

South Australia

**ACTS INTERPRETATION ACT 1915**

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An Act for consolidating certain Acts relating to the interpretation of Acts of Parliament, and for further shortening and interpreting the language used in Acts of Parliament.

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*This Act is published under the Legislation Revision and Publication Act 2002 and incorporates all amendments in force as at **3 March 2003**.*

*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.*

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## ACTS INTERPRETATION ACT 1915

being

Acts Interpretation Act 1915 No. 1215 of 1915  
[Assented to 16 December 1915]

as amended by

Acts Interpretation Act Amendment Act 1923 No. 1564 of 1923 [Assented to 14 November 1923]<sup>1</sup>  
Supreme Court Act 1935 No. 2253 of 1935 [Assented to 21 December 1935]<sup>2</sup>  
Statute Law Revision Act 1936 No. 2293 of 1936 [Assented to 8 October 1936]  
Acts Interpretation Act Amendment Act 1945 No. 10 of 1945 [Assented to 15 November 1945]  
Acts Interpretation Act Amendment Act 1949 No. 58 of 1949 [Assented to 8 December 1949]  
Acts Interpretation Act Amendment Act 1957 No. 23 of 1957 [Assented to 31 October 1957]  
Statutes Amendment (Administration of Acts and Acts Interpretation) Act 1971 No. 74 of 1971 [Assented to 11 November 1971]  
Acts Interpretation Act Amendment Act 1972 No. 118 of 1972 [Assented to 30 November 1972]<sup>3</sup>  
Acts Interpretation Act Amendment Act 1975 No. 102 of 1975 [Assented to 20 November 1975]  
Subordinate Legislation Act 1978 No. 3 of 1978 [Assented to 23 February 1978]<sup>4</sup>  
Criminal Law Consolidation Act Amendment Act 1981 No. 107 of 1981 [Assented to 23 December 1981]<sup>5</sup>  
Acts Interpretation Act Amendment Act 1983 No. 41 of 1983 [Assented to 16 June 1983]<sup>6</sup>  
Statutes Amendment (Oaths and Affirmations) Act 1984 No. 56 of 1984 [Assented to 24 May 1984]<sup>7</sup>  
Acts Interpretation Act Amendment Act 1986 No. 13 of 1986 [Assented to 20 March 1986]  
Acts Interpretation Act Amendment Act 1988 No. 6 of 1988 [Assented to 10 March 1988]  
Acts Interpretation Act Amendment Act (No. 2) 1988 No. 8 of 1988 [Assented to 10 March 1988]<sup>8</sup>  
Statutes Amendment and Repeal (Sentencing) Act 1988 No. 51 of 1988 [Assented to 5 May 1988]<sup>9</sup>  
Acts Interpretation Act Amendment Act (No. 3) 1988 No. 55 of 1988 [Assented to 8 September 1988]  
Acts Interpretation Act Amendment Act 1990 No. 56 of 1990 [Assented to 22 November 1990]  
Statutes Repeal and Amendment (Courts) Act 1991 No. 69 of 1991 [Assented to 12 December 1991]<sup>10</sup>  
Acts Interpretation (Crown Prerogative) Amendment Act 1992 No. 8 of 1992 [Assented to 16 April 1992]  
Acts Interpretation (Commencement) Amendment Act 1992 No. 14 of 1992 [Assented to 16 April 1992]  
Acts Interpretation (Australia Acts) Amendment Act 1992 No. 70 of 1992 [Assented to 19 November 1992]<sup>11</sup>  
Expiation of Offences (Divisional Fees) Amendment Act 1992 No. 72 of 1992 [Assented to 19 November 1992]<sup>12</sup>  
Acts Interpretation (Commencement Proclamations) Amendment Act 1994 No. 1 of 1994 [Assented to 28 February 1994]  
Acts Interpretation (Monetary Amounts) Amendment Act 1994 No. 15 of 1994 [Assented to 12 May 1994]  
Native Title (South Australia) Act 1994 No. 92 of 1994 [Assented to 15 December 1994]<sup>13</sup>  
Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996 No. 34 of 1996 [Assented to 2 May 1996]<sup>14</sup>  
Statutes Amendment (References to Banks) Act 1997 No. 30 of 1997 [Assented to 12 June 1997]<sup>15</sup>  
Police Act 1998 No. 55 of 1998 [Assented to 3 September 1998]<sup>16</sup>  
Statutes Amendment (Attorney-General's Portfolio) Act 1998 No. 59 of 1998 [Assented to 3 September 1998]<sup>17</sup>  
Financial Sector Reform (South Australia) Act 1999 No. 33 of 1999 [Assented to 17 June 1999]<sup>18</sup>  
**Statutes Amendment (Attorney-General's Portfolio) Act 2002 No. 33 of 2002 [Assented to 28 November 2002]<sup>19</sup>**

**NOTE:**

- Asterisks indicate repeal or deletion of text.
- Entries appearing in bold type indicate the amendments incorporated since the last reprint.
- For the legislative history of the Act see Appendix.

