

South Australia

South Australian Co-operative and Community Housing (Electoral Procedures) Regulations 1992

under the *South Australian Co-operative and Community Housing Act 1991*

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Legislative history

1—Citation

These regulations may be cited as the *South Australian Co-operative and Community Housing (Electoral Procedures) Regulations 1992*.

3—Interpretation

In these regulations, unless the contrary intention appears—

the Act means the *South Australian Co-operative and Community Housing Act 1991*;

election period in relation to a particular election under these regulations, means the period during which the election is to be held under regulation 7 or regulation 9A;

the Returning Officer means the person holding, or acting in, the position of Returning Officer under these regulations.

4—Appointment of Returning Officer

- (1) The Minister will, from time to time, as occasion requires, appoint a person as the Returning Officer for the purposes of these regulations.
- (2) An appointment under subregulation (1)—
 - (a) will be made by instrument in writing; and
 - (b) will be made on such terms and conditions as the Minister thinks fit.
- (3) The Minister may remove a person appointed under this regulation from office for any reasonable cause.
- (4) A member of a registered housing co-operative is not eligible for appointment as the Returning Officer.
- (5) A person nominated by the Minister may act in office of Returning Officer while the Returning Officer is absent from the duties of office.

5—Appointment of Deputy Returning Officers

- (1) The Returning Officer may appoint any person to be a Deputy Returning Officer for the purposes of a particular election.
- (2) An appointment under subregulation (1)—
 - (a) will be made by instrument in writing; and
 - (b) will be made on such terms and conditions as the Returning Officer thinks fit.
- (3) The Returning Officer may remove a person appointed under this regulation from office for any reasonable cause.
- (4) A member of a registered housing co-operative is eligible for appointment as a Deputy Returning Officer.

6—Term of office of elected member of Authority

- (1) Pursuant to section 9(2)(b) of the Act, but subject to subregulation (2), a member of the Authority will hold office for a term of two years commencing on 1 July in the year of his or her election.
- (2) If the office of an elected member of the Authority becomes vacant before the expiration of his or her term of office, his or her successor will only hold office for the balance of the original term.

7—Election periods

- (2) For the purposes of section 9(1)(b) of the Act, an election will be held in accordance with these regulations in May of each year in which the term of office of an elected member of the Authority is due to expire.
- (3) Subject to subregulation (4), if—
 - (a) an election wholly or partially fails; or
 - (b) a casual vacancy occurs in the office of an elected member of the Authority,a supplementary election will be held over a month determined by the Returning Officer to fill the relevant office.

- (4) If a casual vacancy occurs in the office of an elected member of the Authority between 1 March and 30 June in any year in which an election is due to be held, a supplementary election need not be held.
- (5) A supplementary election must be held as soon as practicable after the occasion for the election arises.

8—Returning Officer to be responsible for elections

The Returning Officer is responsible for the conduct of any election under these regulations.

9—The voters roll

- (1) The Returning Officer is responsible for the maintenance of a voters roll for the purposes of any election.
- (2) The voters roll will close—
 - (a) for the purposes of an election other than a supplementary election—at 5 p.m. on 30 March of each year in which an election is due to be held;
 - (b) for the purposes of a supplementary election—at 5 p.m. on a day to be determined by the Returning Officer, being a day falling not less than 21 days before the commencement of the relevant election period.
- (3) The voters role should include the name of every natural person who is a member of a registered housing co-operative on the date of the closure of the roll.
- (4) A person whose name has been omitted in error from the roll is, on application to the Returning Officer (and on the Returning Officer being satisfied that the person's name should be on the roll), entitled to have his or her name included on the roll after the date of closure.
- (5) The voters roll must set out in relation to each person enrolled—
 - (a) the full name of the person; and
 - (b) the name of the registered housing co-operative of which that person is a member,and may include such other information as the Returning Officer thinks fit.
- (6) The voters roll will be kept in a manner and form determined by the Returning Officer.

9A—Election in 2004

- (1) Regulations 6, 7 and 9 are subject to this regulation.
- (2) For the purposes of section 9(1)(b) of the Act, an election will be held in accordance with these regulations in December 2004.
- (3) The voters roll for the purposes of the election to be held in December 2004 will close at 5 pm on 31 October 2004.
- (4) Pursuant to section 9(2)(b) of the Act, a member of the Authority elected—
 - (a) at the election held in December 2004; or

(b) if that election wholly or partially fails, or a casual vacancy occurs in the office of a member elected at that election—at a supplementary election held in accordance with regulation 7(3) as a consequence of the failure or vacancy, will hold office for a period commencing on the day on which notice of the result of the election is published in the Gazette and ending on 30 June 2006.

