

South Australia

South Australian Co-operative and Community Housing (General) Regulations 2007

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

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Legislative history

1—Short title

These regulations may be cited as the *South Australian Co-operative and Community Housing (General) Regulations 2007*.

2—Commencement

These regulations will come into operation on 1 July 2007.

3—Interpretation

In these regulations, unless the contrary intention appears—

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

registered housing co-operative means a housing co-operative registered under the Act.

4—Forms

- (1) The forms set out in Schedule 1 must—
 - (a) be used for the purposes specified in the Schedule; and
 - (b) be completed in accordance with the instructions contained in the forms.
- (2) Where the space provided in a form is insufficient to contain all the required information—
 - (a) the information must be set out in an annexure to the form; and
 - (b) the annexure must have a distinguishing mark such as a letter or numeral; and
 - (c) the space in the form must contain the statement "See Annexure" together with the distinguishing mark for the annexure, or words to similar effect.

5—Fees

The fees set out in Schedule 2 are payable as specified in the Schedule.

6—Application of Commonwealth Act—General

- (1) Pursuant to section 6(2) of the Act, a registered housing co-operative is declared to be an applied Corporations legislation matter for the purposes of Part 3 of the *Corporations (Ancillary Provisions) Act 2001* in relation to—
 - (a) section 124(1)(b); and
 - (b) Part 9.7,of the *Corporations Act 2001* of the Commonwealth, subject to the modifications prescribed by subregulations (2) and (3).
- (2) Section 124(1)(b) applies as if a reference to a company were a reference to a registered housing co-operative.
- (3) Part 9.7 applies with the following modifications:
 - (a) a reference to ASIC is to be read as a reference to SAHT;
 - (b) section 1339(3) and (4) does not apply;
 - (c) a reference to the Commonwealth is to be read as a reference to the State;
 - (d) a reference to the Consolidated Revenue Fund is to be read as a reference to the Consolidated Account;
 - (e) a reference to the Court is to be read as a reference to the Supreme Court;

- (f) a reference to a company is to be read as a reference to a registered housing co-operative.

7—Registers to be kept by a registered housing co-operative

A registered housing co-operative must keep the following registers:

- (a) a register of members (setting out the full name of each member);
- (b) a register of applications for membership (setting out the full name of each applicant and the date of the application);
- (c) a register of land or premises owned or occupied by the co-operative (setting out the full address of the land or premises).

8—Payments to members

Pursuant to section 36(2)(h) of the Act, the making of a payment in respect of child-care costs is authorised under that section.

9—Accounts

A registered housing co-operative must prepare any—

- (a) income and expenditure statement; or
- (b) balance sheet,

in accordance with the requirements of Schedule 3.

10—Audit

Pursuant to section 47(8) of the Act, the report of an auditor on the completion of the audit must include—

- (a) a statement whether the financial statements are, in the opinion of the auditor, properly prepared—
 - (i) so as to give a true and fair view of income and expenditure of the co-operative for the relevant financial year, and so as to give a true and fair view of the assets and liabilities of the co-operative, and the general state of affairs of the co-operative, as at the end of that financial year; and
 - (ii) in accordance with the provisions of the Act; and
- (b) a statement of any defect or irregularity in the financial statements or accounting records of the co-operative and any matter not set out in the financial statements without regard to which a true and fair view of the results for the relevant financial year and the state of affairs of the co-operative as at the end of that financial year would not be obtained; and
- (c) if he or she is not satisfied as to any matter referred to in paragraph (a), a statement of the reasons for not being so satisfied.

11—Right of inspection

- (1) Pursuant to section 50(1)(e) of the Act, the following documentary material is prescribed:
 - (a) the Treasurer's working papers and files;

- (b) any reports or statements prepared by the Treasurer in his or her capacity as Treasurer;
 - (c) any of the following registers:
 - (i) the register of members;
 - (ii) the register of applications for membership;
 - (iii) the register of land or premises owned or occupied by the co-operative;
 - (d) any file or other documentary material relating to any real or personal property owned or leased by the co-operative;
 - (e) any policy document adopted by the co-operative or the committee of management of the co-operative;
 - (f) any document that directly relates to the member;
 - (g) any other documentary material that the co-operative has resolved to make generally available for inspection by members of the co-operative.
- (2) Pursuant to section 50(4) of the Act, the following information is excluded from the operation of section 50:
- (a) minutes of any meeting that relates to—
 - (i) a dispute between a member and a co-operative;
 - (ii) any proceedings before an appeals committee established by the co-operative;
 - (iii) any action to evict a member, or to suspend or terminate the membership of a member,other than where the member requesting the information is directly involved in the dispute or proceedings, or is the member against whom the action is or has been, or is proposed to be, taken;
 - (b) any information relating to a member of the co-operative, or supplied to the co-operative, that the co-operative has agreed by special resolution to keep confidential.