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- <sup>1</sup> Act No. 1564 of 1923 was repealed by 2253, 1935, s. 3 (Sched.).
- <sup>2</sup> Came into operation 1 November 1937: *Gaz.* 25 March 1937, p. 646.
- <sup>3</sup> Came into operation 14 December 1972: *Gaz.* 14 December 1972, p. 2630.
- <sup>4</sup> Came into operation 1 June 1978: *Gaz.* 11 May 1978, p. 1652.
- <sup>5</sup> Came into operation 11 February 1982: *Gaz.* 11 February 1982, p. 361.
- <sup>6</sup> Came into operation 1 July 1983: *Gaz.* 30 June 1983, p. 1754.
- <sup>7</sup> Came into operation 1 July 1984: *Gaz.* 28 June 1984, p. 1897.
- <sup>8</sup> Came into operation 5 May 1988: *Gaz.* 5 May 1988, p. 1115.
- <sup>9</sup> Came into operation (except ss. 3-6, 12, 15-20, 22-27, 30-39, 41-68 and 70-78) 12 May 1988: *Gaz.* 12 May 1988, p. 1181; ss. 3 and 4 came into operation 8 September 1988: *Gaz.* 8 September 1988, p. 994; remainder of Act came into operation 1 January 1989: *Gaz.* 15 December 1988, p. 2009.
- <sup>10</sup> Came into operation 6 July 1992: *Gaz.* 2 July 1992, p. 209.
- <sup>11</sup> Came into operation 3 March 1986 (5.00 a.m. Greenwich Mean Time): see s. 2.
- <sup>12</sup> Came into operation 1 March 1993: *Gaz.* 18 February 1993, p. 596.
- <sup>13</sup> Came into operation 15 December 1994: *Gaz.* 15 December 1994, p. 2129.
- <sup>14</sup> Came into operation 3 February 1997: *Gaz.* 19 December 1996, p. 1923.
- <sup>15</sup> Part 2 (s. 4) came into operation 3 July 1997: *Gaz.* 3 July 1997, p. 4.
- <sup>16</sup> Sched. 3 (cl. 1) came into operation 1 July 1999: *Gaz.* 30 June 1999, p. 3310.
- <sup>17</sup> Part 2 (s. 4) came into operation 10 March 1988: s. 2(2).
- <sup>18</sup> Schedule (item 2) came into operation 1 July 1999: being the date specified under section 3(16) of the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999* of the Commonwealth as the transfer date for the purposes of that Act.
- <sup>19</sup> **Part 2 (s. 4) came into operation 3 March 2003: *Gaz.* 27 February 2003, p. 807.**

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**APPENDIX  
LEGISLATIVE HISTORY**

The Parliament of South Australia enacts as follows:

## Part 1—Preliminary

### Short title

1. This Act may be cited as the *Acts Interpretation Act 1915*.

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### Application of this Act to Acts or statutory instruments whenever passed or made

3A. Subject to this Act, this Act applies to, or in relation to, an Act or statutory instrument whenever passed or made.

\* \* \* \* \*

### Interpretation

4. (1) In this Act and in every other Act or statutory instrument, unless the contrary intention appears—

"Act" means—

- (a) an Act of the Parliament of South Australia or an Act or ordinance of some earlier legislative authority in South Australia; or
- (b) an Act of the Imperial Parliament that has been received into the law of South Australia or applies to South Australia by paramount force;

"ADI" means an authorised deposit-taking institution within the meaning of the *Banking Act (Cwth)*;

"Australia Acts" means—

- (a) the *Australia Act 1986* of the Commonwealth; and
- (b) the *Australia Act 1986* of the United Kingdom;

"Australian citizen" means a person who is an Australian citizen under the provisions of the *Australian Citizenship Act 1948* of the Commonwealth;

"bank" means an ADI that is permitted under the *Banking Act (Cwth)* to assume or use—

- (a) the word "bank", "banker" or "banking"; or
- (b) any other word (whether or not in English) that is of like import to a word referred to in paragraph (a);

"bank cheque" or "banker's cheque" means a cheque that an ADI draws on itself;

"bank holiday" means a day that is, under the *Holidays Act 1910*, a bank holiday;

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**"Banking Act (Cwth)"** means the *Banking Act 1959* of the Commonwealth, as amended from time to time and includes an Act enacted in substitution for that Act;

**"building society"** means an ADI that is permitted under the *Banking Act (Cwth)* to assume or use—

- (a) the expression "building society"; or
- (b) any other expression (whether or not in English) that is of like import to the expression referred to in paragraph (a);

**"commencement"**, in relation to an Act or statutory instrument, means the day on which the Act or statutory instrument comes into operation;

**"the Commonwealth"** means the Commonwealth of Australia;

**"credit union"** means an ADI that is permitted under the *Banking Act (Cwth)* to assume or use—

- (a) the expression "credit union"; or
- (b) any expression (whether or not in English) that is of like import to the expression referred to in paragraph (a);

**"estate"**, in relation to land, includes any estate or interest, easement, right, title, claim, demand, charge, lien or encumbrance in, over, to, or in respect of, the land;

**"financial year"** means the period of 12 months ending on the expiration of the thirtieth day of June;

**"friendly society"** means a body that is a friendly society for the purposes of the *Life Insurance Act 1995* of the Commonwealth as amended from time to time;

**"the Gazette"**, **"the Government Gazette"** or **"the South Australian Government Gazette"** means the *South Australian Government Gazette* (including any supplement to that gazette) printed and published, or purporting to be printed and published, by the Government Printer of the State;

**"the Governor-in-Chief"**, **"the Governor"** or **"the Lieutenant-Governor"** means the Governor of the State or other officer for the time being administering the Government of the State;

**"His Majesty"** or **"Her Majesty"**, **"the King"** or **"the Queen"**, or **"the Crown"**, means His Majesty the King, or Her Majesty the Queen, Sovereign for the time being of Australia, and includes the predecessors and the heirs and successors of the King or Queen;

**"judge"** means a Judge of the Supreme Court or a District Court Judge;

**"justice"** means justice of the peace for the State;

**"land"** includes—

- (a) a building or structure affixed to land;

- (b) waters and airspace over land;
- (c) the bed of any body of waters;
- (d) subsoil and subterranean waters;

**"major indictable offence"** means any indictable offence classified by statute as a major indictable offence<sup>1</sup>;

**"the Minister"** means—

- (a) when used in an Act—the Minister of the Crown to whom the administration of the Act has been committed by the Governor, or in whom the administration of the Act is otherwise vested; and
- (b) when used in a statutory instrument—the Minister of the Crown to whom the administration of the Act under which the statutory instrument was made has been committed by the Governor, or in whom the administration of that Act is otherwise vested,

and includes a Minister of the Crown for the time being discharging the duties of that Minister or acting in the exercise of powers or functions delegated by that Minister;

