

(Reprint No. 1)

SOUTH AUSTRALIA

LIBRARIES ACT, 1982

This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at 1 October 1991.

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

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LIBRARIES ACT, 1982

being

Libraries Act, 1982, No. 70 of 1982 [Assented to 1 July 1982]¹

as amended by

Libraries Act Amendment Act, 1984, No. 64 of 1984 [Assented to 27 September 1984]
Libraries Act Amendment Act, 1989, No. 40 of 1989 [Assented to 4 May 1989]²

Note: Asterisks indicate repeal or deletion of text. For further explanation see Appendix 1.

An Act to provide for the administration of public libraries and library services in South Australia; to repeal the Libraries and Institutes Act, 1939-1979 and the Libraries (Subsidies) Act, 1955-1977; and for other purposes.

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 PRELIMINARY

Short title

1. This Act may be cited as the *Libraries Act, 1982*.

Commencement

2. This Act shall come into operation on a day to be fixed by proclamation.

Arrangement of Act

3. This Act is arranged as follows:

PART I—PRELIMINARY
PART II—ADMINISTRATION OF LIBRARIES AND LIBRARY SERVICES
DIVISION I—OBJECTIVES
DIVISION II—THE LIBRARIES BOARD OF SOUTH AUSTRALIA
DIVISION III—FUNCTIONS OF THE BOARD
DIVISION IV—FINANCIAL PROVISIONS
DIVISION V—SUBSIDIES, ETC.
DIVISION VI—STAFF
PART III—PUBLIC RECORDS
PART IV—MISCELLANEOUS

¹Came into operation 17 February 1983: *Gaz.* 17 February 1983, p. 378.

²Came into operation (except ss. 3, 4, 10, 13 and 14) 26 June 1989: *Gaz.* 22 June 1989, p. 1684; remainder of Act came into operation 28 June 1990: *Gaz.* 28 June 1990, p. 1710.

Repeal

- 4. The following Acts are repealed:
 - (a) the *Libraries and Institutes Act, 1939-1979*;
 - and
 - (b) the *Libraries (Subsidies) Act, 1955-1977*.

Interpretation

5. In this Act, unless the contrary intention appears—

* * * * *

“the Board” means the Libraries Board of South Australia:

“council” means a municipal or district council and includes a body corporate exercising the powers of a municipal or district council:

* * * * *

“library materials” means books, magazines, newspapers, records, cassettes, films, videotapes and other materials of a kind commonly lent by, or available for reference at, a library:

“public instrumentality” means—

- (a) a court or tribunal;
 - (b) a department or instrumentality of the Government or the Crown;
 - (c) a council;
- or
- (d) any body that has been subsidized out of public funds:

“public record” means—

- (a) an instrument lodged with, or issued by, a public instrumentality in pursuance of the law of the State;
 - (b) a record (including a photographic or electromagnetic record) of any such instrument or its contents kept by, or formerly kept by, a public instrumentality;
 - (c) a record (including a photographic or electromagnetic record) of proceedings at the transactions of a public instrumentality kept by, or formerly kept by, the public instrumentality;
- or
- (d) any document or record of a prescribed kind:

“the repealed Act” means the *Libraries and Institutes Act, 1939-1979*, repealed by this Act.

* * * * *

Note: For definition of divisional penalties see Appendix 2.

Crown to be bound by this Act

6. This Act binds the Crown.

PART II
ADMINISTRATION OF LIBRARIES AND LIBRARY SERVICES

DIVISION I—OBJECTIVES

Objectives

7. (1) The objectives to be sought in the administration of this Act are as follows:
- (a) to achieve and maintain a co-ordinated system of libraries and library services that adequately meets the needs of the whole community;
 - (b) to promote and facilitate the establishment and maintenance of libraries and library services by councils and other appropriate bodies;
 - (c) to promote a co-operative approach to the provision of library services;
 - (d) to ensure that the community has available to it adequate research and information services providing access to library materials and information stored in libraries and other institutions both within and outside the State.
- (2) The library services referred to in subsection (1) include the lending of library materials without direct lending charge.