12—Financial transactions

Pursuant to section 64(1) of the Act, the following terms are prescribed in relation to an agreement between SAHT and a registered housing co-operative under Part 7 of the Act:

- (a) that payments be made to SAHT in accordance with the agreement;
- (b) that any money provided by SAHT that is not immediately required for the co-operative's purposes be invested in a manner specified in the agreement, or as approved by SAHT from time to time;
- (c) in respect of subsidised premises—
 - (i) that the premises will be let as housing accommodation;
 - (ii) that the rent payable for the premises be as determined or approved by SAHT in accordance with principles set out in the agreement;

- (iii) that any other charges payable by a tenant or tenants of these premises in respect of the tenancy, or in respect of membership of the co-operative, not exceed an amount or amounts determined or approved by SAHT in accordance with principles set out in the agreement;
 - (iv) that the co-operative will maintain the premises in a reasonable state of repair and make adequate financial provision for the long term maintenance of the premises;
 - (v) that the co-operative will take out insurance to such extent as may be specified in the agreement;
 - (vi) that the co-operative will not materially alter the premises, or demolish the premises, without SAHT's approval (and a condition of SAHT's approval to the alteration of premises may be that the alterations be carried out to a standard determined or approved by SAHT);
 - (vii) that the co-operative will not sell, transfer, assign, mortgage or otherwise deal with the premises without SAHT's approval (and a condition of that approval may be that money obtained by the co-operative from dealing with the premises be paid to SAHT);
 - (viii) that a person authorised by SAHT will be entitled to enter and inspect the premises at any reasonable time after giving reasonable notice to the co-operative;
 - (ix) that the co-operative comply with all requirements in respect of buildings, health and safety under any Act insofar as they relate to the premises;
 - (x) that the co-operative promptly pay any rates, taxes or charges imposed in respect of the premises for which the co-operative may become liable;
- (d) that the rules of the co-operative contain provisions specified by SAHT on or before the commencement of the agreement;
 - (e) that the co-operative manage its affairs in an efficient and co-operative manner;
 - (f) that the co-operative maintain records in accordance with terms set out in the agreement and provide such reports and other information as may be specified in the agreement or as SAHT may from time to time require;
 - (g) that the co-operative's borrowings will not, without the approval of SAHT, exceed an amount specified by, or calculated in accordance with the terms of, the agreement;
 - (h) that the co-operative establish, operate and maintain a budget approved by SAHT from time to time;
 - (i) that the co-operative establish and maintain funds or reserves determined by SAHT;
 - (j) that the co-operative will not acquire land or build or acquire premises without SAHT's approval;

- (k) that the agreement can be discharged by the payment of an amount or amounts calculated in accordance with the terms of the agreement;
- (l) such other terms as may be agreed between SAHT and the co-operative.

13—Intervention

Pursuant to section 71(5)(l) of the Act, the Minister may require a registered housing co-operative to engage an expert, consultant or other person to assist it in the conduct of its affairs.

14—Power to compromise with creditors

Pursuant to section 73(1) of the Act, the following modifications are prescribed in relation to the application of Part 5.1 of the *Corporations Act 2001* of the Commonwealth under the Act:

- (a) a reference to a director of a body is to be read as a reference to a committee member of a registered housing co-operative;
- (b) a reference to the Court is to be read as a reference to the Supreme Court;
- (c) a reference to ASIC is to be read as a reference to the Minister;
- (d) a reference to the constitution of a body is to be read as a reference to the rules of a registered housing co-operative;
- (e) a reference to a company (including a transferee company) is to be read as a reference to a registered housing co-operative.

15—Winding up

Pursuant to section 74(2) of the Act, the following modifications and exclusions are prescribed in relation to the application of Parts 5.4 to 5.6 of the *Corporations Act 2001* of the Commonwealth under the Act:

- (a) section 462(2), (2a), (3) and (4) does not apply;
- (b) section 464 does not apply;
- (c) a reference to the Court is to be read as a reference to the Supreme Court;
- (d) a reference to ASIC is to be read as a reference to the Minister;
- (e) a reference to a director of a company is to be read as a reference to a committee member of a registered housing co-operative;
- (f) a reference to "the Gazette" is to be read as a reference to the South Australian Government Gazette;
- (g) section 501 does not apply;
- (h) notwithstanding the provisions of Part 5.6, on the winding up of a registered housing co-operative, no present or past member of the co-operative will be liable to contribute to the property of the co-operative by reason only of his or her membership of the co-operative;
- (i) section 556(1) applies as if the following paragraph were included after paragraph (df):

- (dg) next, in the case of a subsidised housing co-operative under the *South Australian Co-operative and Community Housing Act 1991*, any amount payable under Division 3 of Part 6 of that Act in respect of any investment shares issued by the co-operative;;
- (j) section 563A applies as if the passage ", but, in the case of a subsidised co-operative under the *South Australian Co-operative and Community Housing Act 1991*, not including any amount payable under Division 3 of Part 6 of that Act in respect of any investment shares issued by the co-operative," appeared after "dividends, profits or otherwise";
- (k) Division 9 of Part 5.6 does not apply.