**"minor indictable offence"** means any indictable offence classified by statute as a minor indictable offence<sup>1</sup>;

**"month"** means calendar month;

**"oath"** or **"affidavit"**, in all cases where persons are allowed by law to affirm or to declare instead of swearing, includes affirmation or declaration;

**"Parliament"** means the Parliament of the State;

**"person"** or **"party"** includes a body corporate;

**"police force"** means South Australia Police under the *Police Act 1998*;

**"police officer"** means any member of South Australia Police under the *Police Act 1998*;

**"prescribed"** means—

- (a) when used in an Act—prescribed by the Act or by a statutory instrument made, or to be made, under the Act; and
- (b) when used in a statutory instrument—prescribed by the Act under which the statutory instrument was made, by the statutory instrument itself or by some further statutory instrument made, or to be made, under the Act under which the statutory instrument was made;

**"proclamation"** means a proclamation made by the Governor and published in the *Gazette*;

**"public holiday"** means a day that is, under the *Holidays Act 1910*, a public holiday;



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**"regulation", "rule" or "by-law"** means—

- (a) when used in an Act—a regulation, rule or by-law made under the Act in which the expression is used; and
- (b) when used in a statutory instrument—a regulation, rule or by-law made under the Act under which the statutory instrument was made;

**"sitting days"**, in relation to either House of Parliament, means days on which the House actually sits;

**"the State" or "this State"** means the State of South Australia;

**"statutory declaration"** means—

- (a) a declaration made under the *Oaths Act 1936*; or
- (b) a declaration made outside the State—
  - (i) in pursuance of a law in force in the place where the declaration is made, being a law that renders the declarant liable to a criminal penalty for a false declaration; and
  - (ii) before a person who has authority under that law to take declarations;

**"statutory instrument"** means—

- (a) a regulation, rule, by-law or statute made under an Act; or
- (b) a code or standard made, approved or adopted under an Act; or
- (c) any other instrument of a legislative character made or in force under an Act;

**"summary offence"** means any offence classified by statute as a summary offence<sup>1</sup>;

**"Supreme Court"** means the Supreme Court of the State;

**"to swear"**, in all cases where persons are allowed by law to affirm or to declare instead of swearing, includes to affirm or to declare;

**"this Act"**, when used in an Act, includes statutory instruments made under the Act in which the expression is used;

**"United Kingdom"** means the United Kingdom of Great Britain and Ireland;

**"writing"** includes any visible form in which words may be reproduced or represented.

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<sup>1</sup> For the classification of offences, the reader should refer to section 5 of the *Summary Procedure Act 1921*. However, it should be noted that the principles set out in that section for differentiating major indictable, minor indictable and summary offences may be subject to some special exception made by the Act under which the offence in question is created.

**Date of establishment of the State**

**4A.** For the purposes of the law of the State, the State will be taken to have been established on the twenty-eighth day of December, 1836.

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**Part 2—Provisions of special application to Acts and Bills**

**Acts to be deemed to be public Acts**

5. Every Act passed after the first day of January, 1873, will be taken to be a public Act.

**Sections to have effect as substantive enactments**

6. Every section of an Act has effect, without introductory words, as a substantive enactment.

**Commencement of Acts**

7. (1) An Act that contains no provision fixing the date of its commencement, or providing for the fixing of that date, comes into operation on the day on which it is assented to by, or on behalf of, the Crown.

(2) Where a Bill is reserved for the signification of Her Majesty’s assent, the Bill will be taken, for the purposes of subsection (1), to have been assented to on the day on which the assent is notified by proclamation in the State.

(3) Where an Act provides that the Act or provisions of the Act will come into operation on a day to be fixed by proclamation, then, unless the contrary intention appears, the Governor may by proclamation—

- (a) fix a day for the Act or provisions to come into operation;
- (b) fix different days for different provisions of the Act to come into operation;
- (c) suspend the operation of specified provisions of the Act until a day or days to be fixed by subsequent proclamation or proclamations.

(4) For the purposes of subsection (3), a reference to a provision of an Act extends to—

- (a) a part of a provision;
- (b) a provision to be inserted into another Act by the Act.

\* \* \* \* \*

(5) An Act or a provision of an Act passed after the commencement of this subsection that is to be brought into operation by proclamation will be taken to come into operation on the second anniversary of the date on which the Act was assented to by, or on behalf of, the Crown unless brought into operation before that second anniversary.

**Amendment or repeal of Act in session in which it was passed**

7A. An Act may be amended or repealed in the session of Parliament in which it was passed.

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**Evidence of date of assent to Act**

10. The date appearing on a copy of an Act printed, or purporting to be printed, by the Government Printer, as the date on which the Governor assented to the Act or made known Her Majesty’s assent to the Act is evidence that the date is the date on which the Governor so assented, or made known Her Majesty’s assent, and will be judicially noticed accordingly.

### **Part 3—Provisions of special application to statutory instruments**

#### **Saving of statutory instruments on repeal or amendment of an Act**

11. Where—

- (a) a statutory or other instrument is in force under an Act; and
- (b) the Act, or the provision of the Act under which the instrument was made, is repealed by a subsequent Act which contains or provides the power to make instruments to the same or similar effect,

the instrument will, subject to the provisions of the subsequent Act, remain in force as if the subsequent Act had been in force when the instrument was made and the instrument had then been made in pursuance of that Act.

#### **Disallowance of repealing statutory instrument revives instrument sought to be repealed**

12. Where a statutory instrument that revokes another statutory instrument, or part of another statutory instrument, is disallowed pursuant to any Act, the statutory instrument or part sought to be revoked revives.

