

SOUTH AUSTRALIA

STARR-BOWKETT SOCIETIES REGULATIONS 1994

SUMMARY OF PROVISIONS

1. Citation
2. Commencement
3. Revocation
4. Interpretation
5. Forms
6. Fees
7. Modifications, etc., of applied provisions of Code (ss. 9A and 66)
8. Prescribed banks and securities (s. 40)
9. Accounts to be kept (Part 7 Division 3)
10. Registers (s. 60)
11. Inspection of registers (s. 61)
12. Notice of cancellation of registration (s. 70)
13. Minutes (s. 83)
14. Offence to make false or misleading statement

SCHEDULE 1

Forms

SCHEDULE 2

Fees

SCHEDULE 3

Registers to be kept by Societies

REGULATIONS UNDER THE STARR-BOWKETT SOCIETIES ACT 1975

Starr-Bowkett Societies Regulations 1994

being

No. 135 of 1994: *Gaz.* 11 August 1994, p. 425¹

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

Citation

1. These regulations may be cited as the *Starr-Bowkett Societies Regulations 1994*.

Commencement

2. These regulations will come into operation on 1 September 1994.

Revocation

3. The *Building Societies Regulations 1975* (see *Gazette* 26 June 1975 p. 2471), as varied, are revoked.

Interpretation

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

"**the Act**" means the *Starr-Bowkett Societies Act 1975*;

"**the Code**" means the *Companies (South Australia) Code*.

Forms

5. (1) The forms set out in schedule 1 must—

(a) be used for the purposes specified in the schedule; and

(b) contain the information required by, and be completed in accordance with, the instructions contained in the forms.

(2) The name of a person signing a form set out in schedule 1 must be written legibly under or alongside the signature of that person.

(3) Where a form requires that another document be furnished with the form, or the space provided in a form is insufficient to contain all the required information—

(a) the document must be furnished as, or 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.

Fees

6. The fees set out in schedule 2 are payable as specified in that schedule.

Modifications, etc., of applied provisions of Code (ss. 9A and 66)

7. (1) For the purposes of sections 9A and 66 of the Act, the provisions of the *Code* applied by those sections ("**the applied provisions**") extend to societies unless the context otherwise requires—

(a) as if a reference to the Commission were a reference to the Corporate Affairs Commission;

(b) as if a reference to the Code or to a relevant Code were a reference to the Act;

3.

- (c) as if a reference to a company were a reference to a society;
- (d) as if a reference to a corporation or a company included a reference to—
 - (i) an association or a subsidiary corporation;
 - (ii) an association or a subsidiary corporation that is in the course of being wound up or has been dissolved.

(2) For the purposes of applying the applied provisions, unless the contrary intention appears, expressions contained in the applied provisions have the same meaning as in the *Code*.

(3) In this regulation, a corporation is a subsidiary corporation if under section 7 of the *Code* the corporation would be a subsidiary of a society assuming for that purpose that the society were a corporation as defined in section 5 of the *Code*.

Prescribed banks and securities (s. 40)

8. For the purposes of section 40(1) of the Act—

- (a) a prescribed bank is a bank that is authorised under the *Banking Act 1959* of the Commonwealth (as amended from time to time) or a law of the State to carry on banking business in Australia;
- (b) a prescribed security is—
 - (i) a promissory note issued by—
 - (A) an instrumentality of the Crown in right of the State or the Commonwealth; or
 - (B) a body corporate carrying on life insurance business under the *Life Insurance Act 1945* of the Commonwealth (as amended from time to time);
 - (ii) a security issued by a body corporate whose obligations under the security are guaranteed or secured by a letter of credit issued or confirmed by a bank prescribed by paragraph (a).

Accounts to be kept (Part 7 Division 3)

9. (1) For the purposes of Division 3 of Part 7 of the Act, a society must keep accounts in a form and manner that will enable—

- (a) the preparation from time to time of accounts that present fairly the results of the operations of the society; and
- (b) the accounts of the society to be conveniently and properly audited.

(2) A society must retain its accounting records for seven years after the completion of the transactions to which they relate.

Registers (s. 60)

10. (1) For the purposes of section 60 of the Act, but subject to this regulation, registers must be kept by each society in writing as set out in schedule 3.

(2) Despite subregulation (1), a register to be kept by a society may be kept by recording or storing the matters concerned by means of a mechanical, electronic or other device provided that—

- (a) the matters recorded or stored are capable, at any time, of being reproduced in a written form, or a reproduction of those matters is kept in a written form, approved by the Commission; and
- (b) all reasonable precautions are taken by the society for guarding against damage to, destruction of or falsification of or in, and for discovery of falsification of or in, the register; and
- (c) when the register is required to be made available for inspection, or a copy of the whole or part of its contents is required, under the Act, the register is made available in written form or the whole or required part of its contents is reproduced in writing (as the case may be).