16—Offences arising under the Commonwealth Act

Pursuant to section 82 of the Act, the following modifications and exclusions are prescribed in relation to the application of sections 589 to 596 and 1307 of the *Corporations Act 2001* of the Commonwealth under the Act:

- (a) a reference to ASIC is to be read as a reference to the Minister;
- (b) section 589(2) is to be read as if it provided that the affairs of a registered housing co-operative are or have been under investigation if the Minister has at any time taken action in relation to the co-operative under Part 9 of the Act;
- (c) a reference to ASIC publishing a notice in relation to a company under subsection 601AA(4) or 601AB(3) is to be read as a reference to the Minister giving notice under section 78(1) of the Act, and section 589(3)(b) does not apply;
- (d) a reference to section 289 of the *Corporations Act 2001* of the Commonwealth is to be read as a reference to section 46 of the Act;
- (e) a reference to a director of a company is to be read as a reference to a committee member of a registered housing co-operative;
- (f) a reference to the Court is to be read as a reference to the Supreme Court.

17—Suspension or termination of membership

- (1) A registered housing co-operative must not—
 - (a) take action to suspend or terminate the membership of a member without the consent of the member; or
 - (b) take action that would cause detriment to a member (being a detriment that is not to be suffered by all or a substantial proportion of the members of the co-operative),

unless and until the member has been given a notice in writing setting out—

- (c) the circumstances surrounding the proposed course of action; and
 - (d) a statement of the member's rights in the matter.
- (2) The member may, within 14 days of receiving the notice, lodge with the co-operative a written objection to the taking of action against him or her (denying, if the member thinks fit, liability to the action).

- (3) The co-operative must, at the request of the member, afford the member a reasonable opportunity to make representations at a general meeting of the co-operative in support of the objection.
- (4) Representations may be made under subregulation (3) personally or through a representative.
- (5) The co-operative may, after complying with the preceding subregulations, and any relevant rule of the co-operative, by special resolution, take action against the member.
- (6) This regulation does not apply—
 - (a) in relation to action taken in accordance with a tenancy agreement between a registered housing co-operative and a member; or
 - (b) with respect to the redemption or cancellation of investment shares by a registered housing co-operative under Part 6 of the Act.

18—Appeals

For the purposes of section 84(9)(b)(i) of the Act, the prescribed period is 30 days.

19—Model rules

Pursuant to section 107(2)(a) of the Act, the rules set out in Schedule 4 are prescribed as model rules.

20—Mandatory provisions

Pursuant to section 107(2)(b) of the Act, the rules of a registered housing co-operative must contain the following provisions:

- (a) the name of the co-operative;
- (b) the principal address of the co-operative;
- (c) the objects of the co-operative;
- (d) the manner in which applications for membership of the co-operative may be made;
- (e) the conditions of admission to the co-operative;
- (f) the circumstances under which a membership will be suspended or cease;
- (g) the appointment of an appeals committee within the co-operative;
- (h) the manner of appointing an auditor;
- (i) the number of members of the committee of management;
- (j) the manner in which committee members are appointed;
- (k) the appointment of a person to the office of Treasurer of the co-operative, and the powers and functions of the person who holds that office;
- (l) the powers and duties of the committee of management and the manner of calling meetings, the quorum for meetings, and the procedure at meetings of the committee of management;
- (m) the manner of calling meetings of the co-operative and the frequency of those meetings;

- (n) the manner in which notice of a meeting of the co-operative is to be given to members of the co-operative;
- (o) the custody and use of the common seal;
- (p) the manner in which the assets of the co-operative are to be managed and applied;
- (q) the manner in which the co-operative may be wound up;
- (r) the distribution of the assets of the co-operative on a winding up.

21—Mandatory provision in funding agreement

- (1) Pursuant to section 107(2)(p) of the Act, an agreement for the provision of funding by SAHT to a registered housing co-operative must (subject to any determination of the Minister) contain a provision of a form approved from time to time by the Minister, on the advice of SAHT after consultation with registered housing co-operatives, and notified in the Gazette that—
 - (a) fixes tenancy eligibility criteria and conditions relating to tenancy by reference to financial circumstances and special needs;
 - (b) requires periodic reporting by tenants to the co-operative as to their financial circumstances and special needs;
 - (c) provides for the review of tenants financial circumstances on a periodic basis and the variation of the conditions of tenancy in specified circumstances.
- (2) Pursuant to section 71(2)(p) of the Act, a failure by a registered housing co-operative to comply with subregulation (1) is prescribed as a ground for intervention.

Schedule 1—Forms

(Regulation 4)

Form 1:	Application for registration of a housing co-operative
Form 2:	Statutory declaration to accompany application for registration
Form 3:	Application for amalgamation of two or more registered housing co-operatives
Form 4:	Application for appeal

Form 1

South Australian Co-operative and Community Housing Act 1991

Application for registration of a housing co-operative

TO: The Minister responsible for the administration of the *South Australian Co-operative and Community Housing Act 1991*

1 Full name of applicant:

2 Full address and telephone number of applicant:

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

3 Name under which it is proposed that the housing co-operative be registered:

.....
.....

4 Details of the objects of the housing co-operative:

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

5 Principal address of the housing co-operative (and proposed registered address):

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

6 The following items accompany this application:

- (a) a true copy of the rules of the housing co-operative; and
- (b) a statutory declaration relating to this application; and
- (c) the prescribed fee.

