

SOUTH AUSTRALIA

**TRUSTEE COMPANIES REGULATIONS, 1989**

## **SUMMARY OF PROVISIONS**

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**REGULATIONS UNDER THE TRUSTEE COMPANIES ACT, 1988**

*Trustee Companies Regulations, 1989*

being

No. 53 of 1989: *Gaz.* 20 April 1989, p. 1112<sup>1</sup>

as varied by

No. 143 of 1999: *Gaz.* 1 July 1999, p. 55<sup>2</sup>

<sup>1</sup> Came into operation 20 April 1989: reg. 2.

<sup>2</sup> Came into operation 1 July 1999: reg. 2.

**Citation**

1. These regulations may be cited as the *Trustee Companies Regulations, 1989*.

**Commencement**

2. These regulations will come into operation on 20 April, 1989.

**Interpretation**

3. In these regulations—

"the Act" means the *Trustee Companies Act, 1988*.

**Returns to be made by trustee company**

4. For the purposes of section 17(1) of the Act—

- (a) February and September are the prescribed months;
- (b) the form set out in the schedule is the prescribed form.

**Information for prospective investors in common funds**

5. For the purposes of section 20(2)(b) of the Act, money is received by a trustee company for investment in a common fund in prescribed circumstances if—

- (a) the money is received within 6 months of the commencement of these regulations;

or

- (b) the investor has been furnished with a prospectus that—

- (i) has been registered pursuant to the *Companies (South Australia) Code*;
- (ii) contains the information specified in section 20(3)(a) of the Act;

and

- (iii) contains a statement to the effect that copies of the documents referred to in section 20(3)(b) and (c) of the Act are available for inspection upon request to the company.

**SCHEDULE**  
*Trustee Companies Regulations, 1989*

STATEMENT BY A TRUSTEE COMPANY PURSUANT TO SECTION 17(1) OF THE TRUSTEE COMPANIES ACT, 1988

Note: This statement must be completed and signed by two directors of the trustee company by which it is to be lodged duly authorized on that behalf by the trustee company.

STATEMENT by ..... ("the Company")  
(Name of trustee company)

to be lodged with the Corporate Affairs Commission during the month of \*February/September 19 ..

(\* delete whichever is inapplicable)

1. On ..... (Note 11)  
(hereinafter referred to as "the balance date"):

The authorized capital of the company was \$ ..... divided into ..... shares of \$ ..... each.

The issued capital was made up of ..... shares of \$ ..... each paid up to \$ ..... per share.

The total amount of paid up capital was \$ . . . .

The uncalled capital being \$ ..... per share and amounting to \$ ..... was made up as follows:

\$ ..... per share amounting to \$ ..... which may be called up at the discretion of the company.

\$ ..... per share amounting to \$ ..... which can only be called up on and for the purpose of the winding up of the company (reserve liability).

Calls to the amount of \$ ..... per share amounting to \$ ..... had been made but remained unpaid and the shares had not been forfeited.

The net tangible assets of the company (i.e., the amount calculated by deducting total liabilities from total tangible assets) amounted to \$ .....

2. The following loans were obtained from financial institutions other than ADIs and insurance companies during the period of six months preceding the balance date:

Name of Institution	Amount of Loan \$'000	Term of Loan and Maturity Date	Interest Rate	Security (if applicable)



5.

5. The nature and amount of credit and standby facilities available to the company as at the balance date, a summary of the restrictions affecting those facilities and the duration of each of those facilities were as described below:

Nature of Facility	Summary of Restrictions	Duration	Amount of Facility available to the Company \$'000	Amount of Facility unused at balance date \$'000
			TOTAL	\$

6. The balance-sheet as at ..... (Note 11) and the profit and loss account for the six months ended on that date were as follows:

BALANCE-SHEET AS AT .....	
CURRENT ASSETS	\$'000
Cash with an ADI and cash on hand .....	
Bills receivable:	
ADI accepted or endorsed (Note 3) .....	
other (Note 3) .....	
Investments in and loans to related parties (Note 4)	
investments (Notes 3 and 5) .....	
loans:	
Secured (Notes 1 and 3) .....	
Unsecured (Note 3) .....	
Other loans and deposits (Note 10):	
secured (Notes 1 and 3) .....	
unsecured (Note 3) .....	
Government and semi-government securities (Note 6) .....	
Shares, units, options, debentures and convertible notes:	
listed on a prescribed stock exchange—market value \$	
(Notes 3, 5 and 7) .....	
not listed on a prescribed stock exchange (Notes 3 and 7) .....	
Interests in partnerships, trusts and unincorporated joint ventures (Notes 3 and 8) .....	
Lease receivables (Note 3) .....	
Property held for resale (Note 3) .....	
Other current assets (Notes 2 and 3) .....	
TOTAL CURRENT ASSETS .....	\$

NON-CURRENT ASSETS	\$'000
Bills receivable:	
ADI accepted or endorsed (Note 6) .....	
other (Note 6) .....	
Investments in and loans to related parties (Note 4)	
investments (Notes 5 and 6) .....	
loans:	
secured (Notes 1 and 6) .....	
unsecured (Note 6) .....	
Other loans and deposits (Note 10):	
secured (Notes 1 and 6) .....	
unsecured (Note 6) .....	
Government and semi-government securities (Note 6) .....	
Shares, units, options, debentures and convertible notes:	
listed on a prescribed stock exchange—market value \$	
(Notes 5, 6 and 7) .....	
not listed on a prescribed stock exchange (Notes 5 and 6) .....	
Interests in partnerships, trusts and unincorporated joint ventures (Notes 6 and 8) .....	
Lease receivables (Note 6) .....	
Property held for resale (Note 6) .....	
Property, plant and equipment (Note 6) .....	
Intangible assets (Notes 2 and 6) .....	
Other non-current assets (Notes 2 and 6) .....	
TOTAL NON-CURRENT ASSETS .....	_____
TOTAL ASSETS .....	\$ _____

CURRENT LIABILITIES	\$'000
ADI overdrafts and loans:	
secured (Note 1) .....	
unsecured .....	
Loans from other financial institutions:	
secured (Note 1) .....	
unsecured .....	
Bills payable and liabilities under promissory notes .....	
Subordinated loans from related parties .....	
Clients' balances and deposits:	
secured (Notes 1 and 2) .....	
unsecured .....	
Trade creditors and accrued expenses .....	
Lease payables .....	
Provisions:	
Income Tax .....	
Dividends .....	
Other .....	
Deferred income (Notes 2 and 9) .....	
Other amounts payable:	
secured (Notes 1 and 2) .....	
unsecured (Note 2) .....	
TOTAL CURRENT LIABILITIES .....	\$ _____

NON-CURRENT LIABILITIES	\$'000
ADI overdrafts and loans:	
secured (Note 1) . . . . .	
unsecured . . . . .	
Loans from other financial institutions:	
secured (Note 1) . . . . .	
unsecured . . . . .	
Bills payable and liabilities under promissory notes . . . . .	
Subordinated loans from related parties . . . . .	
Clients' balances and deposits:	
secured (Notes 1 and 2) . . . . .	
unsecured . . . . .	
Lease payables . . . . .	
Provisions:	
Income Tax . . . . .	
Other . . . . .	
Deferred income (Notes 2 and 9) . . . . .	
Other amounts payable:	
secured (Notes 1 and 2) . . . . .	
unsecured (Note 1) . . . . .	
TOTAL NON-CURRENT LIABILITIES . . . . .	_____
TOTAL LIABILITIES . . . . .	\$ _____
NET ASSETS/SHAREHOLDERS' FUNDS . . . . .	
(Total assets less total liabilities)	
LESS: INTANGIBLE ASSETS . . . . .	_____
NET TANGIBLE ASSETS . . . . .	\$ _____

PROFIT AND LOSS ACCOUNT FOR THE SIX  
MONTH PERIOD ENDED . . . . . (Note 11)

