete and sign a form in the form of Schedule 3 or Schedule 4 whichever is appropriate.

(4) An oral application may not be made until the day after the nomination day.

11. (1) Pursuant to section 73 of the Act an application made in writing under subsection (2) must be made in the manner set out in subregulation (2) of this regulation.

(2) In order to make an application the applicant must:

(a) complete and sign a form in the form of Schedule 5 and send it by post or deliver it to a returning officer or other officer authorized for the purpose; or

(b) deliver to or post a letter to a returning officer or other officer authorized for the purpose such letter to contain sufficient information for the officer to make a determination.

12. For the purposes of section 73(3)*(b)* of the Act the prescribed mark is—

(a) a water mark containing a circle within which the letters "SA" are intertwined; or

(b) circles within which the letters "SA" are intertwined printed on the ballot paper.

13. Pursuant to section 81 of the Act the prescribed form for the purposes of paragraph *(b)* of subsection (1) is a form in the form of Schedule 6.

14. Pursuant to section 85 of the Act:

(a) the prescribed period for the purposes of subsection (3) is 90 days; and

(b) the prescribed form for the purposes of subsection (3) is the form in the form of Schedule 7.

15. The lot to make the determination required by subparagraph (i) of paragraph *(d)* of section 92(3) of the Act must be carried out *mutatis mutandis* in the manner described in subregulations (2) to (11) of regulation 4 of these regulations.

16. The lot to make the determination required by subparagraph (i) of paragraph *(d)* of section 93(3) of the Act must be carried out *mutatis mutandis* in the manner described in subregulations (2) to (11) of regulation 4 of these regulations.

17. Pursuant to section 94 of the Act the official mark for the purposes of paragraph *(a)* of subsection (1) is the mark described in regulation 12 of these regulations.

18. (1) Where a returning officer is required to make a determination under subsection (19), (21) or (23) of section 95 of the Act, he may make such determination by lot.

(2) A lot to make a determination under subsection (19), (21) or (23) of section 95 of the Act must be carried out *mutatis mutandis* in the manner described in subregulations (2) to (11) of regulation 4 of these regulations.

19. (1) Where a returning officer is required to make a decision under subsection (6) of section 96 of the Act he may make such decision by lot.

(2) A lot to make a decision under subsection (6) of section 96 of the Act must be carried out *mutatis mutandis* in the manner described in subregulations (2) to (11) of regulation 4 of these regulations.

19A. The following class of articles is prescribed under section 112(3)*(b)* of the Act:

An electoral advertisement consisting of a letter or leaflet that carries the signature and the name and the address (not being a post office box) of its author and is not printed—

(a) by a person who carries on the business of printing or a business a significant part of which involves printing;

or

(b) by or on behalf of a person who publishes a newspaper, magazine, periodical or similar publication.

20. The exhibition of an electoral advertisement at, or in the vicinity of a place at which a press conference, meeting, campaign launching, campaign rally, fete, dinner, garden party, ball, barbecue or other gathering is held is the exhibition of an electoral advertisement in circumstances of a prescribed kind for the purposes of paragraph *(c)* of subsection (3) of section 115 of the Act provided that:

(a) such gathering is organised by, on behalf of or for a registered political party or a candidate at a Legislative Council election or a House of Assembly election; and

(b) the exhibition of such advertisement:

(i) occurs immediately before, during or immediately after such gathering; and

(ii) for a period or periods the length or combined length of which does not exceed 24 hours.

21. (1) Pursuant to section 115 of the Act the exhibition of an electoral advertisement of the kind referred to in subsection (2) of that section in the circumstances set out in subregulation (2) of this regulation is the exhibition of such an advertisement in circumstances of a prescribed kind for the purposes of paragraph *(c)* of subsection (3).

(2) The exhibition of such an advertisement so that all the advertisements that are deemed to form a single advertisement are exhibited in a position whereby they are at an angle to each other and such angle is not less than 270°.

22. (1) If the Electoral Commissioner believes on reasonable grounds that a person has failed to vote at an election without a valid and sufficient reason contrary to section 85(7) of the Act, the Electoral Commissioner may give that person an expiation notice under the *Expiation of Offences Act 1996*.

(2) The expiation fee is $10.