10—Nominations

- (1) The Returning Officer—
 - (a) must—
 - (i) by notice in writing to each registered housing co-operative; and
 - (ii) by notice in writing in a newsletter or circular published by the Authority or the Community Housing Assistance Service of S.A. Inc; and
 - (b) may in such other manner as the Returning Officer thinks fit, call for nominations for an election.
- (2) The notices under subregulation (1)(a) must be published at least four weeks before the close of the voters roll for the particular election.
- (3) A person is eligible to be a candidate for election if the person is a member of a registered housing co-operative and his or her name is on the voters roll.
- (4) A person who is eligible to be a candidate may be nominated by notice in writing, addressed to the Returning Officer, that includes—
 - (a) the full name and address of the nominated candidate; and
 - (b) the full names and addresses of two other persons who are each a member of a registered housing co-operative and who are nominating the candidate; and
 - (c) a statement, signed by the two persons who are nominating the candidate, that declares—
 - (i) that they are members of a registered housing co-operative; and
 - (ii) that they nominate the candidate for the purposes of the election; and
 - (d) a statement, signed by the nominated candidate, that declares—
 - (i) that he or she is a member of a registered housing co-operative; and
 - (ii) that he or she accepts the nomination.
- (5) A nomination must not be lodged with the Returning Officer earlier than 21 days before the day on which nominations close.
- (6) The Returning Officer must cause a note to be made of the date and time of the receipt of a nomination under this regulation.
- (7) Nominations close at 5 p.m. on the day on which the voters roll closes.
- (8) Upon receipt of a form of nomination, the Returning Officer must, if of the opinion that there is any deficiency that might render the nomination invalid, take all such steps to notify the nominated candidate of the deficiency as are reasonable in order to enable the candidate to cure the deficiency before the close of nominations.

- (9) Any dispute as to the validity of a nomination will be determined summarily by the Returning Officer.
- (10) A person cannot withdraw a nomination after the close of nominations.
- (11) Where, after nominations have closed, it appears that the number of candidates nominated does not exceed the number of persons required to be elected, the Returning Officer must declare the nominated candidate or candidates elected.
- (12) Except where subregulation (11) applies, the Returning Officer must, within 14 days after the close of nominations, give notice in writing to the candidates setting forth the names of all candidates nominated.

11—Notification of policies etc

- (1) A candidate nominated for election may, at the time of nomination, submit a statement of not more than 200 words in support of his or her nomination.
- (2) A candidate must not include in such a statement any information that is inaccurate or misleading to a material extent.
Maximum penalty: \$2 500.
- (3) Subject to subregulation (4), the Returning Officer must take reasonable steps to bring a statement submitted under subregulation (1) to the attention of voters.
- (4) The Returning Officer may reject any statement which, in the opinion of the Returning Officer—
 - (a) contains any information that is inaccurate or misleading in a material particular; or
 - (b) contains any defamatory material.
- (5) Nothing in this regulation prevents other forms of electioneering.

12—Ballot papers

- (1) The Returning Officer must, for the purposes of a contested election, make up ballot papers to be used at that election.
- (2) The names of candidates must be arranged on the ballot paper, one under another, in an order determined by lot.
- (3) The drawing of lots for the purposes of subregulation (2) must be conducted by the Returning Officer forthwith upon the close of nominations in the presence of at least two other persons.
- (4) A square must be placed to the left of each name appearing on the ballot paper.

13—Distribution of electoral material

- (1) The Returning Officer must, before the commencement of the relevant election period, cause to be delivered to each member of a registered housing co-operative whose name appears on the voters roll a ballot paper for the purposes of the election.
- (2) A ballot paper under subregulation (1) must be accompanied by—
 - (a) —
 - (i) instructions on how the ballot paper should be marked to record a valid vote; and

- (ii) any other instructions that the Returning Officer considers should be given to voters for the purposes of the election; and
- (b) a copy of any statement provided by a candidate under regulation 11; and
- (c) unless the Returning Officer has arranged for the ballot paper to be collected from voters at a particular registered housing co-operative, a pre-paid post envelope addressed to the Returning Officer.

14—Voting

- (1) Each registered housing co-operative will constitute an electoral college for the purposes of the election.
- (2) Each electoral college is entitled to cast at an election—
 - (a) one vote for every 10 residential premises (or fractional part of 10 residential premises) owned or leased by the registered housing co-operative; or
 - (b) four votes,whichever is the less.
- (3) In order to determine the vote or votes cast by an electoral college, each member of the relevant registered housing co-operative is entitled to cast one vote for a candidate.
- (4) Voting under subregulation (3)—
 - (a) must occur during the election period; and
 - (b) must be by secret ballot; and
 - (c) must be carried out in accordance with any instruction issued by the Returning Officer.
- (5) Subject to subregulation (6), once voting has occurred in accordance with subregulation (4), the voter must return the ballot paper in accordance with instructions issued by the Returning Officer.
- (6) The Returning Officer may make arrangements with a particular registered housing co-operative for votes to be collected at the co-operative and then returned to the Returning Officer and, in that event, the co-operative must—
 - (a) prepare a return to the Returning Officer stating—
 - (i) the day or days on which voting occurred at the co-operative; and
 - (ii) the number of ballot papers used at the election and collected by the co-operative; and
 - (iii) the number of votes cast for each candidate by members of the co-operative; and
 - (b) return the statement, together with the ballot papers used at the election, to the Returning Officer.
- (7) A registered housing co-operative must comply with subregulation (6) within seven days after voting has been completed at the co-operative.
- (8) If a co-operative fails to comply with subregulation (7), the co-operative is not guilty of an offence but each officer of the co-operative is guilty of an offence.
Maximum penalty: \$2 500.