DATED the day of

.....
(Signature of applicant)

.....
(Name in block letters)

Form 2

Statutory declaration to accompany application for registration

I of
(Full name)

..... in the State of South Australia
(Full address)

..... do solemnly and sincerely declare that:
(Occupation)

1 I am the person authorised to apply under the *South Australian Co-operative and Community Housing Act 1991* for the registration of a housing co-operative under the name

2 The particulars contained in the accompanying application for registration of the housing co-operative under the *South Australian Co-operative and Community Housing Act 1991*

dated the day of, are true.

3 The annexed document marked "A" * is a true copy of the rules of the housing co-operative.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act 1936*.

Declared before me at..... }
This day of }
..... }
..... }

Declarant

(Justice of the Peace)

This annexure is to be endorsed by the person before whom the declaration is made as follows:

"This is the annexure marked "A" referred to in the statutory declaration of

.....
made on the day of

Before me: "

Form 3

Application for amalgamation of two or more registered housing co-operatives

TO: The Minister responsible for the administration of the *South Australian Co-operative and Community Housing Act 1991*

1 Names and principal addresses of the registered housing co-operatives that have proposed to amalgamate:

(1).....
.....
.....

(2).....
.....
.....

[Add further names and addresses, if necessary]

2 Dates on which the relevant special resolutions supporting amalgamation were passed:

(1).....
(Name of housing co-operative)

Date of special resolution:

(2).....
(Name of housing co-operative)

Date of special resolution:

3 Name under which it is proposed that the new housing co-operative be registered:

.....

4 Details of the objects of the proposed new housing co-operative:

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

5 Principal address of the proposed new housing co-operative (and proposed registered address):

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

6 Please state reasons for amalgamation:

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

7 The following items accompany this application:

(a) a true copy of the special resolution passed by

.....
(Name of housing co-operative)

on the day of

.....supporting the amalgamation (marked with the letter "A" for identification purposes);

- (b) a true copy of the special resolution passed by
.....
(Name of housing co-operative)
on the..... day of
..... supporting the amalgamation (marked with the letter "B"
for identification purposes);
[Add further paragraph(s) if additional housing co-operative(s) are parties to the application.]
- (c) a true copy of the rules of the co-operative proposed to be formed by the
amalgamation (marked with the letter "C" [or another appropriate letter] for
identification purposes);
- (d) the certificates of incorporation of each registered housing co-operative that is a
party to the application;
- (e) the prescribed fee.

8 The following person is, for the purposes of this application, authorised to act on behalf of
the registered housing co-operative that are parties to this application:

.....
(Full name)
.....
.....
.....
(Full address)
.....
(Telephone number)

Dated the..... day of

The common seal }
..... }
..... }
was affixed to this }
application on the }
day of }
in the presence of: }

The common seal of }
..... }
..... }
was affixed to this }
application on the }
day of }
in the presence of: }

[Add further items, if necessary]

Form 4

South Australian Co-operative and Community Housing Act 1991

Application for appeal

I,,
 (Full name)

of,

 (Full address)

.....
 (Occupation)

apply under the *South Australian Co-operative and Community Housing Act 1991* for relief under section 84 of that Act.

I apply for relief in relation to the following matter(s):

.....

The reasons for my application are as follows:

.....

Please describe the steps that have been taken to attempt to resolve the matter:

.....

DATED the day of

Signed:

My address for service of any relevant notices or documents is:

.....

Schedule 2—Fees

(Regulation 5)

Item	Matter	Amount
1	For inspection under section 21(2)(a) or (b) of any register or document	Nil
2	For the supply of a certified copy or extract under section 21(2)(c)—	
	(a) for one page	\$5.00
	(a) for each additional page	\$0.50
3	On applying to the Minister for the registration of a housing co-operative under section 22 of the Act	\$75.00
4	On applying to the Minister for the amalgamation of 2 or more registered housing co-operatives under section 25 of the Act	\$75.00
5	On applying to the Minister for the registration of an alteration to the rules of a registered housing co-operative	\$20.00

Item	Matter	Amount
6	On lodging an application for relief under section 84 of the Act	\$10.00
7	On lodging an application to the Minister (not being an application for which a fee is specified elsewhere in the Schedule) to exercise any of the powers conferred on the Minister under this Act, or by the provisions of the <i>Corporations Act 2001</i> of the Commonwealth applied to registered housing co-operatives under this Act	\$15.00
8	For any act that the Minister is required or authorised to do on the request of a person and for which a fee is not prescribed by any other item	\$10.00
9	For a certificate issued by the Minister (not being a certificate for which a fee is specified elsewhere in the Schedule)	\$3.00

Schedule 3—Requirements for income and expenditure statements and balance sheets

1—Basic form of income and expenditure statement

- (1) Subject to this clause, the format of an income and expenditure statement must be as in the following table:

INCOME

Rent Receivable:

Capital Contributions

Major Maintenance Levy

Operating Levy

Donations

Fundraising

Membership Fees

Interest Received

Rebates, Refunds and Credits

Other Receipts

TOTAL INCOME

EXPENSES

Administration Expenses

Capital Contributions Paid to SAHT (or, if relevant, SACHA)