SCHEDULE 1

STATE OF SOUTH AUSTRALIA. BALLOT-PAPER FOR THE ELECTION OF[*(a)*] LEGISLATIVE COUNCILLORS

You are not legally obliged to mark the ballot-paper.
After voting, fold the ballot-paper and place it in the ballot box (or declaration envelope)

You May Vote By

Either →

☐ *(c)* ☐ *(c)* ☐ *(c)* ☐ *(c)* ☐ *(c)*

placing the single figure 1 in one and one only of these squares to indicate the registered voting ticket(s) you wish to adopt for your vote.

☐ *(e)* *(d)* ☐ *(e)* *(d)* ☐ *(e)* *(d)* ☐ *(e)* *(d)* ☐ *(e)* *(d)* ☐ *(e)* *(d)* ☐ *(e)* *(d)*

Or →

placing consecutive numbers commencing 1, 2, 3, 4, etc. and ending with [*(b)*] in the squares immediately to the left of the respective candidates so as to indicate the order of your preference for them.

☐ *(e)* *(d)* ☐ *(e)* *(d)* ☐ *(e)* *(d)* ☐ *(e)* *(d)*

☐ *(e)* *(d)* ☐ *(e)* *(d)* ☐ *(e)* *(d)*

☐ *(e)* *(d)* ☐ *(e)* *(d)*

Issuing Officer's Initials

← GROUPED CANDIDATES → ← UNGROUPED CANDIDATES →

(a) Insert here number of vacancies.
(b) Insert here number of candidates.
(c) and *(d)* If to be printed insert here:
registered name or abbreviation of political party.
or composite name or composite abbreviation of two registered political parties.
or description 'Independent'.
or description 'Independent' followed by not more than five additional words.
(e) Insert here name of a candidate.

SCHEDULE 2

STATE OF SOUTH AUSTRALIA
BALLOT-PAPER
ELECTION OF MEMBER OF HOUSE OF ASSEMBLY
DISTRICT OF.....

DIRECTIONS

Mark your vote on this ballot-paper by placing the numbers (here insert '1 and 2' where there are two candidates, '1, 2 and 3' where there are three candidates, '1, 2, 3 and 4' where there are four candidates, and so on as the case requires) in the square opposite the names of the candidates so as to indicate your preference for them.

You are not legally obliged to mark the ballot-paper.

After voting, fold the ballot-paper and place it in the ballot-box (or declaration envelope).

CANDIDATES

☐ *(a)* . . . . . *(b)*. . . . . .

☐ *(a)* . . . . . *(b)*. . . . . .

☐ *(a)* . . . . . *(b)*. . . . . .

☐ *(a)* . . . . . *(b)* . . . . . .

Issuing Officer's
Initials

(a) Insert here name of a Candidate

(b) If to be printed insert here:
registered name or abbreviation of political party.
or composite name or composite abbreviation of two registered political parties.
or description 'Independent'.
or description 'Independent' followed by not more than five additional words.

SCHEDULE 3
FRONT OF FORM

Reg. Schedule RO 10

STATE OF SOUTH AUSTRALIA

WARNING: It is an offence for the elector and witness to complete and sign this form (or for any person to mark ballot papers) after 6.00 p.m. on polling day—
Penalty $2000 or imprisonment for six months or both.

DECLARATION VOTE CERTIFICATE No. 1

1. ELECTOR DETAILS — Please print firmly

NAME OF DISTRICT FOR WHICH ELECTOR CLAIMS TO BE ENROLLED			
SURNAME (USE BLOCK LETTERS)			
GIVEN NAMES			
ADDRESS FOR WHICH ELECTOR CLAIMS TO BE ENROLLED (Post Office Box Numbers and the like are not acceptable)			
DATE OF BIRTH	DAY	MONTH	YEAR
REASON FOR REQUIRING PRE-POLL VOTE			

I declare that I am entitled to vote as a declaration voter pursuant to the Electoral Act, because I am precluded from attending a polling booth on polling day for the reason shown above. I also declare that I have not voted in this election/referendum and I completed my ballot papers and this certificate before the close of poll on polling day.

SIGNATURE OR MARK OF ELECTOR	

2. AUTHORISED WITNESS TO COMPLETE

SURNAME	
GIVEN NAMES	
ADDRESS	

I hereby certify that the above elector signed/marked this declaration in my presence before the close of poll on polling day.

SIGNATURE OF AUTHORISED WITNESS	
	DATE / /

3. ISSUING OFFICER TO COMPLETE

I certify that the above elector is entitled to receive declaration voting papers for this election/referendum.

