

South Australia

# **Superannuation Funds Management Corporation of South Australia Regulations 2010**

under the *Superannuation Funds Management Corporation of South Australia Act 1995*

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## **Part 1—Preliminary**

### **1—Short title**

These regulations may be cited as the *Superannuation Funds Management Corporation of South Australia Regulations 2010*.

### 3—Interpretation

In these regulations—

*Act* means the *Superannuation Funds Management Corporation of South Australia Act 1995*;

*contributor* means a contributor who is, by virtue of regulation 6, eligible to vote at an election;

*hour of nomination* means the hour by which nominations must be received by the Electoral Commissioner.

## Part 2—Election of board members

### 4—Election of member

The election of a member of the board by contributors must be conducted by the Electoral Commissioner in accordance with this Part.

### 5—Timetable for election

- (1) The Electoral Commissioner must publish in a daily newspaper circulating throughout the State a notice setting out the timetable for each election held under this Part.
- (2) The notice must—
  - (a) fix the date (not being less than 14 days from publication of the notice) and the hour by which nominations must be received by the Electoral Commissioner; and
  - (b) fix the date on or before which the Commissioner will post ballot papers to contributors or give ballot papers to employers for distribution to contributors; and
  - (c) fix the date (not being less than 21 days nor more than 28 days after the date fixed under paragraph (b)) and the hour by which completed ballot papers must be returned to the Electoral Commissioner.
- (3) The Electoral Commissioner must determine the timetable for an election in consultation with the board.

### 6—Contributors eligible to vote

- (1) Persons who were contributors as defined in the Act on the last business day before the 7 day period immediately preceding the day on which notice was published under regulation 5 are eligible to vote at the election.
- (2) Each of the superannuation boards must, within 7 days after publication of the notice, give the Electoral Commissioner a list of the contributors of whom the board knows who are eligible to vote at the election.
- (3) In this regulation—

*business day* means any day other than a Saturday, Sunday or other public holiday.

## 7—Nominations

A nomination for election must—

- (a) be in a form approved by the Electoral Commissioner; and
- (b) be signed by at least 3 contributors; and
- (c) be received by the Electoral Commissioner at or before the hour of nomination.

## 8—Election without ballot

- (1) If only 1 person is nominated to fill the vacancy, the Electoral Commissioner must, by notice in the Gazette and in a daily newspaper circulating throughout the State—
  - (a) declare that the vacancy has been filled by the person nominated; and
  - (b) specify the day on which the person's term of office commences and the length of the term for which the person has been elected.
- (2) If more than 1 person is nominated the following regulations apply.

## 9—Ballot papers

- (1) The Electoral Commissioner must provide each contributor (other than any contributor who is a lost member for the purposes of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* of the Commonwealth) with a ballot paper and an envelope addressed to the Commissioner for the purpose of returning the ballot paper after completion.
- (2) The names of the candidates must appear on the ballot papers in a vertical list in an order determined by the Electoral Commissioner by lot.
- (3) If ballot papers are not printed on watermarked paper, they must be initialled by the Electoral Commissioner or by a person authorised for that purpose by the Commissioner.
- (4) The Electoral Commissioner may provide a contributor with a ballot paper and envelope—
  - (a) by posting the ballot paper and envelope to the contributor at his or her last known address; or
  - (b) by giving the ballot paper and envelope to the contributor's employer to give to the contributor.

## 10—Electoral material to be provided with ballot papers

- (1) Subject to this regulation, the Electoral Commissioner must, at the request of a candidate, include with ballot papers provided to contributors material provided by the candidate promoting the candidate's election.
- (2) Promotional material must be provided to the Commissioner at or before the hour of nomination.
- (3) The material must not include more than 200 words nor more than 1 photograph and may be printed by the Commissioner in such form as he or she thinks fit for the purpose of posting or distributing to contributors.

## 11—Voting

- (1) A contributor who wishes to vote—
  - (a) must indicate on the ballot paper the candidate to whom the contributor gives his or her first preference and the contributor may indicate the order of his or her preference for the other candidates; and
  - (b) must place the ballot paper in the envelope provided, seal the envelope and sign it; and
  - (c) must return the envelope to the Electoral Commissioner.
- (2) A voter's preference for candidates must be indicated by consecutive numbers (commencing with the number 1) placed in the squares opposite the names of the candidates on the ballot paper.
- (3) For the purposes of this regulation, if a voter places a tick or a cross on a ballot paper, the tick or cross will be taken to be equivalent to the number 1.

## 12—Duplication and late return of ballot papers

- (1) If more than 1 ballot paper is returned under the name of the same contributor all, except the first to be returned, will be rejected or if the Electoral Commissioner does not know which was returned first all, except the first to be recorded against the name of the contributor, will be rejected.
- (2) If more than 1 ballot paper is returned in an envelope, all of those ballot papers will be rejected.
- (3) A ballot paper returned to the Electoral Commissioner after the close of the poll will be rejected.

## 13—Counting of votes

The following provisions apply to the counting of votes:

- (a) after counting first preferences, the candidate with the fewest first preferences must be excluded and, if more than 1 candidate remains, each ballot paper counted to the excluded candidate must be counted to the candidate (if any) next in order of the voter's preference;
- (b) this process must be continued until 1 candidate is left;
- (c) if 2 candidates have an equal number of votes and 1 of them must be excluded, the Electoral Commissioner must determine the question by lot.

## 14—Scrutineers

- (1) Subject to subregulation (2), the Electoral Commissioner may permit such scrutineers as he or she thinks fit to be present at the counting of votes.
- (2) A candidate in the election cannot be a scrutineer.