Depreciation (optional)

Insurance

Maintenance Expenses

Minor

Major

Rates and Taxes

Write-Offs

Other Expenses

TOTAL EXPENSES

NET OPERATING SURPLUS

ABNORMAL ITEMS AND TRANSFERS TO PROVISIONS

Major Maintenance Provision

NET SURPLUS

- (2) Such of the words set out in the table in subclause (1) as are relevant must be specified in an income and expenditure statement with the aggregate amount to which those words refer as an entry or part of an entry.
- (3) The entries in an income and expenditure statement must be set out in the same sequence as the groups of words are set out in the table in subclause (1).
- (4) An income and expenditure statement must also show separately the amounts and particulars of any other matters necessary to present a true and fair view of the income and expenditure of the housing co-operative.

2—Basic form of balance sheet

- (1) Subject to this clause, the format for a balance sheet must be as in the following table:

CURRENT ASSETS

Cash on Hand

Cash with an ADI

Cheque Account

Investment Account

Major Maintenance Fund Account

Debtors

Rent Arrears

Other

Other Current Assets

TOTAL CURRENT ASSETS

NON-CURRENT ASSETS

Office Equipment

less: Provision for Depreciation

Properties (at Valuation)

Share Capital Deposited under Act

TOTAL NON-CURRENT ASSETS

TOTAL ASSETS

CURRENT LIABILITIES

Creditors

Loans

TOTAL CURRENT LIABILITIES

NON-CURRENT LIABILITIES

Debentures

Loans

Major Maintenance Provision

Share Capital Account

TOTAL NON-CURRENT LIABILITIES

TOTAL LIABILITIES

NET ASSETS

MEMBERS FUNDS

Debenture Indexation Reserve

Accumulated Surpluses

TOTAL MEMBERS FUNDS

- (2) The headings set out in the table in subclause (1), to the extent that they are relevant, must be specified in a balance sheet.
- (3) Such of the words set out in the table in subclause (1) as are relevant and do not comprise a heading must be specified in a balance sheet with the aggregate amount to which those words refer as a subheading or part of a subheading.
- (4) Each amount specified in a balance sheet forming part of the accounts as the amount of assets of the housing co-operative as at the end of a financial year must be the aggregate of the amounts in respect of which those assets are recorded in the books of the housing co-operative at the end of that period less the aggregate provided for in respect of those assets by way of depreciation, amortisation, diminution in value or doubtful debts in those books as at the end of that period.
- (5) The headings and subheadings, in a balance sheet must be specified in the same sequence as the headings and words, or groups of words, are set out in the table in subclause (1).
- (6) In relation to the headings referred to in the balance sheet there must be shown separately the amounts and particulars necessary to present a true and fair view of the state of the affairs of the housing co-operative.

Schedule 4—Model rules

Part 1—Interpretation

1—Interpretation

- (1) In these rules, unless the contrary intention appears—
the Act means the *South Australian Co-operative and Community Housing Act 1991* (as amended from time to time).
Program Manager means SAHT (and includes an authorised delegate of SAHT).
Regulations means the regulations prescribed under the Act.
Special Resolution and *Unanimous Resolution* have the meanings defined under the Act.
Tenancy Agreement means a tenancy agreement between the Co-operative and a member of the Co-operative.
- (2) Where a term used in these rules has been defined for the purposes of the Act, the term will have the same meaning in these rules as it has under the Act.

Part 2—Name, establishment and powers

2—Name

The name of the co-operative will be Housing Co-operative Incorporated, hereinafter referred to as "the Co-operative".

3—Compliance with the Act

The Co-operative must in all respects comply with the Act and Regulations, and lawful directions of the Program Manager.

4—Objects

[*To be specified, and must be in conformity with sections 3(2), (3), (4), (5), and 22(5) of the Act and any agreement it has entered into with the Minister.*]

5—Situation

The principal address of the Co-operative is situated at in the State of South Australia.

6—Powers

The Co-operative has all the powers conferred by sections 28 and 29 of the Act save and except such modifications and exclusions as are specified in these rules.

Part 3—Rules and by-laws

7—Effect of rules

The rules and by-laws of the Co-operative are binding on the Co-operative, the members of the Co-operative, and, insofar as they affect the occupation of premises of the Co-operative (and as may otherwise be appropriate), occupiers of those premises who may not be members of the Co-operative.

8—Alteration of the rules

The Rules of the Co-operative may be amended, altered or rescinded in accordance with the procedures set out in section 27 of the Act.

9—By-laws

- (1) The Co-operative, at a General Meeting at which a quorum is present, will have the power from time to time as it may think fit to pass, alter or rescind by-laws providing for the due management and regulation of the Co-operative.
- (2) By-laws made pursuant to the previous subrule must be entered in a book which must be kept for the inspection of members and such by-laws will be printed and circulated to all members of the Co-operative.

Part 4—Membership and membership rights

10—Right of inspection

Each member of the Co-operative will have the rights of inspection of the Co-operative's records and books specified in the Act and Regulations.