- (9) The candidate with the highest number of votes cast by members of a particular registered housing co-operative will be taken to be the candidate selected by the electoral college represented by that co-operative (and, in the event of an equality of votes within the co-operative, the successful candidate will be determined by the drawing of lots in a manner determined by the Returning Officer).
- (10) The candidate selected by a particular electoral college will be awarded all the votes that the electoral college is entitled to cast under subregulation (2).
- (11) The Returning Officer must, on the receipt of material under this regulation, determine the number of votes cast by an electoral college.
- (12) When the Returning Officer is satisfied that all votes for electoral colleges have been determined in accordance with the procedures provided by or under these regulations, the Returning Officer will declare—
 - (a) in the case of an election other than a supplementary election—the two most popular candidates as elected;
 - (b) in the case of a supplementary election—the most popular candidate elected.
- (13) If two or more candidates have an equality of votes, the Returning Officer must, in the presence of at least two other persons, draw lots to determine the successful candidate (or candidates).

15—Notification of results

- (1) The Returning Officer must notify the Minister and all candidates, in writing, of the result of an election.
- (2) The Minister must then cause a notice of the result of the election to be published in the Gazette.

16—Scrutineers

A candidate may, by notice in writing to the Returning Officer, appoint a person to act as a scrutineer for the purposes of an election.

17—Offences

- (1) A person who dishonestly exercises, or attempts to exercise, a vote at an election to which that person is not entitled is guilty of an offence.
Maximum penalty: \$5 000.
- (2) A person who dishonestly influences or attempts to influence the result of an election is guilty of an offence.
Maximum penalty: \$5 000.
- (3) A person must not hinder or interfere with the free exercise or performance, by any other person, of a right under these regulations.
Maximum penalty: \$5 000.

18—Informal votes

Any matter regarding the formality of a vote will be determined summarily by the Returning Officer.

19—Deputies

The Minister may, in consultation with the Returning Officer, but without derogating from the operation of section 9(5) of the Act, make arrangements for voting to occur in relation to the appointment of a person to act as a deputy to a person elected as a member of the Authority under these regulations.

Legislative history

Notes

- 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.

Formerly

Housing Co-operatives (Electoral Procedures) Regulations 1992

Revocation of regulations

The *South Australian Co-operative and Community Housing (Electoral Procedures) Regulations 1992* were revoked by r 3 of the *South Australian Co-operative and Community Housing (Electoral Procedures) Revocation Regulations 2007* on 1.7.2007.

Principal regulations and variations

Year	No	Reference	Commencement
1992	210	<i>Gazette 3.12.1992 p1709</i>	3.12.1992: r 2
1996	25	<i>Gazette 15.2.1996 p1154</i>	15.2.1996: r 2
1998	37	<i>Gazette 30.4.1998 p2076</i>	30.4.1998: r 2
2004	210	<i>Gazette 30.9.2004 p3788</i>	30.9.2004: r 2

Provisions varied

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

Provision	How varied	Commencement
r 1	varied by 25/1996 r 3	15.2.1996
r 2	<i>omitted under the Legislation Revision and Publication Act 2002</i>	<i>30.9.2004</i>
r 3		
the Act	varied by 25/1996 r 4(a)	15.2.1996
election period	varied by 210/2004 r 4	30.9.2004
<i>the 1993 general election</i>	<i>deleted by 25/1996 r 4(b)</i>	<i>15.2.1996</i>
r 6		
r 6(1)	varied by 25/1996 r 5 substituted by 37/1998 r 3	15.2.1996 30.4.1998
r 7		
r 7(1)	<i>deleted by 25/1996 r 6(a)</i>	<i>15.2.1996</i>
r 7(2)	varied by 25/1996 r 6(b) substituted by 37/1998 r 4(a)	15.2.1996 30.4.1998
r 7(4)	varied by 25/1996 r 6(c) varied by 37/1998 r 4(b)	15.2.1996 30.4.1998

**South Australian Co-operative and Community Housing (Electoral Procedures) Regulations 1992—
30.9.2004 to 30.6.2007—revoked**

Legislative history

r 9		
r 9(2)	varied by 25/1996 r 7	15.2.1996
	varied by 37/1998 r 5	30.4.1998
r 9A	inserted by 210/2004 r 5	30.9.2004
r 11		
r 11(2)r 11(2)	varied by 25/1996 r 8	15.2.1996
r 14		
r 14(8)	varied by 25/1996 r 9	15.2.1996
r 17		
r 17(1)	varied by 25/1996 r 10(a), (b)	15.2.1996
r 17(2)	varied by 25/1996 r 10(c)	15.2.1996
r 17(3)	varied by 25/1996 r 10(d)	15.2.1996