

South Australia

State Opera of South Australia Regulations 2007

under the *State Opera of South Australia Act 1976*

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Schedule 1—Revocation of *State Opera of South Australia Regulations 1994*

1—Short title

These regulations may be cited as the *State Opera of South Australia Regulations 2007*.

2—Commencement

These regulations come into operation on the day on which they are made.

3—Interpretation

In these regulations—

absolute majority—see regulation 15(3)(a);

Act means the *State Opera of South Australia Act 1976*;

continuing candidate—see regulation 15(3)(b);

election includes a by-election;

secretary means the secretary to the Board appointed under Part 3 of the Act;

subscriber means a person who is enrolled on the roll of subscribers kept under regulation 4;

subscriber Member means a Member required by section 6(2) of the Act to be elected by subscribers.

4—Roll of subscribers

- (1) The secretary must continue to maintain the roll of subscribers to the State Opera.
- (2) The secretary must enter on the roll—
 - (a) as a season subscriber—the name and address of each natural person who takes out a subscription to a subscription season of the State Opera; and
 - (b) as a patron—the name and address of each natural person who—
 - (i) makes a donation of not less than \$50 to the State Opera; or
 - (ii) is the nominated representative for the time being of a body corporate that makes a donation of not less than \$50 to the State Opera; and
 - (c) as a Friend of the State Opera—the name and address of each natural person who the secretary of The Friends of the State Opera of South Australia Incorporated certifies in writing has become a financial member of that body.
- (3) A person may not be enrolled on the roll of subscribers unless he or she is of or above the age of 18 years.
- (4) The secretary must remove from the roll of subscribers—
 - (a) as soon as practicable after the closing date for subscriptions to a subscription season of the State Opera—the name and address of each person enrolled as a season subscriber who has not taken out a subscription to that subscription season; and
 - (b) as soon as practicable after the end of each calendar year—
 - (i) the name and address of each person enrolled as a patron in his or her own right who has not made a donation of \$50 or more to the State Opera during the current or last preceding financial year; and
 - (ii) the name and address of each person enrolled as a patron as the nominated representative of a body corporate that has not made a donation of \$50 or more to the State Opera during the current or last preceding financial year; and
 - (c) the name and address of each person enrolled as a Friend of the State Opera who the secretary of The Friends of the State Opera of South Australia Incorporated certifies in writing has ceased to be a financial member of that body.
- (5) If—
 - (a) a subscriber changes his or her name or address or the person nominated as the representative of a body corporate changes his or her name or address; or
 - (b) a person is nominated by a body corporate as the representative of that body in place of the previously nominated representative of that body; or
 - (c) a subscriber wishes to cancel his or her subscription,the subscriber must notify the secretary in writing of that fact.

- (6) The secretary must, on receipt of a notice referred to in subregulation (5), vary the roll of subscribers accordingly.
- (7) The roll of subscribers must be made available at the State Opera's offices for inspection by subscribers during ordinary office hours.

5—Term of office of subscriber Members

A subscriber Member elected to fill a vacancy other than a casual vacancy will hold office for such term as is fixed by the Board prior to the call of nominations for candidates to fill the vacancy.

6—Requirement for holding of election

- (1) An election must be held whenever there is a vacancy or casual vacancy in the office of a subscriber Member.
- (2) An election must be conducted by the secretary.

7—Nominations

- (1) If it is necessary to hold an election for subscriber Members, the secretary must, by notice published in a daily newspaper circulating throughout the State, call for the nomination of candidates for the election.
- (2) A notice under subregulation (1) must specify—
 - (a) the number of candidates required to be elected; and
 - (b) the date and hour by which nominations must be received by the secretary.
- (3) The date for the closure of nominations must be at least 14 days after the date of publication of the notice under subregulation (1).
- (4) A nomination of a candidate for election must be—
 - (a) in writing; and
 - (b) contain a statement, signed by the candidate, to the effect that he or she consents to stand as a candidate in the election; and
 - (c) signed by at least 3 subscribers other than the candidate or a Member; and
 - (d) delivered to the secretary not later than the date and hour specified in the notice for the closure of nominations.
- (5) A nomination is invalid if it is not made in accordance with this regulation.

8—Method of election of candidates

- (1) If the number of candidates nominated is not greater than the number of subscribers required to be elected, the secretary must declare the candidate or candidates duly elected.
- (2) A declaration under subregulation (1) must be made immediately after the closure of nominations.
- (3) The secretary must, as soon as practicable after the making of a declaration under this regulation, notify in writing each successful candidate of his or her election.

- (4) If the number of candidates nominated is greater than the number of subscribers required to be elected, the secretary must cause ballot papers to be prepared for an election.

9—Closure of roll

- (1) If an election is to be held, the secretary must close the roll of subscribers 7 days after the day on which a notice under regulation 7(1) is published until the completion of the election.
- (2) The secretary must ensure that the roll of subscribers has been made up in accordance with regulation 4 at the date of the close of the roll.

10—Ballot papers

Ballot papers must be in a form determined by the secretary.

