

# **SOUTH AUSTRALIAN THEATRE COMPANY ACT, 1972**

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## SOUTH AUSTRALIAN THEATRE COMPANY ACT, 1972

being

South Australian Theatre Company Act, 1972, No. 38 of 1972 [Assented to 13th April, 1972]<sup>1</sup>.

**An Act to establish the South Australian Theatre Company, to constitute  
a Board of Governors thereof and for matters incidental thereto.**

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

### PART I

### PART I

#### PRELIMINARY

1. This Act may be cited as the "South Australian Theatre Company Act, 1972". Short title.
2. This Act shall come into operation on a day to be fixed by proclamation<sup>1</sup>. Commence-  
ment.
3. This Act is divided as follows:— Division of Act.
  - PART I—PRELIMINARY
  - PART II—THE COMPANY AND THE BOARD
    - DIVISION I—GENERAL
    - DIVISION II—POWERS AND FUNCTIONS, ETC., OF COMPANY
  - PART III—EMPLOYEES OF COMPANY
  - PART IV—THE COMPANY OF PLAYERS
  - PART V—FINANCIAL
  - PART VI—MISCELLANEOUS.
4. In this Act, unless the contrary intention appears— Definitions.
  - "financial year" means any period of twelve months concluding on the thirtieth day of June in a year;
  - "governor" means a governor referred to in section 6 of this Act and includes such a governor for the time being appointed chairman of the Board;
  - "subscriber" means a person for the time being a subscriber to the Company within the meaning of the regulations;
  - "the Board" means the Board of Governors comprised of the governors appointed or elected under section 6 of this Act:

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<sup>1</sup> Came into operation 1st July, 1972: *Gaz.* 29th June, 1972, p. 2690.

“the Company” means the South Australian Theatre Company established under section 5 of this Act:

“the company of players” means the persons whose names are, for the time being, shown on the register kept and maintained by the Board pursuant to section 24 of this Act.

## PART II

## PART II

## THE COMPANY AND THE BOARD

## DIVISION I

## DIVISION I—GENERAL

The Company.

5. (1) For the purposes of this Act, a body by the name of the “South Australian Theatre Company” is hereby established.

(2) The Company—

(a) shall be a body corporate with perpetual succession and a common seal;

(b) subject to this Act, shall be capable of acquiring, taking or letting out on lease, holding, selling and otherwise disposing of real and personal property;

(c) may in its corporate name and capacity sue and be sued;

and

(d) shall have the powers, duties, functions and authorities conferred, imposed or prescribed by or under this Act.

(3) Where a document purporting to bear the common seal of the Company is produced before any court or person acting judicially the court or the person, as the case may be, shall, unless the contrary is proved, presume—

(a) that the document purporting to bear the common seal of the Company bears the common seal of the Company;

and

(b) that the common seal was duly affixed and properly attested to.

The Board of Governors.

6. (1) The powers, duties, functions and authorities of the Company conferred, imposed or prescribed by or under this Act may be exercised, performed and discharged by the Board of Governors.

(2) Subject to this section the Board shall consist of six governors—

(a) of whom three shall be persons appointed as such by the Governor;

(b) of whom two shall be elected, in the manner provided for by the regulations, by subscribers;

and

(c) of whom one shall be elected by the company of players in the manner provided for by this Act.

(3) From amongst the persons referred to in paragraph (a) of subsection (2) of this section the Governor may appoint a governor to be chairman of the Board.

(4) If the secretary to the Board has given to the company of players notice in writing requiring the company of players within the time specified in the notice (being not less than six weeks) to elect a governor of the Board and

the company of players fails to so elect a governor within the time specified, the Board may appoint a member of the company of players to be a governor to occupy the office of governor in respect of which the failure to elect a governor occurred and that governor shall be deemed for all purposes to be a governor elected by the company of players.

(5) For the purposes of subsection (4) of this section a notice under that section shall be deemed to have been duly given, without prejudice to any other method of giving the notice, if it is exhibited and kept so exhibited for not less than one week at some conspicuous place at the principal place of operations of the company.