DIVISION II—THE LIBRARIES BOARD OF SOUTH AUSTRALIA

Continuance of the Board

8. (1) The Libraries Board of South Australia shall continue in existence.
- (2) The Board shall—
- (a) be a body corporate with perpetual succession and a common seal;
 - (b) be capable of suing and being sued;
 - (c) be capable of holding, acquiring, dealing with and disposing of real and personal property;
 - (d) be capable of acquiring or incurring any other rights and liabilities;
 - (e) have the powers, rights, functions and duties conferred or imposed by this Act;
- and
- (f) hold its property on behalf of the Crown.
- (3) Where an apparently genuine document purports to bear the common seal of the Board, it shall be presumed in any legal proceedings, in the absence of proof to the contrary, that the common seal of the Board was duly affixed to that document.
- (4) Subject to subsection (5), the Board shall be subject to the control and direction of the Minister.
- (5) No direction may be given under subsection (4)—
- (a) as to the nature, content or regulation of library collections;
 - (b) suppressing the dissemination of information;
 - (c) preventing or controlling access by the public to library materials at times when the libraries in which those materials are stored are open to the public;
- or
- (d) as to the manner in which the Board is to deal with a testamentary or other gift.

Membership of the Board

9. (1) The Board is to consist of nine members appointed by the Governor of whom—

- (a) two are members or officers of councils nominated by the Local Government Association of South Australia, one of whom must be a librarian employed in a public library or a community information officer employed by a council;
- (b) one is a person with experience in local government (who may, but need not, be a member or officer of a council) nominated by the Local Government Association of South Australia;

and

- (c) six are persons nominated by the Minister, one of whom must have experience in local government (who may, but need not, be a member or officer of a council).

(2) The Governor may appoint one member of the Board to be the presiding member and another member to be the deputy presiding member of the Board.

* * * * *

(5) The Governor may appoint a suitable person to be a deputy of a member of the Board.

(6) In the absence of a member of the Board from the duties of his office, his deputy may act as a member of the Board.

Terms and conditions of membership

10. (1) Subject to subsection (4), a member of the Board may be appointed for a term not exceeding four years as specified in the instrument of appointment and is eligible for re-appointment at the expiration of a term of appointment.

(2) The Governor may remove a member of the Board from office on the grounds of—

- (a) mental or physical incapacity to carry out satisfactorily the duties of his office;
 - (b) dishonourable conduct;
- or
- (c) neglect of duty.

(3) The office of a member of the Board becomes vacant if—

- (a) he dies;
- (b) his term of office expires;
- (c) he resigns by notice in writing addressed to the Minister;
- (d) in the case of a member qualifying for appointment to the Board by reason of being a member or officer of a council, the member ceases to be a member or officer of a council;

or

- (e) he is removed from office by the Governor under subsection (2).

(4) Upon the office of a member of the Board becoming vacant, a person shall be appointed to the vacancy in accordance with this Act, but where the office of a member of the Board becomes vacant before the expiration of the term for which he was appointed, the person appointed in his place shall be appointed only for the balance of that term.

Proceedings of the Board

11. (1) Five members of the Board shall constitute a quorum of the Board, and no business shall be transacted at a meeting of the Board unless a quorum is present.

(2) The presiding member of the Board shall preside at all meetings of the Board at which he is present, and in his absence the deputy presiding member shall preside, and in the absence of both the presiding member and the deputy presiding member, the members present at the meeting shall choose one of their number to preside at that meeting.

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

(4) Each member present at a meeting of the Board shall be entitled to one vote on a question arising for decision at that meeting, and, in the event of an equality of votes, the person presiding at the meeting shall have a second or casting vote.

(5) The Board shall cause accurate minutes to be kept of its proceedings.

(6) Subject to this Act, the Board may conduct its proceedings in such manner as it thinks fit.

Validity of acts of the Board and immunity of members from liability

12. (1) An act or proceeding of the Board shall not be invalid by reason of a vacancy in its membership or a defect in the appointment of a member.

(2) No liability shall attach to a member of the Board for any act or omission by him, or the Board, in good faith and in the exercise of his or its powers or functions or in the discharge of his or its duties under this Act.

(3) A liability that would, but for subsection (2) lie against a member of the Board, shall lie against the Crown.

Allowances and expenses

13. (1) A member of the Board is entitled to such fees, allowances and expenses as the Governor may, from time to time, determine.

(2) The office of a member of the Board is not by virtue of this section or of any payments under this section an office of profit from the Crown.

