

South Australia

Public Corporations (Adelaide Entertainments Corporation) Regulations 2013

under the *Public Corporations Act 1993*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Public Corporations (Adelaide Entertainments Corporation) Regulations 2013*.

2—Commencement

These regulations will come into operation on 1 September 2013.

3—Interpretation

In these regulations, unless the contrary intention appears—

Act means the *Public Corporations Act 1993*;

Adelaide Entertainments Corporation or *AEC* means the subsidiary of the Minister continued in existence under Part 3;

board means the board of directors continued as the governing body of AEC under Part 3;

director means a person appointed or holding office as a member of the board under Part 3;

Minister means the Minister for Tourism;

revoked regulations means the *Public Corporations (Adelaide Entertainments Corporation) Regulations 1999* revoked under Schedule 1.

Part 2—Application of Act to Minister

4—Application of Act to Minister

The following provisions of the Act apply to the Minister:

- (a) Part 1 (Preliminary);
- (b) section 24 (Formation of subsidiary by regulation);
- (c) section 25 (Dissolution of subsidiary established by regulation);
- (d) the Schedule (Provisions applicable to subsidiaries).

Part 3—Adelaide Entertainments Corporation

Division 1—Continuation and constitution

5—Continuation of subsidiary (section 24 of Act)

- (1) The Adelaide Entertainments Corporation (*AEC*), established as a subsidiary of the Minister under the revoked regulations, continues in existence as a subsidiary of the Minister.
- (2) *AEC*—
 - (a) is a body corporate; and

- (b) has perpetual succession and a common seal; and
- (c) is capable of suing and being sued in its corporate name.

6—Continuation of board

- (1) A board of directors continues as the governing body of AEC.
- (2) A member of the board in office immediately before the commencement of this regulation continues in office, subject to these regulations, for the remainder of the term for which he or she was appointed.
- (3) Anything done by the board in the administration of AEC's affairs is binding on AEC.

7—Composition of board

- (1) The board consists of the number of directors appointed by the Minister (being not less than 5 nor more than 7) for the time being holding office as members of the board.
- (2) One director will be appointed by the Minister to chair meetings of the board.
- (3) The Minister may appoint a director to be the deputy of the director appointed to chair the board and the deputy may perform or exercise the functions and powers of that director in his or her absence.
- (4) On the office of a director becoming vacant, a person may be appointed in accordance with this regulation to the vacant office.
- (5) The Minister may appoint a suitable person to be deputy of a member of the board during any period of absence of the member (and any reference to a director in these regulations will be taken to include, unless the contrary intention appears, a reference to a deputy while acting as a member of the board).

8—Conditions of membership

- (1) A director will be appointed for a term, not exceeding 3 years, specified in the instrument of appointment and, at the expiration of a term of appointment, will be eligible for reappointment.
- (2) The office of a director becomes vacant if the director—
 - (a) dies; or
 - (b) completes a term of office and is not reappointed; or
 - (c) resigns by written notice to the Minister; or
 - (d) becomes bankrupt or applies to take the benefit of a law for the relief of insolvent debtors; or
 - (e) is convicted of an indictable offence; or
 - (f) is removed from office by the Minister by written notice.

9—Vacancies or defects in appointment of directors

An act of the board is not invalid by reason only of—

- (a) a vacancy in its membership that brings the number of directors holding office as members of the board to less than 5; or

- (b) a defect in the appointment of a director.

10—Allowances and expenses

A director is entitled to be paid from the funds of AEC such remuneration, allowances and expenses as may be determined by the Minister.

11—Proceedings

- (1) A quorum of the board consists of one half the total number of its members (ignoring any fraction resulting from the division) plus 1, and must include the director appointed to chair the board or the director appointed as that director's deputy.
- (2) The director appointed to chair the board will preside at meetings of the board at which he or she is present.
- (3) If the director appointed to chair the board is absent from a meeting of the board, the director appointed as that director's deputy will preside.
- (4) A decision carried by a majority of the votes cast by directors at a meeting is a decision of the board.
- (5) Each director present at a meeting of the board has 1 vote on a question arising for decision and, if the votes are equal, the director presiding at the meeting may exercise a casting vote.
- (6) A telephone or video conference between directors will, for the purposes of this regulation, be taken to be a meeting of the board at which the participating directors are present if—
 - (a) notice of the conference is given to all directors in the manner determined by the board for that purpose; and
 - (b) each participating director is capable of communicating with every other participating director during the conference.
- (7) A proposed resolution of the board becomes a valid decision of the board despite the fact that it is not voted on at a meeting of the board if—
 - (a) notice of the proposed resolution is given to all directors in accordance with procedures determined by the board; and
 - (b) a majority of the directors express their concurrence in the proposed resolution by letter, fax or other written communication setting out the terms of the resolution.
- (8) The board must cause accurate minutes to be kept of its proceedings.
- (9) A person authorised in writing by the Treasurer may attend (but not participate in) a meeting of the board and may have access to papers provided to directors for the purpose of the meeting.
- (10) If the board considers that a matter dealt with at a meeting attended by a representative of the Treasurer should be treated as confidential, the board may advise the Treasurer of that opinion giving the reason for the opinion and the Treasurer may, subject to subregulation (11), act on that advice as the Treasurer thinks fit.

