



ANNO VICESIMO QUINTO

ELIZABETHAE II REGINAE

A.D. 1976

No. 73 of 1976

An Act to establish The State Opera of South Australia; to constitute a Board of Management thereof and for matters incidental thereto.

[Assented to 2nd December, 1976]

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

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| Short title. | 1. This Act may be cited as "The State Opera of South Australia Act, 1976". |
| Commencement. | 2. This Act shall come into operation on a day to be fixed by proclamation. |
| Division of Act. | <p>3. This Act is divided as follows:—</p> <p>PART I—PRELIMINARY</p> <p>PART II—THE STATE OPERA AND THE BOARD</p> <p>PART III—EMPLOYEES OF THE STATE OPERA</p> <p>PART IV—FINANCIAL</p> <p>PART V—MISCELLANEOUS</p> |
| Definitions. | <p>4. In this Act, unless the contrary intention appears—</p> <p>"the Board" means the Board of Management constituted under section 6 of this Act:</p> <p>"appointed Member" in relation to the Board, means a Member of the Board appointed by the Governor under section 6 of this Act:</p> |

- “elected Member” in relation to the Board, means a Member of the Board elected by the subscribers under this Act:
- “financial year” means any period of twelve months concluding on the thirtieth day of June in a year:
- “Member” means a Member of the Board and includes the Member for the time being appointed Chairman of the Board:
- “the State Opera” means The State Opera of South Australia established under section 5 of this Act:
- “subscriber” means a person for the time being a subscriber to the State Opera within the meaning of the regulations.

PART II

PART II

THE STATE OPERA AND THE BOARD

5. (1) For the purposes of this Act, a body by the name of “The State Opera of South Australia” is hereby established. The State Opera.

(2) The State Opera—

- (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) shall be capable of suing and being sued;
- and
- (d) shall have the powers, duties, functions and authorities conferred, imposed or prescribed by or under this Act.

(3) Where an apparently genuine document purports to bear the common seal of the State Opera, it shall be presumed, in the absence of proof to the contrary, that the common seal of the State Opera was duly affixed to that document.

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

(2) Subject to this section the Board of Management shall consist of seven Members—

- (a) of whom five shall be persons appointed as such by the Governor;
- and
- (b) of whom two shall be elected, in the manner provided for by the regulations, by subscribers.

(3) The Governor may appoint a Member to be Chairman of the Board.

PART II

(4) An appointed Member shall, subject to this Act, hold office for a term, not exceeding three years, specified in the instrument of appointment.

(5) An elected Member shall, subject to this Act, hold office for the term for which he was elected.

(6) A Member appointed or elected to fill a casual vacancy in the office of a Member shall hold office for the balance of the term of the Member in whose place he was appointed or elected.

(7) A Member shall be eligible for re-appointment or re-election as the case may be.

Employees of State Opera.

7. Notwithstanding any other Act or law, an employee of the State Opera is not disqualified from being a Member of the Board 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 Member.

Removal from office of Member.

8. The Governor may remove a Member from office for—

(a) mental or physical incapacity;

(b) neglect of duty;

(c) dishonourable conduct;

or

(d) any other cause considered sufficient by the Governor.

Casual vacancies.

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

(a) he dies;

(b) his term of office expires;

(c) he resigns by written notice to the Minister;

or

(d) he is removed from office by the Governor pursuant to section 8 of this Act.

Common seal, meetings and quorum.

10. (1) The common seal of the State Opera 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 Members.

(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 four Members 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 State Opera.

(5) A decision carried by the majority of the votes cast by the Members 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.

PART II

11. (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.

Chairman and
presiding
Member.

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

12. A Member 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.

Remuneration
of Members.

13. (1) The Board may by instrument in writing delegate to any Member 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 delegate with respect to the matters or in relation to a locality specified in the instrument of delegation.

Delegation of
powers to
Members.

(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.

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

Validity of
act, etc.,
of Board.

15. A Member shall not, as such, be subject to the Public Service Act, 1967-1975, but this section does not affect the rights, duties and obligations under that Act of any Member who is otherwise an officer in the public service of the State.

Member not
as such,
subject to
Public Service
Act.

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

Member to
declare
interest.

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

or

(b) take part in the deliberations of the Board in relation to that matter.

Penalty: Five hundred dollars.

(2) For the purposes of subsection (1) of this section a Member, who is a subscriber, 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.

17. (1) In this section the "former company" means The State Opera of South Australia Incorporated being an association incorporated under the Associations Incorporation Act, 1956-1965.

State Opera
to absorb
former
company.

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

(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 State Opera in all respects as if the former company had not been dissolved and the State Opera 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 State Opera in all respects as if the former company had not been dissolved and the State Opera were the former company,

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

(3) All rights, obligations and liabilities vested in or to which the former company was subject immediately before the commencement of this Act, may on and after that commencement vest in and be discharged by the State Opera.

(4) All real and personal property 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 State Opera.

