

South Australia

South Australian Co-operative and Community Housing (Housing Associations) Regulations 1996

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

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Legislative history

1—Citation

These regulations may be cited as the *South Australian Co-operative and Community Housing (Housing Associations) Regulations 1996*.

2—Commencement

These regulations will come into operation on the day on which Schedule 1 of the *Housing Co-operatives (Housing Associations) Amendment Act 1995* comes into operation.

3—Interpretation

In these regulations, unless the contrary intention appears—

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

4—Application for registration of a housing association

- (1) An application for registration of a housing association must—
 - (a) be made to the Minister in the form set out in Form 1 of Schedule 1 (*application form*); and
 - (b) contain the information required by the application form; and
 - (c) be accompanied by—
 - (i) a statutory declaration in the form set out in Form 2 of Schedule 1; and
 - (ii) the other documents required by the application form; and
 - (iii) an application fee of \$75.
- (2) If the space provided in the application 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—Mandatory provisions

Pursuant to clause 2(5)(e) of the Schedule of the Act, the rules of a registered housing association must contain the following provisions:

- (a) the name of the association;
- (b) the principal address of the association;
- (c) the objects of the association;
- (d) if the association has members—
 - (i) the manner in which applications for membership of the association may be made;
 - (ii) the conditions of admission to the association;
 - (iii) the circumstances under which a membership will be suspended or cease;
- (e) the appointment of an appeals committee within the association;
- (f) the manner of appointing an auditor;
- (g) the number of members of the committee of management;
- (h) the manner in which committee members are appointed;
- (i) the appointment of a person to the office of Treasurer of the association, and the powers and functions of the person who holds that office;

- (j) 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;
- (k) the manner of calling meetings of the association and the frequency of those meetings;
- (l) the manner in which notice of a meeting of the association is to be given to members of the association;
- (m) the custody and use of the common seal;
- (n) the specification of the financial year of the association as being from 1 July in any year to the following 30 June;
- (o) the manner in which the assets of the association are to be managed and applied;
- (p) a provision to the effect that a surplus or saving arising from the operations of the association will be applied to the provision of housing (or housing services), or in some other manner approved by the Minister;
- (q) the manner in which the association may be wound up;
- (r) the distribution of the assets of the association on a winding up.

5A—Mandatory provision in funding agreement

- (1) Pursuant to clause 16(d) of the Schedule of the Act, an agreement for the provision of funding to a registered housing association must (subject to any determination of the Minister) contain a provision of a form determined or approved from time to time by the Minister, on the advice of SAHT after consultation with registered housing associations, 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 association 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 clause 10(2)(l) of the Schedule of the Act, a failure by a registered housing association to comply with subregulation (1) is prescribed as a ground for intervention.

6—Registers to be kept by a registered housing association

A registered housing association must keep the following registers:

- (a) if the association has members—
 - (i) a register of members (setting out the full name of each member);
and
 - (ii) a register of applications for membership (setting out the full name of each applicant and the date of the application);
- (b) a register of persons who have applied to become tenants (setting out the full name of each prospective tenant);

- (c) a register of tenants (setting out the full name of each tenant);
- (d) a register of land or premises owned or occupied by the association (setting out the full address of the land or premises).

7—Accounts

- (1) A registered housing association must prepare any—
 - (a) income and expenditure statement; or
 - (b) balance sheet,in accordance with the requirements of Parts 1 and 2 of Schedule 2.
- (2) A housing association that owns or manages more than 100 houses or dwellings must, in addition to complying with the other requirements under the Act or these regulations relating to accounts, lodge with the Minister not later than 31 March each year—
 - (a) an interim income and expenditure statement for the period ending on the preceding 31 December, prepared in accordance with the requirements of Part 1 of Schedule 2; and
 - (b) an interim balance sheet showing current assets, current liabilities and non-current liabilities as at the preceding 31 December, prepared in accordance with the requirements of Part 3 of Schedule 2.