Inspection of registers (s. 61)

11. A society must, at the request of a member—

- (a) provide the member with particulars of his or her financial position with the society as a member, shareholder or borrower; and
- (b) allow the member to inspect registers and records kept by the society containing information relating to the names, addresses or voting rights of other members as reasonably necessary in connection with the calling and conduct of meetings of the society.

Notice of cancellation of registration (s. 70)

12. The Commission must, on cancelling the registration of a society under section 70 of the Act, give notice in the *Gazette* of the cancellation.

Minutes (s. 83)

13. (1) A society must—

- (a) cause minutes of all proceedings of general meetings and meetings of the board to be entered in separate books kept for that purpose within 14 days of the date of the meeting; and
- (b) cause those minutes to be—
 - (i) confirmed by the members of the society or the board (as the case may be) present at a subsequent meeting; and
 - (ii) signed by the person who presided at the meeting at which the proceedings took place or by the person presiding at the meeting at which the minutes are confirmed.

5.

(2) An apparently genuine document purporting to be a minute of a society that has been entered, confirmed and signed in accordance with subregulation (1) is evidence of the proceedings to which the minute relates.

(3) The books containing the minutes of proceedings of any general meeting or of a meeting of the board of a society must be kept by the society at the registered office.

(4) The books containing the minutes of proceedings of general meetings must be made available for inspection by any member without charge.

(5) If default is made in complying with subregulation (3) or (4), the society and any officer of the society who is in default are each guilty of an offence.

Penalty: \$200 fine.

Offence to make false or misleading statement

14. A person must not, in a document lodged with the Commission for the purposes of the Act—

(a) make a statement that is, to his or her knowledge, false or misleading; or

(b) omit or authorise the omission from any such document a particular which is, to his or her knowledge, a material particular.

Penalty: \$200 fine.

SCHEDULE 1

Forms

(Regulation 5)

Form

1. Application by society for registration of alteration of rules (s. 16)
 2. Certificate of incorporation of society (following change of name) (s. 18)
 3. Notice of change of registered office (s. 19)
 4. Application for registration of amalgamation of societies (s. 22)
 5. Certificate of amalgamation—amalgamation by merger of societies (s. 23B)
 6. Application for registration of special resolution (other than a special resolution altering the rules of a society) (s. 59(3))
 7. Annual return for a society for financial year (s. 64)
 8. Balance sheet (s. 64(2))
 9. Statement of receipts and payments (s. 64(2))
 10. Profit and loss account (s. 64(2))
 11. Statement of loans to officers of society or to body corporate in which they are interested (s. 64(5))
 12. Application for cancellation of registration of society (s. 70).
-

FORM 1
Starr-Bowkett Societies Act 1975

(Section 16)

APPLICATION BY SOCIETY FOR REGISTRATION OF ALTERATION OF RULES

(To be completed and lodged in duplicate)

To the Corporate Affairs Commission

NAME OF SOCIETY

1. Application is made by the abovementioned society for registration of—

- (a) alterations of rules of the society as specified below; and
- (b) the special resolution passed by the society approving the alterations.

2. Proposed alterations—

- (a) set out the special resolution approving the alterations proposed to be made to the rules—
.....
.....
.....
.....

- (b) set out the text of—
 - (i) existing rules affected by the proposed alterations, as they would read as a result of the alterations;
 - (ii) new rules proposed to be inserted;
 - (iii) existing rules proposed to be deleted—
.....
.....
.....
.....
.....
.....
.....
.....

- (c) state the reasons for, and intended effect of, proposed alterations—
.....
.....
.....

3. Special resolution—

- (a) the special resolution referred to above was passed at a meeting of the society held on 19 ..
at
- (b) the provisions of the Act and the rules of the society relating to the calling and conduct of meetings and the passing of special resolutions were complied with in relation to the passing of the special resolution.

Dated: 19

.....
Signature of *Director/Secretary

* *Delete as necessary*

NOTE: Section 16 of the *Starr-Bowkett Societies Act 1975* requires this application to be made not later than one month after the passing of the special resolution.

9.

FORM 2
Starr-Bowkett Societies Act 1975

(Section 18)

CERTIFICATE OF INCORPORATION OF SOCIETY
(following change of name)

The society incorporated under the name of
.....
has, under a special resolution passed on 19
and registered by the Commission, changed its name to
.....