#### **Construction of statutory instrument so as not to exceed power**

13. A statutory or other instrument made pursuant to a power conferred by or under an Act will be read and construed so as not to exceed that power, so that, where a provision of the instrument, or the application of a provision of the instrument to any person or circumstances, is in excess of that power, the remainder of the instrument, or the application of the provision to other persons and circumstances, is not affected.

#### **Expressions in statutory and other instruments have same meanings as in the Act under which they are made**

14. An expression used in a statutory instrument or other instrument made under an Act has, unless the contrary intention appears, the same meaning as in the Act under which the instrument was made, and, where that Act is amended after the instrument is made, or is repealed and substituted by a subsequent Act for the purposes of which the statutory or other instrument continues in force, the same meaning as in the amended or substituted Act.

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**Part 4—Provisions generally applicable to Acts and statutory instruments**

**Application of this Part to Acts and statutory instruments**

**14A.** (1) The provisions of this Part apply both to Acts and statutory instruments.

(2) For the purposes of the application of this Part to statutory instruments—

- (a) a reference to an Act or an enactment extends to a statutory instrument; and
- (b) a reference to the passing of an Act extends to the making of a statutory instrument; and
- (c) a reference to the repeal of an Act extends to the revocation of a statutory instrument; and
- (d) a reference in section 16 to the repeal of an Act extends to the disallowance of a statutory instrument.

**Citation**

**14B.** (1) An Act, whether passed before or after the commencement of this Act, may be cited—

- (a) by its short title; or
- (b) by its short title abbreviated by omitting reference to any year except the year in which it was passed.

\* \* \* \* \*

(3) A reference in an Act to some other Act, or a Part or provision of some other Act, will, unless the contrary intention appears, be construed—

- (a) as a reference to that other Act, Part or provision as amended from time to time; and
- (b) where the Act, Part or provision is substituted—
  - (i) by a subsequent Act—as a reference to that subsequent Act; or
  - (ii) by a subsequent Part of an Act—as a reference to that subsequent Part; or
  - (iii) by a subsequent provision of an Act—as a reference to that subsequent provision.

(4) An Act of the Commonwealth or of a place outside this State, whether passed before or after the commencement of this Act, may, for the purposes of the law of this State, be cited by any method authorised by, or commonly used in, the statutes of the Commonwealth or that place.

(5) Nothing in this section renders unlawful or ineffective any citation or reference that is not made in a manner authorised by this section.

**References to other statutory provisions include references to relevant statutory instruments**

**14BA.** (1) A reference in an Act to some other Act (whether an Act of this State or of the Commonwealth or a place outside this State) includes, unless the contrary intention appears, reference to statutory instruments made or in force under that other Act.

(2) A reference in an Act to a Part or provision of that Act or some other Act (whether an Act of this State or of the Commonwealth or a place outside this State) includes, unless the contrary intention appears—

- (a) reference to statutory instruments made or in force under that Part or provision; and
- (b) reference to statutory instruments made or in force under some other Part or provision of that Act or other Act insofar as the statutory instruments are connected to that Part or provision.

**Exercise of powers conferred by a provision of an Act or statutory instrument before the provision comes into operation**

**14C.** (1) Where—

- (a) a provision of an Act that has passed is not yet in operation; and
- (b) it is expedient that a power expressed to be conferred by the provision be exercised before it comes into operation,

the power may be so exercised before the provision comes into operation.

(2) Subject to subsection (3), anything created, granted, issued, done or made under or pursuant to a provision by virtue of subsection (1) will take effect when the provision comes into operation and not before.

(3) The appointment of a person to a position pursuant to subsection (1) takes effect at the time of appointment but any power exercised by that person pursuant to subsection (1) does not take effect until the relevant provision comes into operation.

**Time of commencement**

**14D.** Where an Act, or part of an Act, comes into operation on a particular day, it will be taken to have come into operation as from 12 o'clock midnight of the preceding day.

**Saving of administrative acts**

**15.** Where an Act is repealed and the repealing Act contains provisions substantially corresponding to provisions of the repealed Act, then, unless the contrary intention appears, any administrative act done in pursuance of the repealed provisions (not being an administrative act the effect of which was exhausted at the time of the repeal) will, insofar as is not inconsistent with the repealing Act, be regarded as an administrative act done for the purposes of the corresponding provisions of the repealing Act.

**Saving of operation of repealed, amended or expired Act**

**16.** (1) Where an Act is repealed or amended, or where an Act or enactment expires, then, unless the contrary intention appears, the repeal, amendment or expiry does not—

- (a) revive anything not in force or existing at the time the repeal, amendment or expiry takes effect; or

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- (b) affect the operation of the repealed, amended or expired Act or enactment, or alter the effect of the doing, suffering or omission of anything, prior to the repeal, amendment or expiry; or
- (c) affect any right, interest, title, power or privilege created, acquired, accrued, established or exercisable, or any status or capacity existing, prior to the repeal, amendment or expiry; or
- (d) affect any duty, obligation, liability or burden of proof imposed, created or incurred, or any penalty, forfeiture or punishment incurred or imposed or liable to be incurred or imposed, prior to the repeal, amendment or expiry; or
- (e) affect any investigation, legal proceedings or remedy in respect of any such right, interest, title, power, privilege, status, capacity, duty, obligation, liability, burden of proof, penalty, forfeiture or punishment.

(2) Any such investigation, legal proceedings or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed and enforced, as if the repeal or amendment had not been effected or as if the expired Act or enactment had not expired (as the case may be).

(2a) Where any office, court, tribunal or body would, apart from this section, cease to exist by reason of the repeal, amendment or expiry, then, for the purpose of instituting, continuing or enforcing any such investigation, legal proceeding or remedy, the office, court, tribunal, or body continues in existence (and, if necessary, new appointments may be made to it) as if the repeal or amendment had not been effected, or as if the expired Act or enactment had not expired (as the case may be).