8—Auditor's report—prescribed associations

- (1) Pursuant to clause 4(5) of the Schedule 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 association for the relevant financial year, and so as to give a true and fair view of the assets and liabilities of the association, and the general state of affairs of the association, as at the end of that financial year; and
 - (ii) in accordance with the provisions of the Act;
 - (b) a statement of any defect or irregularity in the financial statements or accounting records of the association 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 association 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.
- (2) Pursuant to clause 4(6) of the Schedule of the Act, a copy of the audited financial statements of the housing association and the auditor's report (together with accompanying material) must be furnished to the Minister on or before 30 September immediately following the financial year to which they relate.

9—Right of inspection

- (1) Pursuant to clause 6 of the Schedule of the Act, a reference in section 50 of the Act to a member will be taken to include a reference to a tenant of a registered housing association (as that section applies to a registered housing association).
- (2) Pursuant to section 50(1)(e) of the Act and clause 6 of the Schedule of the Act, the following documentary material is prescribed in relation to registered housing associations:
 - (a) the Treasurer's working papers and files;
 - (b) 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 (if any);
 - (ii) the register of applications for membership (if any);
 - (iii) the register of tenants;
 - (iv) the register of land or premises owned or occupied by the association;
 - (d) files or other documentary material relating to real or personal property owned or leased by the association;
 - (e) policy documents adopted by the association or the committee of management of the association;
 - (f) documents that directly relate to the member or tenant;
 - (g) other documentary material that the association has resolved to make generally available for inspection by members and tenants of the association.
- (3) Pursuant to section 50(4) of the Act and clause 6 of the Schedule of the Act, the following information is excluded from the operation of section 50 in relation to registered housing associations:
 - (a) minutes of any meeting that relates to—
 - (i) a dispute between a member or tenant and an association;
 - (ii) proceedings before an appeals committee established by the association;
 - (iii) action to evict a tenant, or to suspend or terminate the membership of a member,
other than where the member or tenant requesting the information is directly involved in the dispute or proceedings, or is the member or tenant against whom the action is or has been, or is proposed to be, taken;
 - (b) information relating to a member or tenant of the association, or supplied to the association, that the association has agreed by special resolution to keep confidential.

10—Intervention

Pursuant to clause 10(5)(m) of the Schedule of the Act, the Minister may require a registered housing association to engage an expert, consultant or other person to assist it in the conduct of its affairs.

11—Suspension or termination of membership

- (1) A registered housing association that has members must not—
 - (a) without the consent of the member, take action to suspend or terminate the membership of a 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 association),
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 association a written objection to the taking of action against him or her (denying, if the member thinks fit, liability to the action).
- (3) The association must, at the request of the member, afford the member a reasonable opportunity to make representations at a general meeting of the association in support of the objection.
- (4) Representations may be made under subregulation (3) personally or through a representative.
- (5) The association may, after complying with the preceding subregulations, and any relevant rule of the association, by special resolution, take action against the member.

Schedule 1—Forms

Form 1

Application for registration of a housing association

South Australian Co-operative and Community Housing Act 1991

TO: The Minister

1 Full name of association:

2 Address and telephone number of registered office of association:

.....
.....

3 Act under which association is incorporated and date of incorporation:

.....

4 Details of the objects of the housing association:

.....
.....

5 Name, address and telephone number of person authorised by the association to apply for registration:

.....

(Full name)

.....
.....

(Full address)

.....

(Telephone number)

6 The following items accompany this application:

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

DATED the day of

The common seal of

.....
.....

was affixed to this application

on the day of

in the presence of:

Form 2

Statutory declaration to accompany application for registration

South Australian Co-operative and Community Housing Act 1991

I..... of
(Full name)

.....
(Full address)

in the State of South Australia,
(Occupation)

do solemnly and sincerely declare that:

- 1 I am the person authorised to apply for registration of
(Full name of association)
under the *South Australian Co-operative and Community Housing Act 1991* as a housing association.
- 2 The particulars contained in the accompanying application for registration of the association under the *South Australian Co-operative and Community Housing Act 1991* dated theday of.....are true.
- 3 The document marked "A" annexed hereto is a true copy of the rules of the housing association.