This is to certify that
.....
is incorporated as a society under the *Starr-Bowkett Societies Act 1975*.

Dated: 19 ..

.....
Corporate Affairs Commission



10.

FORM 3
Starr-Bowkett Societies Act 1975

(Section 19)

NOTICE OF CHANGE OF REGISTERED OFFICE

To the Corporate Affairs Commission

NAME OF SOCIETY

Notice is given that it is proposed that the registered office of the society be changed from

.....

to

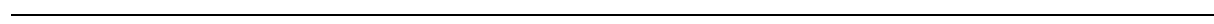
.....

with effect from 19

Dated: 19 ..

.....
Signature of *Director/Secretary

**Delete as necessary*



FORM 4
Starr-Bowkett Societies Act 1975

(Section 22)

APPLICATION FOR REGISTRATION OF AMALGAMATION OF SOCIETIES

(To be completed and lodged in duplicate)

To the Corporate Affairs Commission

NAME OF PROPOSED AMALGAMATED SOCIETY

1. Application is made by the following societies for registration under the name stated above of a society to be formed by amalgamation of the applicants:

(i)

(ii)

(iii)

(set out names of applicant societies)

2. Attached are—

- (a) a certified copy of the special resolution passed by each of the applicant societies approving the terms of amalgamation;
- (b) two copies of the proposed rules or constitution of the amalgamated society signed by a director and secretary (of the amalgamated society);
- (c) the certificates of incorporation of the applicant societies.

3. Each society concerned in the amalgamation has complied with the requirements of section 22 of the *Starr-Bowkett Societies Act 1975*.

4. The registered office of the amalgamated society is to be at

.....

Dated: 19 ..

Signatures of a director and the secretary of each applicant society—

Director

Secretary

Society

Director

Secretary

Society

Director

Secretary

Society

NOTE: (1) This application must be accompanied by the fee set out in schedule 2.
 (2) If any of the certificates of incorporation cannot be produced, statutory declarations as to the loss must accompany this application.



FORM 5

Starr-Bowkett Societies Act 1975

(Section 23B)

CERTIFICATE OF AMALGAMATION—AMALGAMATION BY MERGER OF SOCIETIES

This is to certify that on 19 ..

 amalgamated with
 and as a result of the amalgamation
 is dissolved
 and
 continues to be registered as a society under the *Starr-Bowkett Societies Act 1975*.

Dated: 19 ..

.....
 Corporate Affairs Commission



FORM 6
Starr-Bowkett Societies Act 1975

(Section 59(3))

APPLICATION FOR REGISTRATION OF SPECIAL RESOLUTION
(other than a special resolution altering the rules of a society)

To the Corporate Affairs Commission

NAME OF SOCIETY

1. Application is made by the abovementioned society for registration of a special resolution as specified below.

2. Special Resolution—

· Set out the special resolution—
.....
.....
.....
.....

· State the reasons for and intended effect of the special resolution—
.....
.....
.....

· The special resolution was passed at a meeting of the society held on 19 ..
at

· The provisions of the Act and the rules of the society relating to the calling and conduct of meetings and the passing of special resolutions were duly complied with in relation to the passing of the special resolution.

Dated: 19 ..

.....
Signature of *Director/Secretary

* Delete as necessary

NOTE: Section 59 of the *Starr-Bowkett Societies Act 1975* requires this application to be made not later than two months after the passing of the special resolution.



FORM 7
Starr-Bowkett Societies Act 1975
(Section 64)

ANNUAL RETURN OF A SOCIETY FOR FINANCIAL YEAR ENDED ON
(Insert date)

(Please refer to the accompanying DIRECTIONS before completing this form.)

1.FULL NAME OF SOCIETY:

2.ADDRESS OF REGISTERED OFFICE:.....

.....

3. DIRECTORS, PRINCIPAL EXECUTIVE OFFICER AND SECRETARIES:

| Full Name of Officer | Usual Residential Address | Date and Place of Birth | Office Held |
|----------------------|---------------------------|-------------------------|-------------|
| | | | |

4. FULL NAME OF AUDITOR AND BUSINESS ADDRESS:

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

NAME OF AUDIT FIRM AND BUSINESS ADDRESS:

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

AUDITING QUALIFICATIONS:

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

5. ANNUAL GENERAL MEETING:

*Date held:

*If the society has been granted an extension of time to hold the annual general meeting, set out the date to which the time has been extended:

6. DATE OF ANNUAL GENERAL MEETING FOR PREVIOUS FINANCIAL YEAR:

.....