11—Provision of ballot papers

- (1) If an election of subscriber Members is to be held, the secretary must provide each subscriber recorded on the roll of subscribers at the close of the roll with a ballot paper and envelopes by posting them to the subscriber at his or her address last recorded in the roll.
- (2) A subscriber is entitled to 1 vote only for each vacancy to be filled in an election and, despite the fact that subscribers' names may appear more than once on the roll of subscribers, only 1 ballot paper may be provided to each subscriber.
- (3) If a ballot paper is provided to a subscriber, that person must also be provided with—
 - (a) an unmarked envelope suitable for holding the ballot paper; and
 - (b) a second envelope suitable for holding the first envelope, addressed to the secretary and bearing on the side on which the address is written the words "ballot paper" and a place for the signature of the subscriber.
- (4) Every ballot paper must be initialled by the secretary.

12—Voting

- (1) A person who wishes to vote at an election—
 - (a) must indicate his or her first preference for a candidate by placing the number 1 in the square opposite the name of the candidate on the ballot paper and may (but is not required to) indicate his or her preference for other candidates by placing consecutive numbers (commencing with the number 2) in the squares opposite the names of the candidates on the ballot paper; and
 - (b) must place the ballot paper in the unmarked envelope provided, place the envelope inside the second envelope addressed to the secretary, seal the second envelope and sign it; and
 - (c) must return the envelope to the secretary not later than the date and hour fixed by the secretary and specified on the ballot paper.
- (2) A ballot paper is invalid if it is received by the secretary after the date and hour specified for its return.

13—Informal ballot papers

A ballot paper is informal if—

- (a) it is not authenticated by the initials of the secretary; or
- (b) it has not been completed in accordance with regulation 12; or
- (c) it has on it any mark or writing by which the voter can be identified.

14—Scrutineers

- (1) Each candidate for election may, by instrument in writing, appoint 1 scrutineer to be present when the votes at an election are counted.
- (2) A candidate for election is not eligible to be appointed as a scrutineer for the purposes of that election.
- (3) The secretary must notify a scrutineer appointed under subregulation (1) of the time and place at which the votes are to be counted.

15—Counting of votes

- (1) Votes must be counted by the secretary in the presence of any scrutineers appointed under regulation 14 who seek to be present.
- (2) The following provisions apply to the counting of votes at an election:
 - (a) the secretary must open all the unmarked envelopes, extract the ballot papers, reject all ballot papers that are informal and count the number of ballot papers remaining;
 - (b) the secretary must conduct the count for an election in which only 1 vacancy is to be filled, or for the filling of the first vacancy in an election, as follows:
 - (i) the secretary must count to each candidate the ballot papers indicating a first preference vote for that candidate and, if the candidate with the largest number of ballot papers counted to him or her has an absolute majority, declare that candidate to be elected;
 - (ii) if no candidate has an absolute majority on the first count, the secretary must exclude the candidate with the fewest ballot papers counted to him or her from the count and count each of the excluded candidate's ballot papers to a continuing candidate according to the next preference indicated on the ballot paper;
 - (iii) if a candidate then has an absolute majority, the secretary must declare that candidate to be elected, but, if not, the secretary must repeat the process of excluding the candidate with the fewest ballot papers from the count and counting each of the excluded candidate's ballot papers to a continuing candidate according to the next preference indicated on the ballot paper until a candidate has an absolute majority;
 - (iv) the secretary must, when an absolute majority of the ballot papers is counted to a candidate, declare that candidate to be elected;
 - (c) the secretary must conduct the count for the filling of the second vacancy in an election as follows:

- (i) the secretary must count to each candidate (other than the elected candidate) each ballot paper indicating a first preference vote for that candidate and count each ballot paper indicating a first preference vote for the elected candidate to another candidate according to the next preference indicated on the ballot paper;
 - (ii) if the candidate with the largest number of ballot papers counted to him or her has an absolute majority, the secretary must declare that candidate to be elected, but, if not, the secretary must proceed with the count as provided by paragraph (b)(ii) and (iii) and, when an absolute majority of the ballot papers is counted to a candidate, declare that candidate to be elected.
- (3) For the purposes of subregulation (2)—
 - (a) a reference to an *absolute majority* is a reference to more than one-half of the ballot papers other than those that have been rejected as informal and those that have been set aside as exhausted;
 - (b) a reference to a *continuing candidate* is a reference to a candidate—
 - (i) who has not been excluded from the count; and
 - (ii) in relation to a count for the filling of a second vacancy, who has not been declared to be elected on the count for the filling of the first vacancy;
 - (c) if a ballot paper is required to be counted to a continuing candidate according to the next preference indicated on the ballot paper but there is no further preference indicated on it for a continuing candidate, the ballot paper must be set aside from the count as exhausted;
 - (d) if at any stage of the count 2 or more candidates have an equal number of ballot papers counted to them and 1 is required to be excluded from the count, the secretary must decide, by lot, which of them is to be excluded;
 - (e) if 2 candidates remain in the count but have an equal number of ballot papers counted to them, the secretary must decide, by lot, which of them is to be elected.
- (4) The secretary may not vote in an election.

16—Notice of election results

The secretary must, as soon as practicable after the counting of votes is completed, give the Board and each subscriber written notice of the result of the election.

17—Validity of elections

An election is not invalid by reason only of minor non-compliance with, or a minor breach of, these regulations unless the result of the election was affected by the non-compliance or breach.

Schedule 1—Revocation of *State Opera of South Australia Regulations 1994*

The *State Opera of South Australia Regulations 1994* are revoked.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 12 July 2007

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