11—Membership

- [(1) This rule should specify the classes (if any) of membership of the Co-operative.*
- (2) The procedures for tenant selection and criteria for membership will be included in the Co-operative's by-laws.*
 - (3) The Co-operative may charge a membership fee for each or any class of member. The fee will be decided at a general meeting of the Co-operative.*
 - (4) The Co-operative may issue one non-transferable and non-redeemable one dollar share to each tenant member.*
 - (5) Membership of the Co-operative carries certain obligations under section 35 of the Act and must be specified in the rules.]*

12—Termination of membership

- (1) The following may constitute grounds for termination or suspension of membership:
 - (a) if the member breaches obligations of membership as defined in the Act, Regulations, Rules, or By-laws;
 - (b) if the member breaches the conditions of the Tenancy Agreement;
 - (c) if the member no longer satisfies a condition specified in his or her Tenancy Agreement essential to the continuation of the tenancy;

- (d) if the member engages in conduct detrimental to the interests of the Co-operative;
 - (e) if the member is no longer eligible for tenant membership of the Co-operative.
- (2) The member must be given notice of intention to terminate or suspend membership in writing by the Management Committee. The notice must set out:
- (a) the reasons for the proposed termination or suspension of membership;
 - (b) the procedures for termination or suspension of membership including rights of appeal;
 - (c) any other information as may be prescribed by the Act and Regulations.
- (3) The question of the termination or suspension of membership must be submitted to and determined by a duly constituted General Meeting of the Co-operative.
- (4) The member has the right to make representations in writing and personally, or through a representative, to the Management Committee and/or a General Meeting.
- (5) The member will have the right of appeal against a resolution to terminate or suspend his or her membership to a General Meeting in accordance with the appeal procedures set down by the Regulations and any relevant by-law.
- (6) The member will cease to be a member or will have his or her membership suspended if the membership has voted for his or her expulsion or suspension by special resolution, but the expulsion or suspension must be stayed pending any appeals to which the member is entitled.
- (7) Membership may be suspended for any period up to 12 months.

13—Appeals and conflict resolution

- (1) The Co-operative will pass a By-law:
- (a) constituting an Appeals Committee which may consist of a General Meeting of the Co-operative;
 - (b) establishing means to assist in the resolution of conflict between members.
- (2) A member aggrieved by a decision of the Management Committee or the Co-operative has a right of appeal to the Appeals Committee and to a General Meeting of the Co-operative.
- (3) A member aggrieved by a decision of the Management Committee or the Co-operative has a right to apply for relief under section 84 of the Act.

Part 5—Management of Co-operative

14—Management of the Co-operative

- (1) The management of the Co-operative will be vested in a Management Committee consisting of the following persons:
- (a) a minimum of and a maximum of (*to be inserted by Co-operative, but not less than three*) who are members of the Co-operative. (*Note—this may include all members of the co-operative in which case rules 14(1)(b) and (4), 20(1) and (2), 21(1), (2), (3) and (4) do not apply*);

- (b) a maximum of (*to be inserted by Co-operative*) associate members who are members of the Co-operative by reason of rule 11(1).
- (2) All membership fees due must be paid within 21 days of becoming a member of the Management Committee.
 - (3) The Co-operative will have a Treasurer (*the Co-operative should add any other office bearers here including assistants*).
 - (4) The members and/or office bearer(s) of the Management Committee will be elected from and by the members of the Co-operative at the Annual General Meeting (except in the case of casual vacancies). All members and/or office bearer(s) of the Management Committee are eligible for re-election unless otherwise provided for in the By-laws.
 - (5) All members of the Co-operative are eligible to stand for election to the Management Committee and/or to stand for an office.
 - (6) No member may hold more than one office at any one time.

15—Committee meetings

- (1) The Management Committee must meet not less than 6 times per annum and at such other times as the Management Committee thinks fit. Meetings must be held at intervals of not less than 3 months.
- (2) Notice of all Management Committee meetings must be given by the secretary to all members of the Co-operative not less than 7 days prior to the date of the meeting, specifying the place, the day and hour of the meeting, and enclosing minutes of the previous meeting.
- (3) If, in the opinion of a majority of the members of the Management Committee, a meeting of the Management Committee should be called to decide urgent business, then the requirement of subrule (2) will not apply but all members of the Co-operative must be given notice of the meeting and the agenda.
- (4) A meeting must be called by the Management Committee within 7 days of the written request of 3 of the Management Committee members and such meetings must take place within 21 days of the original request.
- (5) The quorum for meetings of the Committee will be (*insert*). (*Note—at least one half of the total plus one*).
- (6) No business may be transacted at any Management Committee meeting unless a quorum is present at the time the meeting proceeds to business and a quorum must be present from the beginning to the end of any Management Committee meeting.
- (7) If, within 30 minutes from the time appointed for a meeting, a quorum is not present, the meeting will not take place, and it stands adjourned to a later date, and all members of the Co-operative must be given not less than 5 days written notice of the place, time, and day of the adjourned meeting, and the agenda.
- (8) Each member of the Management Committee is entitled to 1 vote and the Chairperson or facilitator will have a deliberative vote only. In the event of an equality of voting on any question, the question will be resolved in the negative.