* Where the annual general meeting for the financial year immediately preceding the financial year to which this annual return relates was not held before or on the date to which the last annual return was made up, state the date on which the meeting was held:.....

7. MEMBERS:

- Number of subscribing members
- Number of shares held by subscribing members
- Number of members who are paying off loans
- Number of shares held by members who are paying off loans

15.

- Number of members who have obtained an appropriation but have not taken up their loans
- Number of shares held by members who have obtained an appropriation but have not taken up their loans
- Number of members who have repaid loans
- Number of members who have redeemed loans
- Number of members who have given notice of withdrawal but have not been paid
- Number of shares held by members who have given notice of withdrawal but have not been paid

8. AUDITOR'S REPORT:

*Did the report of the auditors of the society for the financial year include a statement of reasons for the auditor not being satisfied as to any matter referred to in section 63(3)? *YES *NO

9. DECLARATION:

I certify that, to the best of my knowledge and belief—

(a) the information contained in this return is correct at the date of signing;

(c) this declaration is made pursuant to a resolution of the board of directors of the society which adopted the contents of this annual return.

Dated: 19

.....
Signature of *Director/Secretary

**Delete as necessary*

DIRECTIONS FOR COMPLETING FORM

DUE DATE FOR LODGING RETURN

1. Under section 64 of the *Starr-Bowkett Societies Act 1975*, an annual return must be lodged not later than 4 months after the end of the society's financial year.

DATE OF PARTICULARS PROVIDED

2. The particulars provided in the return should be correct as at the date of signing the return.

DIRECTIONS FOR COMPLETING PARTICULAR ITEMS OF RETURN

3. Complete the return to the extent applicable to the society. Items not applicable may be marked "N/A".

OFFICERS

4. "Director" includes a person occupying, or acting in, the position of director, and a person in accordance with whose directions or instructions the directors are accustomed to act.

AUDITOR

5. Insert the full name of the firm(s) or individual(s) holding office as auditor(s) at the date on which the annual return is signed.

DOCUMENTS TO ACCOMPANY ANNUAL RETURN

6. Annex a copy (certified in the manner set out below) of each of—
· the documents required under section 64(2) of the Act; and
· forms 8, 9 and 10.

CERTIFICATION

7. The following certification must be made in respect of the documents required to be attached to the annual return:

"I certify that these documents constitute true copies of every document a copy of which is required by the *Starr-Bowkett Societies Act 1975* to be lodged with the Commission.

Dated: 19 ..

.....
Signature of *Director/Secretary

FORM 8
Starr-Bowkett Societies Act 1975

(Section 64(2))

BALANCE SHEET

NAME OF SOCIETY

BALANCE-SHEET AS AT

| LIABILITIES | ASSETS |
|--|---|
| Subscriptions Paid | Cash in hand |
| <i>less</i> Working Expenses | Cash at Bankers |
| Suspense Account | Cash on Deposit (specify) |
| Sundry Creditors— | Sundry Debtors |
| Audit Fees | Office furniture |
| Postage and Telephone | Other Assets (to be specified) |
| Other Liabilities (to be specified) | Appropriation Account— |
| Profit and Loss Account— | Amounts advanced |
| Balance (brt fwd from last year) | <i>less</i> repayments .. |
| Profit and Loss (current year) | _____ |
| | Balance Payable |
| _____ | _____ |

Signature of Secretary

Date 19 ..



FORM 9
Starr-Bowkett Societies Act 1975

(Section 64(2))

STATEMENT OF RECEIPTS AND PAYMENTS

NAME OF SOCIETY

STATEMENT OF RECEIPTS AND PAYMENTS FOR YEAR ENDED

| RECEIPTS | PAYMENTS |
|---|--|
| Cash in Hand (brt fwd from last year) | Loans to Members |
| Cash at Bank | Subscription Withdrawals ... |
| Subscriptions | Secretary's Salary |
| Loan Repayments | Director's Fees |
| Transfer Fees | Audit Fees |
| Redemption Fees | Fidelity Insurance |
| Appropriation Fees | Printing and Stationery |
| Entrance Fees | Postage |
| Fines | Telephone |
| Suspense Account | Rent |
| Bank Interest | Income Tax |
| Working Expenses | Suspense |
| Other Cash Receipts (to be specified) | Other Payments (to be specified) |
| | Cash in Hand (closing balances) |
| | Cash at Bank (closing balances) |

Signature of Secretary

Date 19 ..