Date of Election/Ref.	/ /
Mode of Issue (Tick one box)	
☐ Pre-Poll (over the counter)	☐ By post ☐ Declared Institution
Name of issuing office or declared institution	
ISSUING OFFICER'S SIGNATURE	
	DATE / /

No postage stamp required
if posted in Australia

REPLY PAID

TO —

THE RETURNING OFFICER,

HOUSE OF ASSEMBLY DISTRICT OF .....

.....

.....

Returning Officer to record hereon date of receipt ...../...../19 .....

SCHEDULE 4
FRONT OF FORM

Reg. Schedule

RO 11

STATE OF SOUTH AUSTRALIA
DECLARATION VOTE CERTIFICATE No. 2

NAME OF **DISTRICT** FOR WHICH ELECTOR CLAIMS TO BE ENROLLED			
1. ELECTOR DETAILS — Please print firmly			
SURNAME	USE BLOCK LETTERS		
GIVEN NAMES			
ADDRESS FOR WHICH ELECTOR CLAIMS TO BE ENROLLED (POST OFFICE BOX NUMBERS AND THE LIKE ARE NOT ACCEPTABLE)			
DATE OF BIRTH	DAY	MONTH	YEAR
If elector has changed his/her name since enrolling for the above address, **show previous name here.**			

ELECTOR DECLARATION

I, the person named above, hereby declare that I am entitled to vote as a declaration voter pursuant to the Electoral Act. My entitlement is based on the fact that I am an elector:

	ABSENT ☐	who chooses to attend a polling booth outside my enrolled district.
	UNENROLLED ☐	whose name, as a result of an official error, does not appear on the certified list of electors for a district
Tick one box ☐	ALREADY VOTED? ☐	who appears, from a record erroneously made under the Electoral Act, to have voted already in this election/referendum
	SUPPRESSED ☐	whose address has been suppressed from publication.

I also declare that I have not voted in this **Election/Referendum.**

SIGNATURE/MARK OF ELECTOR	

2. ISSUING OFFICER TO COMPLETE	
I hereby certify that the above elector signed/marked this declaration in my presence and has fulfilled the requirements to receive ballot-papers.	
Date of Election/Referendum	/ /
Issuing Officer's Signature	
Polling Place	

THE RETURNING OFFICER,

HOUSE OF ASSEMBLY DISTRICT OF
.....
.....

.....
.....
.....

.....
.....
.....

SCHEDULE 5
FRONT OF FORM

Reg Schedule RO 9

STATE OF SOUTH AUSTRALIA

POSTAL APPLICATION for VOTING PAPER(S)

To the Returning Officer or Assistant Returning Officer authorized to issue declaration voting papers for the Assembly District of

Insert name of Assembly District

APPLICANT'S NAME	..... Surname Given Names		
ENROLLED ADDRESS Post Office box numbers and the like are not acceptable	.... Post code		
DATE OF BIRTH	DAY	MONTH	YEAR

I, the above, hereby apply for declaration voting papers to enable me to vote by post at the forthcoming Legislative Council Election, House of Assembly Election or Referendum, or any or all of them as the case requires, and request that they be sent to me at the following address.

ADDRESS TO WHICH VOTING MATERIAL IS TO BE SENT— As above, postal address or temporary address.	....

I DECLARE:

1. That I have not already voted in this/these elections (or referendum)

2. That the ground on which I apply for declaration voting papers is:

(TICK BOX DESCRIBING YOUR CIRCUMSTANCE)

OFFICE USE
Issuing Officer
Date Issued

AWAY	☐	I will not throughout the hours of polling on polling day be within 8 kilometres by the nearest practicable route of any polling booth;
TRAVELLING	☐	I will throughout the hours of polling on polling day be travelling under conditions which will preclude me from voting at any polling booth;
ILL	☐	I am ill, infirm or disabled, and by reason of such illness, infirmity or disability will be precluded from voting at any polling booth;
CARING FOR OTHERS	☐	I will be caring for a person who is ill, infirm or disabled and for that reason will be precluded from voting at any polling both;
ADVANCED PREGNANCY	☐	I will, by reason of advanced pregnancy, be precluded from voting at any polling booth;
RELIGION	☐	I am, by reason of membership in a religious order, or religious beliefs: (i) precluded from attending any polling booth; or (ii) precluded from voting throughout the hours of polling on polling day or the greater of those hours;
WORKING	☐	I will be working in my employment throughout the hours of polling and cannot reasonably be expected to be absent from work for the purpose of voting.

....

Signature of APPLICANT

WITNESS must sign here if APPLICANT is unable to sign his/her name (see over)

SPSA C39984

No postage stamp required if posted in Australia

OBLIGATIONS OF WITNESS

An elector who is unable to write, may, *in the presence of an authorized witness*, make his/her distinguishing MARK in the space provided for the applicant's signature.