- (9) All meetings of the Management Committee must be open to all members of the Co-operative unless the Management Committee resolves that the meeting be closed or restricted to consider confidential business.

16—The Committee and office bearers

- (1) Each officer of the Co-operative holds office for a period of 1 year from the date of election, but may not be elected to the same position for more than 3 years consecutively.
- (2) The office of a Committee member becomes vacant in accordance with the provisions of the Act, or if the office holder becomes permanently incapacitated by ill-health, or otherwise in accordance with these Rules.
- (3) Any casual vacancy occurring in the membership and/or office(s) of the Management Committee will be filled by a member elected by the Co-operative at a General Meeting.
- (4) An officer of the Co-operative must give 1 month's written notice of resignation.
- (5) All or any of the offices may be declared vacant by a special resolution of the Co-operative at an Extraordinary General Meeting called to consider the declaration. Any officer whose office is the subject of a proposed declaration under this subrule must be given 14 days notice of the reasons for the declaration, and must be given a reasonable opportunity to make representations in writing and personally or through a representative to the Extraordinary General Meeting.

17—Powers and functions of office bearers

[To be specified by the Co-operative and to comply with the Act and regulations.]

18—Sub-committees

- (1) The Management Committee may from time to time appoint from the members of the Co-operative such sub-committees as it may deem necessary and may delegate or refer to them such of the powers and duties of the Management Committee as the Management Committee may determine.
- (2) Each sub-committee appointed under subrule (1) must report its proceedings to the Management Committee and must conduct its business in accordance with the directions of the Management Committee which may act itself in any matter, notwithstanding the existence of a sub-committee formed for that purpose.
- (3) The Co-operative may from time to time appoint from the members of the Co-operative such sub-committees as it may deem necessary and may delegate or refer to them such of the powers and duties of the Co-operative as the Co-operative may determine.
- (4) Each sub-committee appointed under subrule (3) must report its proceedings to the Co-operative and must conduct its business in accordance with the directions of the Co-operative which may act itself in any matter, notwithstanding the existence of a sub-committee formed for that purpose.

19—Power to co-opt

- (1) The Management Committee has the power to co-opt to the Management Committee or any sub-committee any member or members of the Co-operative to assist in the conduct of the business of the Management Committee or any sub-committee as it deems necessary or expedient.
- (2) The Management Committee has the power to co-opt to the Management Committee or any sub-committee any person or persons from such other group, Co-operative, Association or body as may in the opinion of the Management Committee be necessary to ensure that the Co-operative has adequate representation on its Management Committee of all necessary groups, Associations or other bodies or expertise to ensure that the Co-operative's objects and activities can be properly carried out. Such co-opted members or persons will not be eligible to vote at the Management Committee meetings, and will retain their position for such period as may be decided by the Management Committee.
- (3) The Co-operative has the power to co-opt to the Co-operative or any sub-committee any person or persons from such other group, Co-operative, Association or body as may in the opinion of the Co-operative be necessary to ensure that the Co-operative has adequate representation of all necessary groups, Associations or other bodies or expertise to ensure that the Co-operative's objects and activities can be properly carried out. Such co-opted members or persons will not be eligible to vote at meetings, and will retain their position for such period as may be decided by the Co-operative.

20—Assignment of powers and functions

- (1) Notwithstanding these Rules, a duly constituted Special General Meeting of the Co-operative may, by special resolution, assign all or any of the Co-operative's powers and functions, including the power to pass, alter or rescind by-laws, to the Management Committee.
- (2) Such a delegation may have conditions attached to it and does not derogate from the ability of the Co-operative to exercise its powers and functions under the Act, Regulations and Rules at any time.

Part 6—Meetings of Co-operative

21—General meetings of the Co-operative

- (1) General Meetings may be called by the Management Committee at any time. At least 14 days notice in writing must be given to each member of the Co-operative, setting out the date, time, place and the agenda for the meeting, and enclosing the minutes of the previous meeting. The accidental omission to give notice to any member will not invalidate the meeting.
- (2) The quorum for a General Meeting will be one half of the Co-operative's members plus 1.
- (3) There must be at least 3 General Meetings each year, not including the Annual General Meeting.
- (4) All members of the Co-operative have the right to attend General Meetings.

- (5) *[Insert this subrule if membership fees are payable.]* Each financial member personally present at the meeting is entitled to 1 vote on any question arising for decision at the meeting. The provision that only financial members may vote do not apply if a unanimous resolution is required or if the Co-operative resolves that unfinancial members may vote.

22—Annual General Meetings

There must be an Annual General Meeting of the Co-operative by 30th September each year. Members must be given a minimum of 21 days notice of the date of the Annual General Meeting. The business of the meeting will be:

- (a) a report by the Management Committee of the operation and activities of the Co-operative;
- (b) the receipt of nominations for and the election of the Management Committee and/or officers of the Co-operative;
- (c) the presentation of the audited accounts of the Co-operative and any financial accounts and reports deemed necessary or expedient by the Management Committee;
- (d) the presentation of any variation of the Co-operative's management plan;
- (e) any other business as determined by the Management Committee;
- (f) any other business raised by members present at the meeting provided that the consideration of such matters is not opposed by a majority of members present.