(6) Every governor appointed by the Governor shall, subject to this Act, hold office as such until the day expressed in the instrument of his appointment (not being more than three years from the day on which he was last appointed) as being the day on which he shall cease to hold office, but such a governor appointed to fill a casual vacancy in the office of a governor shall hold office only for the unexpired portion of the term of office of the governor in whose place he was appointed.

(7) Every governor elected by subscribers shall, subject to this Act, hold office as such until the conclusion of the next election of governors elected by subscribers.

(8) A governor elected by the company of players shall, subject to this Act, hold office as such until the conclusion of the next election of a governor elected by the company of players.

(9) On the expiration of his term of office as a governor, a governor shall be eligible for re-appointment or re-election as the case may be.

7. Notwithstanding any other Act or law, a person shall not be disqualified by appointment as a governor from holding office as a governor and also any other office or place or from accepting or retaining any fees or other remuneration provided for by or under this Act, or otherwise, in respect of his service as a governor.

Acceptance of office as a governor not to be a bar to the holding of any other office.

8. The Governor may, by notice in writing served on a governor, remove the governor from office on grounds of misconduct or incapacity to perform his duties and functions as a governor.

Removal from office of governor.

9. The office of a governor shall become vacant if—

Casual vacancies.

- (a) he dies;
- (b) he resigns by written notice given to the Minister;
- (c) he is removed from office by the Governor pursuant to section 8 of this Act;
- (d) he is absent without leave of the Minister from three consecutive meetings of the Board;
- (e) he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors or compounds with his creditors for less than one hundred cents in the dollar;
- (f) being a governor elected by the company of players, his name ceases to be on the register kept and maintained pursuant to subsection (1) of section 24 of this Act;

or

(g) he is convicted of any offence and receives notice in writing from the Minister discharging him from office on the ground of that conviction.

Common seal,  
meetings and  
quorum.

10. (1) The common seal of the Company shall not be affixed to any instrument except in pursuance of a resolution of the Board.

(2) Any instrument executed in pursuance of such a resolution shall be attested by the signature of any two governors.

(3) The procedure for the calling of meetings of the Board and for the conduct of business at such meetings shall, subject to this Act, be as determined by the Board.

(4) Any three governors shall constitute a quorum at any meeting of the Board and any duly convened meeting at which a quorum is present shall be competent to transact any business of the Company and shall have and may discharge all the powers, duties and functions of the Company.

(5) A decision carried by the majority of the votes cast by the governors present at a meeting of the Board shall be the decision of the Board.

(6) The Board shall cause accurate minutes to be kept of its proceedings at meetings.

Remuneration  
of governors.

11. A governor shall, if the Governor thinks fit, be paid such fees or other remuneration as may from time to time be fixed by the Governor and shall be entitled to receive such travelling and other expenses as are from time to time approved by the Minister.

Delegation of  
powers to  
governors.

12. (1) The Board may by instrument over its common seal delegate to not less than two governors any of the powers and functions conferred on the Board by or under this Act (except this power of delegation) so that the delegated powers and functions may be exercised by the delegates with respect to the matters or matters of a class or in relation to a locality specified in the instrument of delegation.

(2) A delegation under subsection (1) of this section is revocable in writing at will and no delegation shall prevent the exercise of any power or function by the Board conferred on it by or under this Act.

(3) Notwithstanding anything in this Act, where the delegates are unanimous in the exercise or performance of any power or function delegated under subsection (1) of this section the exercise or performance of that power or function by the delegates shall for the purposes of this Act or of any proceedings under this Act be deemed to be an exercise or performance of that power or function by the Board.

Chairman and  
presiding  
governor.

13. (1) The chairman of the Board shall preside at all meetings of the Board at which he is present and in addition to a deliberative vote, shall, in the event of equality of votes, have a second or casting vote.

(2) In the absence of the chairman of the Board from any meeting of the Board the governors present shall, from amongst their own number, elect a governor to preside at that meeting and at that meeting the governor so elected shall have and may exercise the powers and functions conferred on the chairman of the Board by this section.

Validity of act,  
etc., of Board.

14. No act, proceedings or determination of the Board shall be invalid on the ground only of any vacancy in the office of any governor or of any defect in the appointment of any governor.