Operating profit (loss) . . . . .	
Income Tax . . . . .	_____
Operating profit (loss) after income tax . . . . .	
Profit (loss) on extraordinary items after income tax . . . . .	_____
Net profit (loss) . . . . .	=====

7. The balance-sheet and the profit and loss account of the company have been drawn up so as to give a true and fair view of the state of affairs of the company as at . . . . . (Note 11) and the profit or loss of the company for the period ended on that date.
8. The classification of assets and liabilities and the valuation of assets in the balance-sheet are based upon the company's intentions at the balance date as to the use or disposal of those assets and the repayment of liabilities.
9. At the date of the Declaration, there are reasonable grounds to believe that the company will be able to pay its debts as and when they fall due.

10. During the period of six months preceding the balance date:

There had been the following significant changes in the nature of the principal activities of the company (Note 12):

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

The following items, transactions or events of a material and unusual nature affected the results of the company's operations (Note 12):

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

The provisions of the *Trustee Companies Act, 1988*, in respect of investment of moneys held by the company on trust had been complied with:

The company had complied with all other requirements of the *Trustee Companies Act, 1988*.

11. The following matters or circumstances have arisen since the balance date and have significantly affected or may significantly affect:

- (a) the operations of the company;
- (b) the results of those operations;
- or
- (c) the state of affairs of the company,

in subsequent periods (Note 12):

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

.....  
(Signature of duly authorized director of the Company)

.....  
(Signature of duly authorized director of the Company)

*Definitions*

- 1. Current assets means cash or other assets which would in the normal course of business be consumed or converted into cash within 12 months of the balance date.
- 2. Non-current assets means assets which would in the normal course of business be consumed or converted into cash after 12 months of the balance date.
- 3. Current liabilities means liabilities which in the normal course of business would be due and payable within 12 months of the balance date.

4. Non-current liabilities means liabilities which would in the normal course of business be due and payable after 12 months of the balance date.

*Notes*

1. Indicate the nature and extent of security by broad categories.
2. Provide details of major components if the total amount is material.
3. State at lower of cost and net realisable value.
4. "Related parties" includes—

(a) a related corporation;

(b)—

(i) a director;

(ii) an executive officer;

or

(iii) a secretary,

of the reporting company or of a related corporation, their relatives and companies controlled by them, and any unincorporated association (including trading trusts) where a material beneficial interest is held by those parties or any combination of those parties.

(c) any party which can significantly influence the management or operating policies of the reporting company;

(d) any party whose management or operating policies are able to be significantly influenced by the reporting company or a director, executive officer or secretary of the reporting company;

(e) any party whose management or operating policies are able to be significantly influenced by a third party which is in a position to exercise a similar influence on the reporting party.

"Related corporation" means a corporation that is a related corporation in relation to the reporting company within the meaning of the *Companies (South Australia) Code*.

"Unincorporated associations" means unincorporated joint ventures, partnerships, trusts or any other forms of unincorporated associations.

5. Indicate types of investments by broad categories.
6. State at cost or valuation less amounts written off or provided for depreciation or permanent diminution in value.
7. "Prescribed stock exchange" means a stock exchange prescribed by regulation 16 of the *Companies (South Australia) Regulations*.
8. Indicate the nature and extent of the interests by broad categories.

10.

9. Any unearned income must not be included in any estimate of the gross amount of any class of debts unless the amount of unearned income so included is shown as a deduction from the estimate of the gross amount of the class of debts concerned.

10. Includes mortgages.

11. In the case of a statement to be lodged during February of any year, the date to be shown is 31 December of the year preceding that February.

In the case of a statement to be lodged during September of any year, the date to be shown is 30 June of that year.

12. If no change, insert "nil".

11.

## **APPENDIX**

### **LEGISLATIVE HISTORY**

Schedule

Clause 2: varied by 143, 1999, reg. 3 (Sched. cl. 26)

Clause 6: varied by 143, 1999, reg. 3 (Sched. cl. 26)