(3) Any Act or enactment will, notwithstanding its repeal, amendment or expiry, continue in force for the purposes of continuing and completing any act, matter or thing commenced or in progress under that Act or enactment, if there is no substituted Act or enactment adapted to its continuance and completion.

(4) In this section—

"**legal proceeding**" includes any proceeding pursuant to an Act, enactment or law whether of a judicial or administrative nature.

**Repeal not to revive previously repealed enactments**

17. Where a repealing enactment is repealed by an Act, there is no revival of any Act or enactment previously repealed unless the contrary intention is expressed.

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**Abrogation of presumption that re-enactment etc constitutes Parliamentary approval of prior interpretation**

18. The enactment or re-enactment of a provision that has been construed in a particular manner (judicially or otherwise) in this State or elsewhere creates no presumption that Parliament has sanctioned or approved that construction.

**Schedules, headings, marginal notes and footnotes**

19. (1) A Schedule to an Act forms part of the Act.

(2) A heading to a part, division or subdivision of an Act forms part of the Act.

(3) A heading to a section does not form part of an Act.

(4) A marginal note or footnote does not form part of an Act.

(5) For the purpose of resolving questions affecting the construction of an Act, punctuation appearing in the text of the Act as printed by the Government Printer may be taken into account.

### **Rules of construction to be applied in determining whether an Act binds the Crown**

**20.** (1) Subject to subsection (2), an Act passed after 20 June 1990 will, unless the contrary intention appears (either expressly or by implication), be taken to bind the Crown, but not so as to impose any criminal liability on the Crown.

(2) Where an Act passed after 20 June 1990 amends an Act passed before that date, the question whether the amendment binds the Crown will be determined in accordance with principles applicable to the interpretation of Acts passed before 20 June 1990.

(3) Where an Act or a provision of an Act (whether passed before or after 20 June 1990) binds the Crown but not so as to impose any criminal liability on the Crown, the Crown's immunity from criminal liability extends (unless the contrary intention is expressed) to an agent of the Crown in respect of an act within the scope of the agent's obligations.

(4) Where an Act or a provision of an Act (whether passed before or after 20 June 1990) does not bind the Crown, the Crown's immunity extends (unless the contrary intention is expressed) to an agent of the Crown in respect of an act within the scope of the agent's obligations.

(5) For the purposes of this section—

(a) a reference to the Crown extends not only to the Crown in right of this State but also (so far as the legislative power of the State permits) to the Crown in any other capacity;

(b) a reference to an agent of the Crown extends to an instrumentality, officer or employee of the Crown or a contractor or other person who carries out functions on behalf of the Crown;

(c) an agent acts within the scope of the agent's obligations if the act is reasonably required for carrying out of obligations or functions imposed on, or assigned to, the agent.

### **Act deemed always speaking**

**21.** Every Act will be considered as speaking at all times, and every enactment, whether expressed in the present or the future tense, will be applied to the circumstances as they arise, so that effect may be given to each Act and every provision according to its spirit, true intent and meaning.

### **Construction that would promote purpose or object of an Act to be preferred**

**22.** (1) Subject to subsection (2), where a provision of an Act is reasonably open to more than one construction, a construction that would promote the purpose or object of the Act (whether or not that purpose or object is expressly stated in the Act) must be preferred to a construction that would not promote that purpose or object.



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(2) This section does not operate to create or extend any criminal liability.

**Construction of Act so as not to exceed power of State**

**22A.** (1) Every Act and every provision of an Act will be construed so as not to exceed the legislative power of the State.

(2) Any Act or provision of an Act which, but for this section, would exceed the power of the State, is nevertheless a valid enactment to the extent to which it does not exceed that power.

\* \* \* \* \*

**Declaration of validity of laws made before Australia Acts**

**22B.** Each provision of an Act or statutory instrument enacted or made, or purporting to have been enacted or made, before the commencement of the Australia Acts is as valid as it would have been, and has the same effect as it would have had, if the Australia Acts had been in operation at the time of its enactment or making or purported enactment or making.

\* \* \* \* \*

**Act to be done by Governor to mean by him with advice of Executive Council**

**23.** Where in any Act passed after the first day of January, 1873, the Governor is authorised or required to do any act, matter or thing, it will be taken to mean that the act, matter or thing may or must be done by the Governor with the advice and consent of the Executive Council.

**When Act or provision deemed to be substituted for another**

**24.** For the purposes of this Act and of any other Act, a later Act will be taken to be substituted for an earlier Act, or a provision of a later Act will be taken to be substituted for a provision of an earlier Act, when the earlier Act or provision is repealed or superseded and the later Act deals with the same matter as the Act or provision so repealed or superseded, whether it deals with the matter in the same or some other manner, and whether it deals only with the matter or with other matters also.

**Variation of forms**

**25.** Whenever forms are prescribed by any Act, forms to the same effect are sufficient provided that deviations from the prescribed forms are not calculated to mislead.

**Words importing masculine gender and singular number to include feminine and plural**

**26.** In every Act—

- (a) every word of the masculine gender will be construed as including the feminine gender;
- (ab) every word of the feminine gender will be construed as including the masculine gender;
- (b) every word in the singular number will be construed as including the plural number;
- (c) every word in the plural number will be construed as including the singular number;
- (d) every word in either of those genders or numbers will be construed as including a body corporate as well as an individual;

- (e) every phrase consisting of a masculine pronoun and a feminine pronoun joined by the conjunction "or" will, if the antecedent is capable of referring to a body corporate, be construed as applicable to a body corporate as well as a natural person.

**Provisions as to limitation of time**

27. (1) The time prescribed or allowed by any Act for any proceeding, or for the doing of any thing, or for suffering any thing, will be taken not to include the day of the act or event from or after which the time is to be calculated, but to include the day on which the proceeding is to be taken or the thing is to be done or suffered.

(2) If the time so prescribed or allowed falls or expires on a Saturday or Sunday, or on any public holiday, the time will be extended so as to fall or expire on the day next following the Saturday, Sunday or public holiday that is not itself a Saturday, Sunday or public holiday.