15. A governor shall not, as such, be subject to the Public Service Act, 1967, as amended<sup>1</sup>, but this section does not affect the rights, duties and obligations under that Act of any governor who is otherwise an officer in the public service of the State.

Governors not, as such, subject to Public Service Act.

16. (1) Subject to subsection (2) of this section where a governor becomes aware that he has a financial interest in any matter before the Board he shall not—

Governors to declare financial interests in matters before Board.

(a) refuse or fail to declare that interest to the secretary to the Board;

or

(b) act as such a governor in relation to any such matter.

Penalty: Five hundred dollars.

(2) For the purposes of subsection (1) of this section the governor elected by the company of players shall be deemed not to have a financial interest in any matter relating to the terms and conditions of employment including remuneration of any person, including himself, comprised in the company of players and the governor elected by subscribers shall be deemed not to have a financial interest in a matter where that financial interest arises only by reason of the fact that he is a subscriber.

DIVISION II—POWERS AND FUNCTIONS, ETC., OF COMPANY

DIVISION II

17. (1) In this section the "former company" means the South Australian Theatre Company Incorporated being an association incorporated under the Associations Incorporation Act, 1956, as amended<sup>2</sup>.

Company to absorb former company.

(2) On the day of commencement of this Act the former company shall for all purposes be wound up and dissolved and thereafter all claims, actions or proceedings which—

(a) but for that dissolution, could have been made or commenced by or against the former company may be made or commenced by or against the Company in all respects as if the former company had not been dissolved and the Company were the former company;

and

(b) before that dissolution had been made or commenced by or against the former company may be continued by or against the Company in all respects as if the former company had not been dissolved and the Company were the former company,

and the name of the Company shall be substituted for the name of the former company in any such claim, action or proceeding.

(3) All real and personal property vested in, belonging to or under the control of the former company shall on and from the day of commencement of this Act cease to vest in, belong to or be under the control of the former company and vest in, belong to or be under the control of the Company.

18. (1) Subject to this Act, the Company may—

Objects, powers, etc., of Company.

(a) present, produce, manage and conduct theatrical performances, operas, plays, dramas, ballets and entertainments of any kind as may in its opinion tend to promote the art of theatre;

<sup>1</sup> Now Public Service Act, 1967-1975.

<sup>2</sup> Now Associations Incorporation Act, 1956-1965.

- (b) promote or commission the writing of plays or dramas, the scoring and writing of operas, the scoring, writing and choreography of ballets and other works for theatrical performance;
  - (c) promote the training of all persons concerned in the production, presentation or performance of theatrical presentations;
  - (d) assist financially or otherwise in the presentation, production, management or conduct of any art of the theatre in this State;
  - (e) do all things necessary or expedient to promote public interest and participation in the art of the theatre;
  - (f) establish and conduct schools, courses, lectures, seminars and discussions on the art of the theatre;
  - (g) enter into contracts or agreements with artists, entertainers and performers or employ such persons;
  - (h) employ writers, composers, choreographers, designers and directors;
  - (i) purchase and install any fittings or equipment in any theatre;
  - (j) make charges for admission to any theatrical performance;
  - (k) grant or dispose of rights to televise, broadcast or record any theatrical performances undertaken under its auspices;
  - (l) enter into agreement or arrangements with any other person or body for the promotion of any theatrical activity;
  - (m) acquire patents to use any inventions or devices that may be used in connection with any theatrical activity and dispose of such patents or licence for the use of any such inventions or devices;
- and
- (n) do all things which in its opinion are necessary for or incidental to the exercise and performance of any of its powers or to the fulfilment of any of its objects.

Company may  
make use of  
services of  
employees of  
public service.

19. The Company may, with the approval of the Minister and the consent of the Minister controlling any Department of the public service of the State and on such terms as may be mutually arranged make use of the services of any of the officers or employees of that Department.

PART III

## PART III

## EMPLOYEES OF THE COMPANY

Employment of  
employees.

20. (1) For the purposes of this Act the Board may employ such persons as employees of the Company as it thinks necessary.

(2) The terms and conditions of employment of the employees of the Company shall be as determined by the Board.