## 15—Declaration of election

When 1 candidate is left, the Electoral Commissioner must, by notice in the Gazette and in a daily newspaper circulating throughout the State—

- (a) declare the candidate to have been elected to fill the vacancy; and

- (b) specify the day on which the elected person's term of office commences and the length of the term for which the person has been elected.

## Part 3—General

### 16—Restrictions on investment of funds

- (1) The Corporation must not invest the public sector superannuation funds or the nominated funds of an approved authority—
  - (a) in property outside Australia; or
  - (b) in real property outside the State,unless the Minister has authorised the investment specifically or by reference to the class of investment to which it belongs.
- (2) The Minister may vary or revoke an authorisation under subregulation (1).
- (3) The Corporation must not enter into—
  - (a) futures contracts; or
  - (b) forward contracts; or
  - (c) interest rate swap contracts; or
  - (d) currency swap contracts; or
  - (e) forward exchange rate contracts; or
  - (f) forward interest rate contracts; or
  - (g) any similar contract or dealing,in the course of investing the public sector superannuation funds or the nominated funds of an approved authority unless the contract or dealing has been authorised by the Minister specifically or by reference to the class of contracts or dealings to which it belongs.
- (4) If it is possible to characterise the Corporation's entry into a contract or dealing referred to in subregulation (3) as the obtaining of financial accommodation by the Corporation, the Minister's authorisation of the contract or dealing under subregulation (3) will constitute authorisation for the purposes of section 6(2) of the Act as well.
- (5) A certificate signed by the Minister certifying that a particular transaction has been authorised by the Minister under subregulation (1) or (3) will be accepted in any legal proceedings as conclusive evidence of the matter so certified.

### 16A—Public authorities

In accordance with the definition of *public authority* in section 3(1) of the Act, the following are brought within the ambit of that definition:

- (a) Commissioner for Consumer Affairs;
- (b) Local Government Association of South Australia.

## 17—Prescribed public authorities

For the purposes of the definition of *prescribed public authority* in section 3(1) of the Act, the following are declared to be prescribed public authorities:

- (a) Adelaide Cemeteries Authority;
- (ab) Health Services Charitable Gifts Board;
- (b) South Australian Government Financing Authority;
- (c) Public Trustee;
- (ca) Lifetime Support Authority;
- (d) Motor Accident Commission;
- (e) Commissioner for Consumer Affairs;
- (f) The University of Adelaide;
- (g) Legal Services Commission;
- (h) Construction Industry Training Board;
- (i) Local Government Association of South Australia.

## Schedule 1—Transitional provisions

### Part 4—Transitional provisions

#### 6—Authorisations under revoked regulations

- (1) An authorisation in force under regulation 17(1) of the *Superannuation Funds Management Corporation of South Australia Regulations 1995* immediately before the commencement of this clause will be taken to be an authorisation under regulation 16(1) of these regulations.
- (2) An authorisation in force under regulation 17(3) of the *Superannuation Funds Management Corporation of South Australia Regulations 1995* immediately before the commencement of this clause will be taken to be an authorisation under regulation 16(3) of these regulations.

#### 7—Declaration of prescribed public authorities

The revocation of the *Superannuation Funds Management Corporation of South Australia (Prescribed Public Authorities) Regulations 1995* by these regulations does not affect the declaration of any public authority under those regulations for the purposes of the definition of *prescribed public authority* under section 3(1) of the Act.

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

### Legislation revoked by principal regulations

The *Superannuation Funds Management Corporation of South Australia Regulations 2010* revoked the following:

*Superannuation Funds Management Corporation of South Australia (Prescribed Public Authorities) Regulations 1995*

### Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2010	164	<i>Gazette 1.7.2010 p3345</i>	1.7.2010 except Sch 1 Pt 3—31.8.2010 and except r 17—11.11.2010: r 2
2013	260	<i>Gazette 21.11.2013 p4299</i>	20.6.2014: r 2
2013	294	<i>Gazette 19.12.2013 p5012</i>	19.12.2013: r 2
2014	3	<i>Gazette 16.1.2014 p152</i>	4.7.2014: r 2
2014	4	<i>Gazette 16.1.2014 p154</i>	4.7.2014: r 2
2015	230	<i>Gazette 11.11.2015 p4893</i>	10.3.2016: r 2
2017	273	<i>Gazette 19.9.2017 p4099</i>	19.1.2018: r 2
2018	224	<i>Gazette 1.11.2018 p3925</i>	15.2.2019: r 2
2020	76	<i>Gazette 28.5.2020 p2757</i>	11.9.2020: r 2
<b>2021</b>	<b>125</b>	<b><i>Gazette 2.9.2021 p3437</i></b>	<b>19.11.2021: r 2</b>

### Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Pt 1		
r 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>19.12.2013</i>
Pt 2		
r 9		

r 9(1)	varied by 294/2013 r 4	19.12.2013
r 11		
r 11(3)	inserted by 273/2017 r 4	19.1.2018
Pt 3		
r 16A	inserted by 4/2014 r 4	4.7.2014
	<b>varied by 125/2021 r 4</b>	<b>19.11.2021</b>
r 17	varied by 260/2013 r 4	20.6.2014
	varied by 3/2014 r 4	4.7.2014
	varied by 4/2014 r 5	4.7.2014
	varied by 230/2015 r 4	10.3.2016
	varied by 224/2018 r 4	15.2.2019
	varied by 76/2020 r 4	11.9.2020
	<b>varied by 125/2021 r 5</b>	<b>19.11.2021</b>
Sch 1		
Pts 1—3	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>19.12.2013</i>

## **Historical versions**

19.12.2013  
20.6.2014  
4.7.2014  
10.3.2016  
19.1.2018  
15.2.2019  
11.9.2020