(3) Where no time is prescribed or allowed within which any thing must be done, the thing must be done with all convenient speed and as often as the prescribed occasion arises.

**Measurement of distances**

28. In the measurement of distance for the purposes of an Act, the distance will, unless the contrary intention appears, be measured in a straight line on a horizontal plane.

**Standard scales for penalties and expiation fees**

28A. Unless a contrary intention is indicated in an Act in which an expression in the left hand column below appears, that expression has the meaning appearing opposite it in the right hand column:

Division 1 imprisonment	a term of imprisonment not exceeding 15 years
Division 1 fine	a fine not exceeding \$60 000
Division 2 imprisonment	a term of imprisonment not exceeding 10 years
Division 2 fine	a fine not exceeding \$40 000
Division 3 imprisonment	a term of imprisonment not exceeding 7 years
Division 3 fine	a fine not exceeding \$30 000
Division 4 imprisonment	a term of imprisonment not exceeding 4 years
Division 4 fine	a fine not exceeding \$15 000
Division 5 imprisonment	a term of imprisonment not exceeding 2 years
Division 5 fine	a fine not exceeding \$8 000
Division 6 imprisonment	a term of imprisonment not exceeding 1 year
Division 6 fine	a fine not exceeding \$4 000
Division 6 fee	an expiation fee of \$300

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Division 7 imprisonment	a term of imprisonment not exceeding 6 months
Division 7 fine	a fine not exceeding \$2 000
Division 7 fee	an expiation fee of \$200
Division 8 imprisonment	a term of imprisonment not exceeding 3 months
Division 8 fine	a fine not exceeding \$1 000
Division 8 fee	an expiation fee of \$150
Division 9 fine	a fine not exceeding \$500
Division 9 fee	an expiation fee of \$100
Division 10 fine	a fine not exceeding \$200
Division 10 fee	an expiation fee of \$75
Division 11 fine	a fine not exceeding \$100
Division 11 fee	an expiation fee of \$50
Division 12 fine	a fine not exceeding \$50
Division 12 fee	an expiation fee of \$25.

**Fines etc to be paid into Treasury**

**29.** Whenever any fine, penalty or forfeiture is imposed or made by, or authorised to be imposed or made under, any Act, the Act will be taken to provide that the fine, penalty or forfeiture, when recovered, must be paid to the Treasurer of the State and form part of the General Revenue.

**Penalties**

**30.** (1) A penalty set out at the foot of a section or subsection that contains words creating an offence indicates that the offence is punishable on conviction by a penalty not exceeding the penalty so set out or, where a minimum as well as a maximum penalty is so set out, by a penalty not less than the minimum and not more than the maximum.

(2) A penalty set out at the foot of a section or subsection that does not contain words creating an offence indicates that contravention of the section or subsection (whether by act or omission) constitutes an offence punishable on conviction by a penalty not exceeding the penalty so set out or, where a minimum as well as a maximum penalty is so set out, by a penalty not less than the minimum and not more than the maximum.

(3) In this section—

"**penalty**" includes punishment.

\* \* \* \* \*

**Meaning of service by post**

**33.** (1) Where any Act passed after the passing of this Act authorises or requires any document to be served by post (whether the expression "serve", "give", "deliver" or "send", or any other expression is used), then, unless the contrary intention appears, the Act will be taken to provide—

- (a) that the service is effected by properly addressing, prepaying and posting a letter or packet containing the document; and
- (b) that, unless the contrary is proved, service will be taken to have been effected at the time at which the letter or packet would be delivered in the ordinary course of post.

(2) Where any Act authorises or requires any document to be served by registered post (whether the expression "serve", "give", "deliver" or "send", or any other expression is used) then, unless the contrary intention appears, the Act will be taken to provide that service may be effected by certified mail.

\* \* \* \* \*

**"May" imports a discretion, "shall" is imperative**

**34.** Where, in any Act passed after the first day of January, 1873, the word "may" is used in conferring a power, it implies that the power may be exercised or not, at discretion; and where, in any such Act the word "shall" is used in conferring a power, it implies that the power must be exercised.

**Words applying to occupant of public office to apply to successive occupants**

**35.** Words directing or empowering any Minister of the Crown or any public officer or functionary to do any act or thing, or otherwise applying by reference to his or her office will be construed as applying to the person for the time being acting in the office or discharging the duties of the office.

**Power to appoint includes power to remove etc**

**36.** Words giving power to appoint to any office or position, or to appoint a deputy, will be taken to include power, exercisable at the discretion of the person in whom the power to appoint is vested—

- (a) to suspend or remove any person appointed under that power; or
- (b) to reinstate or reappoint any person so suspended or removed; or
- (c) to appoint some other person, temporarily or permanently, in the place of a person so suspended or removed; or
- (d) to appoint some other person, temporarily or permanently, to the office or position—
  - (i) where a person previously appointed is, for any reason, unable to carry out the duties of the office or position; or
  - (ii) where the office or position is vacant.

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**Powers may be exercised from time to time**

37. A power given by any Act to do any act or thing (including the making of an appointment), or to submit to any act or thing, is capable of being exercised from time to time, as occasion requires, unless the context, or the nature of the act or thing, indicates a contrary intention.

**Manner in which certain powers and functions may be exercised by a delegate**

37A. Where under an Act the exercise of a power or function by a person is dependent upon his or her state of mind, opinion or belief in relation to a particular matter—

- (a) the power or function is not incapable of delegation by reason of the fact that it is so dependent; and
- (b) if the power or function is lawfully delegated, it may be exercised by the delegate upon the basis of his or her own state of mind, opinion or belief in relation to the matter.