(3) Without limiting the generality of subsection (2) of this section, the Board may, with the approval of the Minister, determine that, for the purposes of the accrual of, or the payment of a lump sum in lieu of the grant of, long service leave or for the purposes of the accrual of leave on account of illness, previous service of an employee of the Company with an employer other than the Company for the purposes and to the extent approved of by the Minister shall be regarded as service as an employee of the Company.

(4) For the purposes of this section the Company may enter into an arrangement or supplementary arrangement of a kind contemplated by section 6 of the Superannuation Act, 1969, as amended<sup>1</sup>, with the South Australian Superannuation Board.

21. (1) Subject to this section the Board shall appoint a suitably qualified person to be the artistic director of the Company and upon that appointment the artistic director shall become an employee of the Company.

Artistic director  
of the  
Company.

(2) The terms and conditions of employment of the artistic director shall be as determined by the Board and approved of by the Minister.

22. (1) The Board shall appoint a person to be the secretary to the Board and upon that appointment that person shall become an employee of the Company.

Secretary to the  
Board.

(2) The secretary to the Board shall have and may exercise, perform and carry out such powers, functions and duties as are conferred on him by or under this Act or as are directed to be exercised, performed or carried out by the Board.

#### PART IV

#### PART IV

#### THE COMPANY OF PLAYERS

23. The company of players shall consist of all persons who are employed by the Company in the production, direction or performance of theatrical productions other than any such person who is so employed by the Company on a contract of employment expressed to apply to a period of employment of less than six months.

The company  
of players.

24. (1) The Board shall cause to be kept and maintained a register showing the names of the persons who are for the time being comprised in the company of players.

Register of  
company of  
players.

(2) If a dispute arises between the Board and any person as to whether or not the name of that person should be inserted in or remain on the register referred to in subsection (1) of this section that dispute shall be referred to the Minister who may determine that dispute and whose determination shall be final.

25. (1) As soon as practicable after the commencement of this Act the Board shall cause an election to be held by the company of players for the purposes of the election of the governor referred to in paragraph (c) of subsection (2) of section 6 of this Act, and whenever a vacancy in the office of that governor occurs and at any case at intervals of not less than twelve months the Board shall cause further elections to be held.

Election of  
governor by  
company of  
players.

(2) No person shall—

(a) stand for an election under this section;

or

(b) vote at any such election,

unless his name is for the time being on the register referred to in subsection (1) of section 24 of this Act.

<sup>1</sup> The Superannuation Act, 1969, and its amendments, have been repealed and superseded by the Superannuation Act, 1974.



(3) Subject to this Act, a governor elected pursuant to this section, shall hold office until the election under subsection (1) of this section next following the election at which he was last elected and any governor elected under this section shall be eligible for re-election.

(4) The form and manner of conducting an election under this section shall be as from time to time determined by the Board with the approval of the Minister.

## PART V

## PART V

## FINANCIAL

Company to  
keep proper  
accounts.

**26.** (1) The Company shall keep proper accounts showing accurately and in detail all its financial transactions, assets and liabilities.

(2) The Auditor-General may at any time examine the accounts of the Company and shall as soon as practicable after the end of each financial year make a report to the Minister on the state of the affairs of the Company as at the end of that financial year.

(3) The Minister shall cause every report of the Auditor-General made in accordance with subsection (2) of this section to be laid before each House of Parliament within fourteen days of his receipt thereof if Parliament is then in session or if Parliament is not then in session within fourteen days of the commencement of the next session of Parliament.

Power to  
borrow.

**27.** (1) The Company may with the consent of the Treasurer, for the purposes of exercising or performing its powers and functions under this Act, borrow money at interest from any person upon such security (if any) by way of mortgage or charge over any of the assets of the Company as the Company may think fit to grant.

(2) The Treasurer may upon such terms and conditions as he thinks fit guarantee the repayment of any moneys (together with interest thereon) borrowed by the Company under this section.

(3) Any moneys required to be paid in satisfaction of a guarantee given pursuant to subsection (2) of this section may be paid out of the general revenue of the State which is hereby to the necessary extent appropriated accordingly.

Funds of the  
Company.

