

South Australia

# Succession Regulations 2024

under the *Succession Act 2023*

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## Legislative history

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### 1—Short title

These regulations may be cited as the *Succession Regulations 2024*.

### 2—Commencement

These regulations come into operation on the day on which the *Succession Act 2023* comes into operation.

### 3—Interpretation

In these regulations—

*Act* means the *Succession Act 2023*.

### 4—Provision of statement and account (section 92)

A fee prescribed for the purposes of section 92 of the Act in relation to the provision of a statement and account may be paid by the administrator from the estate in relation to which the statement and account have been prepared.

### 5—Interest on estate held by administrator (section 96(3))

For the purposes of section 96(3) of the Act, the prescribed rate in relation to a sum of money is—

- (a) the Reserve Bank of Australia Cash Rate Target, as published on the Reserve Bank of Australia website; or
- (b) if the administrator has earned interest on the money—the actual rate of interest earned on the sum of money,

whichever is the greater.

## 6—Interest on legacies (section 99)

For the purposes of section 99 of the Act, the prescribed rate is—

- (a) the Reserve Bank of Australia Cash Rate Target, as published on the Reserve Bank of Australia website; or
  - (b) if the administrator has earned interest on such amount of the legacy as remains unpaid—the actual rate of interest earned on the unpaid legacy,
- whichever is the greater.

## 7—Election by spouse or domestic partner (section 102)

- (1) A notice given by an administrator under section 102(2)(b) of the Act must be in writing and must include the following:
  - (a) the land title reference and street or location address of the dwelling;
  - (b) a description of the nature and extent of the legal interest that may be acquired by the spouse or the domestic partner;
  - (c) the value of such legal interest in the dwelling as at the date of the intestate's death—
    - (i) if a valuation of the dwelling has been obtained for the purposes of section 102(8) of the Act—as determined with respect to that valuation; or
    - (ii) in any other case—as disclosed for the purposes of obtaining the grant of administration;
  - (d) a statement informing the spouse or domestic partner—
    - (i) of their entitlement to elect to acquire that interest under section 102(2)(b) of the Act; and
    - (ii) of the requirement for them make that election within 3 months from the date of service of the notice or within such longer period as the Court may allow.
- (2) A notice of election given by a spouse or domestic partner under section 102(5) of the Act must be in writing and must include the following:
  - (a) information establishing the entitlement of the spouse (by providing details of the lawful marriage to the intestate) or domestic partner (by providing details of the declaration made under the *Family Relationships Act 1975* or by providing a copy of the certificate issued by the Registrar of Births Deaths and Marriages under section 21 of the *Relationships Register Act 2016*);
  - (b) evidence that the spouse or domestic partner was residing in the dwelling at the date of death of the intestate;
  - (c) a statement indicating that they are electing to acquire the interest in the dwelling and specifying the amount to be paid for that acquisition.
- (3) A notice of revocation given under section 102(5) of the Act must be in writing and must include a statement indicating that the spouse or domestic partner is revoking a notice of election given in relation to a specified dwelling.

## **8—Dispute as to division of personal goods (section 106(3))**

A notice given by an administrator under section 106(3) of the Act must be in writing and must include the following:

- (a) details of the personal goods of the intestate that are in dispute between the spouse and the domestic partner and, if known by the administrator, the value of the goods;
- (b) a statement informing the spouse and domestic partner that, unless they agree to the division of the disputed personal goods of the intestate within 3 months from the date of service of the notice, the administrator will sell the disputed goods by way of public auction (at which the spouse or domestic partner may bid on the goods, if they so choose) and divide the net proceeds of sale equally between the spouse and the domestic partner;
- (c) either—
  - (i) details of the date and location of any public auction at which the goods may be offered for sale if no agreement is reached as to the division of the goods; or
  - (ii) an undertaking by the administrator to notify the spouse and domestic partner of such details at a later time if no agreement is reached as to the division of the goods.

## **9—Prescribed agreements (section 115(2))**

For the purposes of section 115(2) of the Act, a valid financial agreement (within the meaning of the *Family Law Act 1975* of the Commonwealth) between the deceased person and the former spouse or former domestic partner entered into on or after 1 January 2025 that, immediately before the death of the deceased person, was binding on the parties is an agreement of a prescribed kind.

## Legislative history

### Notes

- 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](http://www.legislation.sa.gov.au).

### Principal regulations

Year	No	Reference	Commencement
2024	114	<i>Gazette 5.12.2024 p4553</i>	1.1.2025: r 2