\* \* \* \* \*

**Power to make regulations includes power to revoke or vary**

39. A power given by any Act to make regulations, rules or by-laws includes power from time to time—

- (a) to revoke them, in whole or in part; or
- (b) to revoke them, in whole or in part, and substitute other regulations, rules or by-laws respectively for those which have been so revoked; or
- (c) to vary them, or any of them,

unless the terms used in conferring the power, or the nature of the subject matter or the objects of the power, indicate that it is intended to be exercised either finally in the first instance or only subject to certain restrictions.

**Prescribing matters by reference to other instruments**

40. Where an Act authorises or requires provision to be made for or in relation to a matter by regulations, rules or by-laws, the regulations, rules or by-laws may, unless the contrary intention appears, make such provision by applying, adopting or incorporating, with or without modification—

- (a) the provisions of any Act, or of any statutory instrument, as in force from time to time or as in force at a specified time; or
- (b) any material contained in any other instrument or writing as in force or existing when the regulations, rules or by-laws take effect or as in force or existing at a specified prior time.

\* \* \* \* \*

**Who may proceed for recovery of penalties**

42. Any person may sue for, or take proceedings to recover, and may recover any fine, penalty, or forfeiture imposed by, or authorised to be imposed or awarded under, any Act, unless the right to sue or take proceedings is vested by the Act in a particular officer or person.

\* \* \* \* \*

**Interpretation of references to summary proceedings**

**44.** (1) Where it is provided in any Act or statutory instrument that proceedings for offences are to be dealt with, or disposed of, summarily or before a special magistrate or one or more justices, those offences will be dealt with under the *Justices Act 1921* as simple offences.

(2) Where it is provided in any Act or statutory instrument that a pecuniary sum may be recovered summarily or before or on the award of a special magistrate or one or more justices, that sum may be recovered on complaint in proceedings under the *Justices Act 1921* and an order for payment made in any such proceedings is enforceable as if it were a fine.

**Rounding down of monetary amounts**

**45.** An enactment providing for the calculation and payment of a tax, fee, charge, or other amount must be construed as if it provided that the calculated amount, if not an exact multiple of 5 cents, is to be rounded down to the highest multiple of 5 cents that is less than that amount.

\* \* \* \* \*

**Offences punishable under more than one law**

**50.** Where any act or omission constitutes an offence under two or more Acts, or both under an Act or Acts and at common law, the offender will, unless the contrary intention appears, be liable to be prosecuted and punished under either or any of those Acts or at common law, but is not liable to be punished twice for the same offence.

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**APPENDIX****LEGISLATIVE HISTORY****Repeals**

The *Acts Interpretation Act 1915* repealed the following Act:

*Language of Acts Amendment Act 1900*

**Amendments**

The *Acts Interpretation Act 1915* amended the following Act:

An Act for shortening and explaining the Language used in Acts of Parliament, and for other purposes (No. 9 of 1872)

**Transitional Provisions**

*(Transitional provision from Acts Interpretation Act Amendment Act 1988, s. 5)*

5. The amendments made by this Act operate retrospectively and prospectively.

*(Transitional provision from Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996, s. 5)*

5. An Act repealed or amended by this Act will continue to apply (as in force immediately prior to the repeal or amendment coming into operation) to an expiation notice issued under the repealed or amended Act.

**Legislative History**

- Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 1 of *The Public General Acts of South Australia 1837-1975* at page 55.
- Certain textual alterations were made to this Act by the Commissioner of Statute Revision when preparing the reprint of the Act that incorporated all amendments in force as at 8 May 1987. A Schedule of these alterations was laid before Parliament on 6 August 1987.
- Legislative history since 3 February 1976 (**entries in bold type indicate amendments incorporated since the last reprint**) is as follows:

Heading preceding section 1:	inserted by 41, 1983, s. 3
Section 2:	repealed by 13, 1986, (Sched.)
Heading preceding section 3:	repealed by 41, 1983, s. 4
Section 3:	substituted by 41, 1983, s. 4; repealed by 13, 1986, (Sched.)
Section 3A:	inserted by 41, 1983, s. 4
Heading preceding section 4:	repealed by 13, 1986, (Sched.)
Section 4(1):	redesignated as s. 4(1) by 30, 1997, s. 4(b)
(previously section 4)	amended by 41, 1983, s. 5(a) definition of "Act" substituted by 13, 1986, (Sched.) definition of "ADI" inserted by 33, 1999, Sched. (item 2(a)) definition of "Australia Acts" inserted by 70, 1992, s. 3 definition of "Australian citizen" amended by 13, 1986, (Sched.) definition of "bank" inserted by 30, 1997, s. 4(a); substituted by 33, 1999, Sched. (item 2(b)) definition of "bank cheque" or "banker's cheque" inserted by 33, 1999, Sched. (item 2(b)) definitions of "Banking Act (Cwth)" and "building society" inserted by 33, 1999, Sched. (item 2(c)) definition of "British possession" repealed by 13, 1986, (Sched.) definition of "by-law" repealed by 41, 1983, s. 5(b)