Objects,
powers, etc.,
of State Opera

18. (1) Subject to this Act and in relation to and not in derogation from the powers and functions elsewhere conferred on it the State Opera may—

- (a) present, produce, manage and conduct theatrical and operatic performances of any kind as may in its opinion tend to promote the art of the opera and related theatrical arts;
- (b) promote or commission the scoring and writing of operas and other theatrical works for operatic or theatrical performance;
- (c) promote the training of all persons concerned in the production, presentation or performance of operatic or other related theatrical presentations;
- (d) assist financially or otherwise in the presentation, production, management or conduct of any theatrical or operatic production in this State;
- (e) promote public interest and participation in the art of the opera and related theatrical arts;
- (f) establish and conduct schools, courses, lectures, seminars and discussions on the art of the opera and related theatrical arts;
- (g) contract for the performance of services with artists, entertainers, performers, writers, composers, choreographers, designers and directors;
- (h) buy or build any theatre or purchase and install any fittings or equipment in any theatre;

- (i) make charges for admission to any operatic or theatrical performance;
 - (j) grant or dispose of rights to televise, broadcast or record any operatic or theatrical performances undertaken under its auspices;
 - (k) enter into agreements or arrangements with any other person or body for the promotion of any operatic or theatrical activity;
 - (l) acquire patents or licences to use any inventions or devices that may be used in connection with any operatic or related activity and dispose of such patents or licences for the use of any such inventions or devices;
 - (m) undertake any business which is ancillary to its objects and powers;
- 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.

19. (1) The State Opera may, with the consent of the Minister, compulsorily acquire land for the purposes of this Act.

Power to acquire land compulsorily.

(2) The Land Acquisition Act, 1969-1972, shall apply to the acquisition of land under this section.

20. The State Opera 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.

State Opera may make use of services of employees of public service.

PART III

PART III

EMPLOYEES OF THE STATE OPERA

21. (1) For the purposes of this Act the Board may employ such persons as employees of the State Opera as it thinks fit.

Employment of employees.

(2) 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 State Opera with an employer other than the State Opera shall to the extent approved of by the Minister be regarded as service as an employee of the State Opera.

(3) For the purposes of this section the State Opera may enter into an arrangement or supplementary arrangement of a kind contemplated by section 6 of the Superannuation Act, 1974-1976, with the South Australian Superannuation Board.

PART IIISecretary to
the Board.**22. (1)** There shall be a secretary to the Board.**(2)** The secretary shall be an employee of the State Opera.**(3)** 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 by the Board to be exercised, performed or carried out.**PART IV****PART IV****FINANCIAL**State Opera
to keep
proper
accounts.**23. (1)** The State Opera shall keep proper accounts of its financial affairs.**(2)** The Auditor-General may at any time examine the accounts of the State Opera and shall as soon as practicable after the end of each financial year make a report to the Minister on the financial affairs of the State Opera 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 as soon as practicable after his receipt thereof.Power to
borrow.**24. (1)** The State Opera 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 State Opera as the State Opera may think fit to grant.**(2)** The Treasurer may upon such terms and conditions as he thinks fit guarantee the repayment on any moneys (together with interest thereon) borrowed by the State Opera under this section.**(3)** Any moneys required to be paid in satisfaction of a guarantee given pursuant to subsection (2) of this section shall be paid out of the general revenue of the State which is hereby to the necessary extent appropriated accordingly.Funds of the
State Opera.**25. (1)** The moneys required by the State Opera for the purposes of the exercise and performance of its powers and functions under this Act shall be—**(a)** all moneys received by the State Opera in the exercise and performance of its powers or functions;**(b)** all moneys borrowed by the State Opera pursuant to section 24 of this Act;**(c)** all moneys being gifts to the State Opera or derived from the disposition by the State Opera of gifts to the State Opera;

and

(d) all moneys paid to the State Opera 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 State Opera as are not immediately required by the State Opera may be lodged on deposit with the Treasurer or invested in any other manner approved of by the Treasurer.

26. (1) As soon as practicable after the commencement of this Act the State Opera shall present to the Minister a budget showing its estimates of receipts and payments over the balance of the financial year within which the budget is presented and thereafter the State Opera shall before the commencement of each succeeding financial year present to the Minister a budget showing its estimates of its receipts and payments 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 State Opera to amend a budget before so approving of the budget.

(3) The State Opera shall not, without the consent of the Minister, make 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.

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PART V

PART V

MISCELLANEOUS

27. No action, suit or proceeding shall be brought or maintained against any Member 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 Members.

28. (1) As soon as practicable after the end of each financial year the State Opera 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, as soon as practicable after his receipt of this report, cause copies of the report to be laid before each House of Parliament.

29. (1) The State Opera 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.

PART V

(2) Notwithstanding anything contained in the Stamp Duties Act, 1923-1975, no stamp duty shall be payable on any instrument by which land or any interest in or right over land is granted or assured to or vested in the State Opera.

(3) Notwithstanding anything contained in the Succession Duties Act, 1929-1975, no succession duty shall be payable in respect of any property or interest passing to the State Opera 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 contained in the Gift Duty Act, 1968-1975, no gift duty under that Act shall be payable in respect of the gift of any real or personal property to the State Opera.

**Summary
procedure
for offences.**

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

Regulations.

31. (1) The Governor may make such regulations as are necessary or expedient for the purposes 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 State Opera of any unclaimed property left in or on any premises owned or controlled by the State Opera;

(b) provide for—

(i) the manner in which a person may become, and the conditions under which he may remain, a subscriber to the State Opera;

(ii) the subscriptions or other moneys to be paid by subscribers;

(iii) the election of Members of the Board by subscribers, and the term of office of Members so elected;

(iv) the rights and privileges to be enjoyed by subscribers;

(c) provide for the securing of order in or on any premises owned or controlled by the State Opera;

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.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. NICHOLLS, Governor