23—Extraordinary General Meetings

- (1) An Extraordinary General Meeting may be called by the Management Committee or must be called upon receipt of a written notice specifying the proposed business of such an Extraordinary General Meeting and signed by not less than the number of members of the Co-operative specified in subrule (2). The request should clearly state the reason for the Extraordinary General Meeting.
- (2) The number of members required to sign the notice is:
 - (a) if the Co-operative has 12 or less members—3;
 - (b) if the Co-operative has more than 12 members—10 or one quarter of the members, whichever is the lesser number.
- (3) The meeting must take place within 14 days of the request being received by the Management Committee.
- (4) The Management Committee must give at least 7 days notice in writing of the meeting to each member of the Co-operative, setting out the date, time and place and the agenda for the meeting.
- (5) The quorum for an Extraordinary General Meeting will be the same as for Annual and General Meetings.

Part 7—Finance, property and audit

24—Finance

- (1) All monies received must be deposited in the Co-operative's account or accounts at such financial institutions as may be determined from time to time by the Management Committee.
- (2) Cheques or, if savings accounts, withdrawal forms, must be signed by any 2 of the Treasurer and other members of the Co-operative authorised by the Management Committee.
- (3) Notwithstanding the provisions of this rule, the Management Committee may, by resolution and from time to time:
 - (a) authorise the Treasurer to retain such sum or sums by way of petty cash as it thinks appropriate;
 - (b) authorise the Treasurer to make expenditures from petty cash.
- (4) The Management Committee will prescribe the conditions under which petty cash may be used by the Treasurer.

25—Auditor

- (1) An Auditor will be appointed by the Management Committee.
- (2) The Auditor will have the powers and duties required of him or her under the Act.
- (3) The Auditor is eligible for re-appointment from year to year.
- (4) The Auditor must report in writing thereon to the Co-operative at the next Annual General Meeting after the accounts have been audited:
 - (a) whether he or she has obtained the information required by him or her; and
 - (b) whether in his or her opinion the accounts are properly drawn up so as to exhibit a true and accurate view of the financial position of the Co-operative according to the information at his or her disposal and the explanations given to him or her and as shown by the books of the Co-operative; and
 - (c) whether the rules relating to the administration of the funds of the Co-operative have been observed.

26—Income and property of the Co-operative

- (1) The income and property of the Co-operative, however derived, will be applied solely towards the promotion of the objects and purposes of the Co-operative and no portion thereof may be paid or transferred directly or indirectly by dividend, bonus or otherwise to any member of the Co-operative.
- (2) The Co-operative must not pay to any member any remuneration or other benefit in money or money's worth (other than the payment of out-of-pocket expenses).
- (3) Nothing in the foregoing provisions of this rule prevents the payment in good faith to an employee or member of the Co-operative of payments authorised under the Act.

27—Disposal of real property

The Co-operative must not dispose of any real property unless the disposal is approved by a special resolution at a duly constituted General Meeting.

Part 8—Miscellaneous

28—Seal of the Co-operative

- (1) The Co-operative will have a Common Seal which must remain in the custody of a duly appointed member of the Management Committee.
- (2) The Common Seal of the Co-operative may only be affixed to any instrument by authority of the Co-operative and every instrument to which the Seal is affixed must be signed by one of the office holders of the Management Committee and countersigned by a second office holder or by some other person appointed by the Co-operative for that purpose.

29—Distribution of assets upon winding up

If at the completion of a winding up of the Co-operative there remain any surplus assets, those surplus assets will be given or transferred, according to the determination of the Minister:

- (a) to SAHT; or
- (b) to another registered housing co-operative; or
- (c) to another body that has identical or similar aims and objects to the co-operative provided that—
 - (i) such transfer is to a body approved under section 78(1)(a) of the *Income Tax Assessment Act* of the Commonwealth; and
 - (ii) that body executes a declaration of trust declaring that it will hold and deal with such property so as to provide accommodation for low income households, particularly for households in financial need.

30—Affiliation

The Management Committee may:

- (a) make application with such organisations and Associations whose objects are consistent with those of the Co-operative and as the Management Committee from time to time thinks fit;
- (b) elect a representative or representatives to attend meetings of such organisations and Associations;
- (c) invite a representative or representatives from such organisations and Associations to attend any meeting of the Management Committee and/or any General Meeting.

31—Circumstances not provided for

- (1) If any circumstances arise as to which these Rules are:
 - (a) silent; or
 - (b) incapable of taking effect; or

- (c) incapable of being implemented according to their strict provision,
the Management Committee shall have the power to determine what action may be taken to best give effect to the objects of the Co-operative and to ensure its efficient administration.
- (2) Every act of the Management Committee taken in good faith under this rule will be as valid and effectual as if specifically authorised by these Rules.

Schedule 5—Revocation of regulations

1—Revocation of regulations

The South Australian Co-operative and Community Housing (General) Regulations 1992 are revoked.

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.

Principal regulations

Year	No	Reference	Commencement
2007	187	<i>Gazette</i> 28.6.2007 p2873	1.7.2007: r 2