**28.** (1) The moneys required by the Company for the purposes of the exercise and performance of its powers and functions under this Act shall be—

(a) all moneys received by the Company in the exercise and performance of its powers or functions;

(b) all moneys borrowed by the Company pursuant to section 27 of this Act;

(c) all moneys being gifts to the Company or derived from the disposition by the Company of gifts to the Company;

and

(d) all moneys paid to the Company by way of grants by the Treasurer out of moneys to be provided by Parliament for the purpose.

(2) Such of the moneys of the Company as are not immediately required by the Company may be lodged on deposit with the Treasurer or invested in any other manner approved of by the Treasurer.

29. (1) As soon as practicable after the commencement of this Act the Company shall present to the Minister a budget showing its estimates of revenue and expenditure over the balance of the financial year within which the budget is presented and thereafter the Company shall before the commencement of each succeeding financial year present to the Minister a budget showing its estimates of its revenue and expenditure for that succeeding financial year. Budget.

(2) The Minister may approve of any budget presented to him pursuant to subsection (1) of this section or may direct or allow the Company to amend a budget before so approving of the budget.

(3) The Company shall not, without the consent of the Minister, incur any expenditure that is not authorized by an approved budget.

(4) In this section—

“approved budget” means a budget that has been approved of by the Minister or a budget that, having been amended, has been approved of by the Minister.

## PART VI

## PART VI

### MISCELLANEOUS

30. No action, suit or proceeding shall be brought or maintained against any governor in respect of any act or thing done or omitted to be done in his capacity as such in the exercise or purported exercise in good faith of his powers or functions under this Act. Protection of governors.

31. (1) As soon as practicable after the end of each financial year the Company shall present a report to the Minister on its activities during the year and setting out in a form approved by the Minister a statement as to its financial position. Reports.

(2) The Minister shall cause every report of the Company made in accordance with subsection (1) of this section to be laid before each House of Parliament within fourteen days of his receipt thereof if Parliament is then in session or if Parliament is not then in session within fourteen days of the commencement of the next session of Parliament.

32. (1) The Company may accept—

Gifts, etc.

- (a) grants, conveyances, transfers and leases of land whether from the Crown or any instrumentality thereof or any other person;
- (b) rights to the use, control, management or occupation of any land; and
- (c) gifts of personal property of any kind to be used or applied by it for the purposes of this Act.

(2) Notwithstanding anything contained in the Stamp Duties Act, 1923, as amended<sup>1</sup>, no stamp duty shall be payable on any instrument by which land

<sup>1</sup> Now Stamp Duties Act, 1923-1975.

or any interest in or right over land is granted or assured to or vested in the Company or on any contract or instrument executed by the Company for the purpose of disposing of any property.

(3) Notwithstanding anything contained in the Succession Duties Act, 1929, as amended<sup>1</sup>, no succession duty shall be payable in respect of any property or interest passing to the Company on or by reason of the death of any person, and any such property shall not be subject to succession duty under that Act.

(4) Notwithstanding anything in the Gift Duties Act, 1968, as amended<sup>2</sup>, no gift duty under that Act shall be payable in respect of the gift of any real or personal property to the Company.

Summary  
procedure for  
offences.

**33.** Proceedings for offences against this Act shall be disposed of summarily.

Regulations.

**34. (1)** The Governor may, on the recommendation of the Company, make such regulations as are necessary or expedient for the purposes of giving effect to the provisions or objects of this Act.

(2) Without limiting the generality of the provisions of subsection (1) of this section, the regulations may—

- (a) provide for the disposition by the Company of any unclaimed property left in or on any premises owned or controlled by the Company;
  - (b) provide for persons to be subscribers to the Company, for the rights and obligations of such subscribers for the subscriptions to be paid by subscribers, for holding of elections of governors to be elected by subscribers and in the event of a vacancy in the office of a governor so elected, for holding of by-elections and for all matters incidental to all or any of the foregoing matters;
  - (c) provide for the securing of decency and order in or on any premises owned or controlled by the Company;
- and
- (d) provide for and prescribe penalties, in each case, not exceeding two hundred dollars, for a contravention of or failure to comply with any provision of the regulations.

<sup>1</sup> Now Succession Duties Act, 1929-1975.

<sup>2</sup> Now Gift Duties Act, 1968-1975.