An authorized witness may be any person (other than a candidate in the election) who is at least eighteen years of age.

A person shall not sign his/her name as witness on this application unless he/she has seen the applicant MARK it.
YOUR COMPLETED APPLICATION MUST BE POSTED OR DELIVERED SO THAT IT REACHES ONE OF THE FOLLOWING OFFICES BEFORE 5 p.m. ON THE THURSDAY PRECEDING POLLING DAY.

— The Returning Officer for your House of Assembly District

— Any Divisional Office of the Australian Electoral Commission in South Australia

— The State Electoral Department, 83 Currie Street, Adelaide 5000

— Any State Electoral Office in another State or the Northern Territory

— The Office of the Agent-General, — LONDON

REPLY PAID

THE RETURNING OFFICER,

HOUSE OF ASSEMBLY DISTRICT OF.....

.....

.....

SCHEDULE 6

DECLARATION BY ELECTOR WHO APPLIED BY POST BUT FAILED TO RECEIVE VOTING PAPERS

To the Returning Office, Assembly District of (Deputy Returning Officer for the Council Division) [ ]

Insert name of District

ELECTOR'S NAME AND ENROLLED ADDRESS	
	(Surname) (Given Names)
	(Address)

I, the above, hereby declare that I failed to receive declaration voting papers in response to my postal application for same.

.....
(Signature of elector or mark of marksman)

PRESIDING OFFICER TO COMPLETE

I,.....Presiding Officer at the
(Name of Presiding Officer)

.....polling place, certify
(Name of polling place)

that the abovenamed elector signed/marked this declaration in my presence. I also certify that the abovenamed elector has been provided with the appropriate ballot-papers so that he/she may vote in this/these elections.

.... 19....
(Signature of Presiding Officer) (Date)

SCHEDULE 7

NOTICE TO ELECTOR WHO APPEARS TO HAVE FAILED TO VOTE

Records of voting indicate that you appear not to have voted at the State Election/referendum held on the date indicated below. The Electoral Act specifies that it is an offence not to have voted without a valid and sufficient reason. It is also an offence not to respond to this notice by the date shown below. Either offence may lead to a fine with court costs.

I therefore invite you to complete and return the attached form in the envelope provided.

If you did vote, use this form to indicate the location of the polling booth or pre-poll vote issuing office so that our records may be rechecked to validate your claim. Alternatively you may provide a reason for not voting. However, if the excuse given is not acceptable within the meaning of the Electoral Act, I will be obliged to initiate further action.

If the elector to whom this notice is addressed is away or physically unable to reply, any other elector who knows the facts may complete and return the form for the elector by the due date.

State Electoral Department
(Box 2072, G.P.O.)
83 Currie Street,
Adelaide 5001 Phone: (08) 2118933

A.K. Becker
Electoral Commissioner

Date of Election/Referendum Date reply to be returned

(FORM ATTACHED)

TO THE ELECTORAL COMMISSIONER
STATE ELECTORAL DEPARTMENT, ADELAIDE (Please return this notice in the envelope provided)

I the elector named below*
OR I of
(Name and address of another elector providing facts)
do hereby state that the following is the true reason why I*/the elector named below failed or appear(s) to have failed to vote at the State Election/Referendum held on the date indicated below.

REASON FOR NOT VOTING	
.....	The statement above was signed in my presence.
SIGNATURE OF ELECTOR OR OTHER PERSON MAKING STATEMENT	...../...../... Signature of Witness Address of Witness Date

* Delete if form being completed on behalf of Elector.

(Name of Elector)
Date of Election/Referendum

APPENDIX

LEGISLATIVE HISTORY

Transitional Provisions

(*Transitional provision from Regulation No. 259 of 1996, reg. 4*)

4. A regulation varied or revoked by these regulations will continue to apply (as in force immediately prior to the variation or revocation coming into operation) to an expiation notice issued under the varied or revoked regulations.

Legislative History

Regulation 12:	substituted by 95, 1993, reg. 3
Regulation 19A:	inserted by 167, 1994, reg. 3
Regulation 22:	substituted by 259, 1996, reg. 3 (Sched. cl. 10)
Schedules 3, 4 and 5:	substituted by 77, 1988, reg. 3; 95, 1993, reg. 4
Schedule 7:	substituted by 74, 1989, reg. 2; 95, 1993, reg. 4