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 }
thisday of..... }
..... } Declarant
..... }
(Justice of the Peace)

*The annexure must 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 theday of.....

Before me: "

Schedule 2—Accounts

Part 1—Basic form of income and expenditure statement

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

INCOME

Rental Income:

- Capital Allowances
- Major Maintenance Allowances
- Operating Allowances

Donations

Fundraising

Membership Fees

Interest Received

Rebates, Refunds and Credits

Other Receipts

TOTAL INCOME

EXPENSES

Administration Expenses

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

Depreciation (optional)

Insurance

Maintenance Expenses

- Minor

- Major (transfer to Major Maintenance Fund)

Rates and Taxes

Vacancies (Rent Foregone)

Write-Offs

Other Expenses

TOTAL EXPENSES

NET OPERATING SURPLUS

ABNORMAL ITEMS AND TRANSFERS TO PROVISIONS

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 association.

Part 2—Basic form of balance sheet

- 2 (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)

TOTAL NON-CURRENT ASSETS

TOTAL ASSETS

CURRENT LIABILITIES

Creditors

Loans

TOTAL CURRENT LIABILITIES

NON-CURRENT LIABILITIES

Debentures

Loans

Major Maintenance Provision

TOTAL NON-CURRENT LIABILITIES

TOTAL LIABILITIES

NET ASSETS

MEMBERS FUNDS

Revaluation Reserves

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 association as at the end of a financial year must be aggregate of the amounts in respect of which those assets are recorded in the books of the housing association 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 association.

Part 3—Basic form of interim balance sheet

Note—

An interim balance sheet is only required in relation to housing associations that own or manage more than 100 houses or dwellings—see regulation 7(2).

- 3 (1) Subject to this clause, the format for an interim 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

CURRENT LIABILITIES

Creditors

Loans

TOTAL CURRENT LIABILITIES

NON-CURRENT LIABILITIES

Loans

Major Maintenance Provision

TOTAL NON-CURRENT LIABILITIES

- (2) The headings set out in the table in subclause (1), to the extent that they are relevant, must be specified in an interim 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 association as at the preceding 31 December must be an aggregate of the amounts in respect of which those assets are recorded in the books of the housing association 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 association.

Legislative history

Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- 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.

Revocation of regulations

The *South Australian Co-operative and Community Housing (Housing Associations) Regulations 1996* were revoked by Sch 4 of the *South Australian Co-operative and Community Housing (Housing Associations) Regulations 2010* on 17.6.2010.

Principal regulations and variations

Year	No	Reference	Commencement
1996	26	<i>Gazette 15.2.1996 p1157</i>	15.2.1996: r 2
1999	143	<i>Gazette 1.7.1999 p55</i>	1.7.1999: r 2
1999	261	<i>Gazette 16.12.1999 p3486</i>	16.12.1999: r 2
2007	185	<i>Gazette 28.6.2007 p2852</i>	1.7.2007: r 2

Provisions varied

Provision	How varied	Commencement
r 4		
r 4(1)	varied by 185/2007 r 4	1.7.2007
r 5A	inserted by 261/1999 r 3	16.12.1999
r 5A(1)	varied by 185/2007 r 5(1)—(3)	1.7.2007
r 7		
r 7(2)	varied by 185/2007 r 6	1.7.2007
r 8		
r 8(2)	varied by 185/2007 r 7	1.7.2007
r 10	varied by 185/2007 r 8	1.7.2007
Sch 1		
Form 1	varied by 185/2007 r 9	1.7.2007
Sch 2		
Pt 1	varied by 185/2007 r 10	1.7.2007
Pt 2		
cl 2	varied by 143/1999 r 3 (Sch cl 21(b))	1.7.1999
Pt 3		

cl 3

varied by 143/1999 r 3 (Sch cl 21(b))

1.7.1999

Historical versions

16.12.1999