- (11) If the Treasurer is satisfied on the basis of the board's advice under subregulation (10) that AEC owes a duty of confidence in respect of a matter, the Treasurer must ensure the observance of that duty in respect of the matter (but this subregulation does not prevent a disclosure as required in the proper performance of ministerial functions or duties).
- (12) Subject to these regulations, the board may determine its own procedures.

12—Disclosure

- (1) If AEC discloses to the Minister or the Treasurer under the Act or these regulations a matter in respect of which AEC owes a duty of confidence, AEC must give notice in writing of the disclosure to the person to whom the duty is owed.
- (2) A director of AEC does not commit any breach of duty by reporting a matter relating to the affairs of AEC to the Minister or the Treasurer.

Division 2—Functions and performance

13—AEC's functions

- (1) AEC's functions are limited to the following:
 - (a) to manage and operate the AEC sites;
 - (b) to manage, promote and sponsor events at the AEC sites;
 - (c) to manage, promote and sponsor events at the AEC sites or elsewhere;
 - (d) to foster and assist the commercial development of the AEC sites in order to complement and enhance the commercial potential of the sites;
 - (e) to carry out other functions conferred on AEC by the Minister.
- (2) AEC must obtain the approval of the Minister before it makes a material change to its policy direction or budget.
- (3) In this regulation—

Adelaide Entertainment Centre site means the area of land in the suburb of Hindmarsh bounded by Adam Street, Manton Street, Mary Street and Port Road but excluding—

- (a) the land comprised in Certificate of Title Volume 5243 Folio 976 and Certificate of Title Volume 5243 Folio 783; and
- (b) Orsmond Street;

AEC sites means—

- (a) the Adelaide Entertainment Centre site; and
- (b) any other site the management and operation of which have been conferred on AEC by the Minister.

14—Charter

- (1) The Minister and the Treasurer must prepare a charter for AEC.
- (2) The charter must address—
 - (a) the nature and scope of AEC's operations; and

- (b) AEC's obligations to report on its operations; and
 - (c) the form and contents of AEC's accounts and financial statements; and
 - (d) any accounting, internal auditing or financial systems or practices to be established or observed by AEC; and
 - (e) the acquisition or disposal of capital or assets.
- (3) The charter may deal with any other matter not specifically referred to in subregulation (2).
 - (4) The charter must be reviewed by the Minister at the end of each financial year.
 - (5) The Minister and the Treasurer may amend the charter at any time.
 - (6) The charter, or an amendment to the charter, comes into force and is binding on AEC on a day specified in the charter or amendment (but without affecting any contractual obligations previously incurred by AEC).
 - (7) On the charter or an amendment to the charter coming into force, the Minister must, within 12 sitting days, have copies of the charter, or the charter in its amended form, laid before both Houses of Parliament.

15—Performance statement

- (1) The Minister must, when preparing the charter for AEC, also prepare, after consultation with AEC and the Treasurer, a performance statement setting the various performance targets that AEC is to pursue in the coming financial year or other period specified in the statement and dealing with such other matters as the Minister considers appropriate.
- (2) The Minister must, after consultation with AEC and the Treasurer, review the performance statement when reviewing AEC's charter.
- (3) The Minister may, after consultation with AEC and the Treasurer, amend the performance statement at any time.

16—Subsidiary companies

- (1) AEC must not, without the approval of the Treasurer—
 - (a) form a subsidiary company; or
 - (b) acquire, or enter into an arrangement under which it will at a future time or would on the happening of some contingency hold, relevant interests in shares in a company such that the company becomes a subsidiary of AEC.
- (2) The Treasurer may, as a condition of approval under this regulation, or by direction, require AEC to take steps to include in a subsidiary company's memorandum or articles of association such provisions as the Treasurer considers appropriate—
 - (a) imposing limitations on the nature or scope of the company's operations; or
 - (b) imposing other controls or practices,consistent with those applicable to AEC.

17—Indirect or joint operations

- (1) AEC must not, without the approval of the Treasurer, enter into a scheme or arrangement or joint venture with another person or undertake any operations or transactions pursuant to such a scheme, arrangement or joint venture except where—
 - (a) the principal purpose of the scheme, arrangement or joint venture is to stage an event or function; and
 - (b) the board is satisfied that the maximum amount for which AEC will become liable as a result of its involvement in the scheme, arrangement or joint venture does not exceed \$50 000.
- (2) In subregulation (1)—

scheme or arrangement means a trust scheme or a partnership and includes any other scheme or arrangement for sharing profits.