	definition of "commencement of this Act", "passing of this Act" repealed and definition of "commencement" inserted in its place by 41, 1983, s. 5(c)
	definition of "credit union" inserted by 33, 1999, Sched. (item 2(d))
	definition of "financial year" substituted by 41, 1983, s. 5(d)
	definition of "friendly society" inserted by 33, 1999, Sched. (item 2(e))
	definition of " <i>Gazette</i> " amended by 13, 1986, (Sched.)
	definition of "judge" amended by 13, 1986, (Sched.)
	definition of "land" substituted by 92, 1994, Sched.
	definition of "major indictable offence" inserted by 69, 1991, s. 17(a)
	definition of "Minister" substituted by 41, 1983, s. 5(e)
	definition of "minor indictable offence" inserted by 107, 1981, s. 27(a); substituted by 69, 1991, s. 17(b)
	definition of "naturalised British subject" repealed by 13, 1986, (Sched.)
	definitions of "police force" and "police officer" inserted by 55, 1998, Sched. 3 (cl. 1)
	definition of "prescribed" substituted by 41, 1983, s. 5(f)
	definition of "regulation", "rule" or "by-law" substituted by 41, 1983, s. 5(g)
	definition of "statutory declaration" substituted by 13, 1986, (Sched.);
	definition of "statutory instrument" inserted by 41, 1983, s. 5(h); substituted by 6, 1988, s. 2; amended by 56, 1990, s. 2
	definition of "summary offence" inserted by 107, 1981, s. 27(b); substituted by 69, 1991, s. 17(c)
	definition of "this Act" substituted by 41, 1983, s. 5(i)
	definition of "writing" inserted by 13, 1986, (Sched.)
	passage "Expressions referring ... visible form" repealed by 13, 1986, (Sched.)
Section 4(2):	inserted by 30, 1997, s. 4(b); repealed by 33, 1999, Sched. (item 2(f))
Section 4A:	inserted by 41, 1983, s. 6
Section 5 and heading:	substituted by 41, 1983, s. 7
Heading preceding section 6:	repealed by 41, 1983, s. 7
Section 6:	substituted by 41, 1983, s. 7
Section 7:	amended by 41, 1983, s. 8; substituted by 13, 1986, (Sched.)
Section 7(3) and (4):	inserted by 55, 1988, s. 2
Section 7(4a):	inserted by 1, 1994, s. 2; repealed on 31.12.94 by 1, 1994, s. 3
Section 7(5):	inserted by 14, 1992, s. 2
Section 7A:	inserted by 41, 1983, s. 9
Section 8:	repealed by 13, 1986, (Sched.)
Section 9:	repealed by 41, 1983, s. 10
Section 10:	amended by 13, 1986, (Sched.)
Heading preceding section 11:	substituted by 41, 1983, s. 11
Sections 11 - 14:	substituted by 41, 1983, s. 11
Heading preceding section 14A:	inserted by 41, 1983, s. 11
Sections 14A and 14B:	inserted by 41, 1983, s. 11
Section 14B(2):	repealed by 56, 1990, s. 3
Section 14BA:	inserted by 56, 1990, s. 4
<b>Section 14BA(2):</b>	<b>substituted by 33, 2002, s. 4</b>
Section 14C:	inserted by 41, 1983, s. 11; substituted by 6, 1988, s. 3
Section 14C(2):	amended by 59, 1998, s. 4(a)
Section 14C(3):	inserted by 59, 1998, s. 4(b)
Section 14D:	inserted by 41, 1983, s. 11
Section 15:	amended by 41, 1983, s. 12; substituted by 13, 1986, (Sched.)
Section 16(1):	amended by 41, 1983, s. 13(a)-(c)
Section 16(2):	amended by 41, 1983, s. 13(d)
Section 16(2a):	inserted by 13, 1986, s. 2(a)
Section 16(3):	amended by 41, 1983, s. 13(e), (f); 13, 1986, s. 2(b)
Section 16(4):	inserted by 13, 1986, s. 2(c)
Section 17:	substituted by 41, 1983, s. 14
Heading preceding section 18:	repealed by 41, 1983, s. 15
Section 18:	repealed by 41, 1983, s. 15; inserted by 13, 1986, s. 3
Section 19:	repealed by 41, 1983, s. 15; inserted by 6, 1988, s. 4
Section 20:	repealed by 41, 1983, s. 15; inserted by 8, 1992, s. 2



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Section 21:	amended by 13, 1986, (Sched.)
Section 22:	substituted by 13, 1986, s. 4
Section 22A(3):	repealed by 41, 1983, s. 16
Section 22B:	inserted by 70, 1992, s. 4
Heading preceding section 23:	repealed by 41, 1983, s. 17
Section 24:	amended by 41, 1983, s. 18; 13, 1986, (Sched.)
Section 25:	amended by 41, 1983, s. 19; substituted by 13, 1986, (Sched.)
Section 26:	amended by 13, 1986, s. 5
Section 27(1):	amended by 13, 1986, (Sched.)
Section 28:	substituted by 13, 1986, (Sched.)
Section 28A:	inserted by 51, 1988, s. 4; amended by 72, 1992, s. 10 (Sched.); 34, 1996, s. 4 (Sched. cl. 1)
Section 30:	substituted by 13, 1986, (Sched.)
Section 31:	repealed by 51, 1988, s. 5
Section 32:	repealed by 107, 1981, s. 27(c)
Section 33A:	repealed by 13, 1986, (Sched.)
Section 33B:	repealed by 8, 1988, s. 3
Section 33C:	amended by 41, 1983, s. 20; 13, 1986, (Sched.); repealed by 8, 1988, s. 3
Heading preceding section 34:	repealed by 41, 1983, s. 21
Section 36:	substituted by 13, 1986, (Sched.)
Section 37:	amended by 13, 1986, (Sched.)
Section 37A:	inserted by 41, 1983, s. 22
Section 38:	repealed by 3, 1978, s. 7(1)
Heading preceding section 39:	repealed by 41, 1983, s. 23
Section 39:	amended by 13, 1986, (Sched.)
Section 40:	repealed by 41, 1983, s. 24; inserted by 56, 1990, s. 5
Heading preceding section 41:	repealed by 41, 1983, s. 25
Section 41:	repealed by 56, 1984, s. 5
Section 43:	substituted by 13, 1986, (Sched.); repealed by 69, 1991, s. 17
Section 44:	substituted by 13, 1986, (Sched.)
Section 44(2):	amended by 51, 1988, s. 6
Section 45:	repealed by 13, 1986, (Sched.); inserted by 15, 1994, s. 2
Sections 46 and 47:	repealed by 13, 1986, (Sched.)
Sections 48, 49 and heading:	repealed by 41, 1983, s. 26
Section 51:	repealed by 56, 1984, s. 5
Section 52:	repealed by 41, 1983, s. 27