FORM 10
Starr-Bowkett Societies Act 1975

(Section 64(2))

PROFIT AND LOSS ACCOUNT

NAME OF SOCIETY

PROFIT AND LOSS ACCOUNT FOR YEAR ENDED

Secretary's Salary

Director's Fees

Audit Fees

Fidelity Insurance

Printing and Stationery

Postage and Telephone

Rent

Income Tax

Depreciation

Other Expenses (to be specified) . .

Profit transferred to Balance-Sheet .

Entrance Fees

Redemption Fees

Working Expenses

Appropriation Fees

Transfer Fees

Fines

Interest Received

Deduction for Working Expenses

Other Income (to be specified)

Loss transferred to Balance-Sheet

Signature of Secretary

Date 19 ..

=====

FORM 11
Starr-Bowkett Societies Act 1975

(Section 64(5))

**STATEMENT OF LOANS TO OFFICERS OF SOCIETY OR TO BODY CORPORATE
 IN WHICH THEY ARE INTERESTED**

| Name of officer or body corporate to whom loan made | If loan to body corporate, name of officer who has an interest in that body corporate | Officer's position in society or interest in body corporate | Valuation of property | Amount of loan | Date of loan | Period of loan | Security taken | Account reference |
|---|---|---|-----------------------|----------------|--------------|----------------|----------------|-------------------|
| | | | \$ | \$ | | | | |
| | | Total.. | | | | | | |

Signature of Secretary

Date19 ..

FORM 12
Starr-Bowkett Societies Act 1975

(Section 70)

APPLICATION FOR CANCELLATION OF REGISTRATION OF SOCIETY

NAME OF SOCIETY
REGISTERED ADDRESS OF SOCIETY

NOTE: This application is to be completed by a director or the secretary of the applicant society who should also complete the declaration and should be lodged as soon as practicable after the dissolution of the society.

1. The business for which the society was formed to transact has been completed.
2. The directors of the society wish the registration of the society to be cancelled under section 70 of the Act.
3. The society was dissolved on
4. How many members did the society have at the time it was dissolved?
5. If the society was involved in any legal action at the time it was dissolved, give details of that action
6. Copies of—
 - the final accounts of the society up to the date of its dissolution; and
 - an auditor's report stating—
 - that the society's accounts have been finalised; and
 - that any subscriptions due to members have been paid and that there is no unclaimed money; and
 - that all loans due to the society have been repaid; and
 - that any surplus remaining at the completion of winding up under Part 8 of the Act has been distributed under the rules of the society; and
 - that the dissolution of the society was correctly recorded in the society's minute book; and
 - the date that the society's bank account was closed,

are lodged with this application.

7. DECLARATION

I declare that to the best of my knowledge and belief the information contained in this application (and in any annexure to the application) is correct at the date of signing.

Declared before me at

this day of..... 19

Declarant

.....
Justice of the Peace Description of office held in society by declarant

SCHEDULE 2*Fees*

(Regulation 6)

| Clause | Matter | Amount \$ |
|-------------------------------|---|--------------|
| To be paid to the Commission: | | |
| 1. | On lodging an application for registration of an amalgamated society and its rules | 89 |
| 2. | On lodging a notice of change of registered office | 16 |
| 3. | On lodging an application to register an alteration of rules | 31 |
| 4. | On lodging an application for exemption from provisions of s. 72(1) | 87 |
| 5. | On lodging an application to register a special resolution | 16 |
| 6. | On lodging any other application | 30 |
| 7. | On lodging an annual return under s. 64(2) | 44 |
| 8. | On the late lodgment of a document (in addition to any lodgment fee provided by another clause for the lodging of that document)— | |
| | (a) if lodged within one month after the prescribed time | 16 |
| | (b) if lodged more than one month but within three months after the prescribed time | 33 |
| | (c) if lodged more than three months after the prescribed time | 72 |
| 9. | On lodging an application for cancellation of registration under s. 70 | 43 |
| 10. | For inspecting a document registered by, or filed or lodged with, the Commission | 10 |
| 11. | For the supply of an uncertified copy, or the supply of a copy of an extract from, a document held by the Commission in relation to a society (in addition to the fee payable under clause 10)— | |
| | (a) for one page | 4 |
| | (b) for each additional page or part of a page | 1 |
| 12. | For the supply of a certified copy of, or the supply of a certified copy of an extract from, a document held by the Commission in relation to a society (in addition to the fee payable under clause 10)— | |
| | (a) for one page | 11 |
| | (b) for each additional page or part of a page | 1 |
| 13. | For the supply of a copy of the society's rules— | |
| | (a) for one page | 4 |
| | (b) for each additional page or part of a page | 1 |
| 14. | For an act that the Commission is required or authorised to do on the request of a person and for which a fee is not set by another clause | 16 |