Division 3—Financial and related matters

18—Internal audit

- (1) AEC must establish and maintain effective internal auditing of its operations.
- (2) AEC must, unless exempted by the Treasurer, establish an audit committee.
- (3) The audit committee will comprise—
 - (a) a member of the board of AEC, or such members of the board as the board may from time to time determine; and
 - (b) such other person or persons as the board may from time to time appoint, but may not include the chief executive of AEC.
- (4) The functions of the audit committee include—
 - (a) reviewing annual financial statements to ensure that they provide a true and fair view of the state of affairs of AEC; and
 - (b) liaising with external auditors; and
 - (c) reviewing the adequacy of the accounting, internal auditing, reporting and other financial management systems and practices of AEC on a regular basis.

19—Quarterly reports

AEC must report to the Minister on AEC's financial position on a quarterly basis.

20—Loans etc require approval

- (1) AEC must not lend or advance to any person any money, securities or property without the prior written approval of the Treasurer.
- (2) AEC must not undertake commercial borrowings without the prior written approval of the Treasurer.

21—Provision of information

- (1) AEC must, at the request in writing of the Treasurer, provide the Treasurer with such information or records in the possession or control of AEC as the Treasurer may require in such manner and form as the Treasurer may require.
- (2) If a record in the possession or control of AEC is provided to the Treasurer under this regulation, the Treasurer may make, retain and deal with copies of the record as the Treasurer thinks fit.
- (3) If the board considers that information or a record provided under this regulation contains matters that should be treated as confidential, the board may advise the Treasurer of that opinion giving the reason for the opinion and the Treasurer may, subject to subregulation (4), act on that advice as the Treasurer thinks fit.
- (4) If the Treasurer is satisfied on the basis of the board's advice under subregulation (3) that AEC owes a duty of confidence in respect of a matter, the Treasurer must ensure the observance of that duty in respect of the matter (but this subregulation does not prevent a disclosure as required in the proper performance of ministerial functions or duties).
- (5) AEC must notify the Minister if a request is made under this regulation.

22—Dividends

- (1) AEC must, before the end of each financial year, after consultation with the Minister, recommend by writing to the Treasurer that AEC pay a specified dividend, or not pay any dividend, for that financial year, as AEC considers appropriate.
- (2) The Treasurer may, after consultation with the Minister, by notice in writing to AEC—
 - (a) approve a recommendation of AEC under subregulation (1); or
 - (b) determine that a dividend specified by the Treasurer be paid, or that no dividend be paid,as the Treasurer considers appropriate.
- (3) AEC must, if so required by the Treasurer by notice in writing to AEC at any time during a financial year, after consultation with the Minister, recommend by writing to the Treasurer that a specified interim dividend or specified interim dividends be paid by AEC for that financial year, or that no such dividend or dividends be paid by AEC as AEC considers appropriate.
- (4) The Treasurer may, after consultation with the Minister, by notice in writing to AEC—
 - (a) approve a recommendation of AEC under subregulation (3); or
 - (b) determine that an interim dividend or interim dividends specified by the Treasurer be paid, or that no interim dividend be paid,as the Treasurer considers appropriate.

- (5) If the Treasurer approves a recommendation or determines under this regulation that a dividend or interim dividend or dividends be paid by AEC, the dividend or interim dividend or dividends must be paid at the direction of the Treasurer, in the manner and at the time or times determined by the Treasurer, after consultation with AEC and the Minister.
- (6) A recommendation under this regulation must be made by the board and may not be made by any person or committee pursuant to a delegation.

23—Common seal and execution of documents

- (1) The common seal of AEC must not be affixed to a document except pursuant to a decision of the board, and the affixing of the seal must be attested by the signatures of 2 directors.
- (2) The board may, by instrument under the common seal of AEC, authorise a director, an employee of AEC (whether nominated by name or by office or title) or any other person to execute documents on behalf of AEC subject to limitations (if any) specified in the instrument of authority.
- (3) Without limiting subregulation (2), an authority may be given so as to authorise 2 or more persons to execute documents jointly on behalf of AEC.
- (4) A document is duly executed by AEC if—
 - (a) the common seal of AEC is affixed to the document in accordance with this regulation; or
 - (b) the document is signed on behalf of AEC by a person or persons in accordance with authority conferred under this regulation.

24—Annual report

- (1) AEC must, within 3 months after the end of each financial year, deliver to the Minister a report on the operations of AEC during that financial year.
- (2) The Minister must cause a copy of the report to be laid before both Houses of Parliament within 12 sitting days after receipt of the report.

Schedule 1—Revocation of *Public Corporations (Adelaide Entertainments Corporation) Regulations 1999*

The *Public Corporations (Adelaide Entertainments Corporation) Regulations 1999* 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 22 August 2013

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