DIVISION III—FUNCTIONS OF THE BOARD

Functions of the Board

14. The functions of the Board are as follows:

- (a) to formulate policies and guidelines for the provision of public library services;
- (b) to establish, maintain and expand collections of library materials and, in particular, collections of such materials that are of South Australian origin, or have a particular relevance to this State;
- (c) to administer the State Library and the Public Record Office of South Australia;

- (d) to establish and maintain such other public libraries and public library services as may best conduce to the public interest;
- (e) to promote, encourage and assist in the establishment, operation and expansion of public libraries and public library services by councils and others;
- (f) to collaborate with departments and instrumentalities of Government, and with other authorities and bodies, in the provision of library and information services;
- (g) to make recommendations to the Minister upon the allocation of funds that are available for the purposes of public libraries and public library services;
- (h) to receive and expend funds for the purposes of this Act;
- (i) to acquire, deal with and dispose of real and personal property, and to enter into contracts and arrangements, for the purposes of the Board;
- (j) to promulgate, and encourage the adoption of, standards for the efficient management of public records and the selection of public records for preservation;
- (k) to initiate and monitor research and experimental projects in relation to public libraries and public library services;

* * * * *

and

- (n) to keep library services provided in the State under continuing evaluation and review.

Sub-committees

15. (1) The Board may, with the consent of the Minister, establish such sub-committees as it thinks fit to assist it in carrying out its functions.

(2) Any such sub-committee may consist of, or include, persons who are not members of the Board.

(3) The terms and conditions on which the members of any such sub-committee hold office, and the manner in which the sub-committee conducts its business, shall be as determined by the Board.

Delegation

16. (1) The Board may, by instrument in writing, delegate any of its powers or functions to a sub-committee established by the Board or to a member of the Board or any other person.

(2) A delegation under this section is revocable at will, and does not prevent the Board from exercising or discharging a power or function so delegated.

DIVISION IV—FINANCIAL PROVISIONS

Expenditure to be in accordance with approved budget

17. (1) Subject to subsection (3), the Board shall not expend moneys except in accordance with a budget approved by the Minister.

(2) The Board may at any time submit for the approval of the Minister a proposed budget, or a proposed alteration to an approved budget, relating to proposed expenditure by the Board.

PART III
PUBLIC RECORDS

Deposit of public records

31. (1) Subject to subsection (2), a person who has the custody of public records may deposit any such records with the Board.

(2) The Board may, in its discretion, decline to receive any such public records.

Notice of proposed sale, etc., of public records to be given

32. (1) Subject to subsection (2), a person shall not sell, destroy or otherwise dispose of public records unless he has given the Board at least one month's notice in writing of the existence of the public records and of his intention to sell, destroy or otherwise dispose of them.

Penalty: Division 9 fine.

(2) Notice need not be given under subsection (1) in respect of records which may, according to principles or determinations promulgated by the Board, be sold, destroyed or disposed of without such notice.

(3) In any case where notice is given, the Board or an officer authorized by the Board may inspect and take possession of the public records or may, by notice in writing to the person who has charge of the records, require that person to deposit the records with the Board.

(4) A person of whom a requirement is made under subsection (3) shall comply forthwith with that requirement.

Penalty: Division 9 fine.

Order for delivering up of public records

33. (1) If a person has custody or possession of public records otherwise than in an official capacity, a court of summary jurisdiction may, on the complaint of the Board, or of an officer authorized by the Board, order that person to deliver the public records to the Board on or before a day specified in the order.

(2) If a person fails to comply with an order of a court of summary jurisdiction under subsection (1), he shall be guilty of an offence and liable to a Division 11 fine for every day during which the default continues.

(3) In proceedings under this section, an allegation in a complaint that a person has custody or possession of public records otherwise than in an official capacity, shall be deemed to be proved in the absence of proof to the contrary.

Dealings with public records by the Board

34. (1) The Board may appoint places for the custody of public records that have been delivered into its possession.

(2) Where in the opinion of the Board public records are not worthy of preservation the Board may destroy or otherwise dispose of those public records.

(3) Before the Board exercises its powers under subsection (2) it should, wherever practicable, consult with the person from whom the public records were obtained and any other person who has, in the opinion of the Board, a substantial interest in the records.

PART IV
MISCELLANEOUS

Copies of material published in South Australia to be lodged with the Board and Parliamentary Librarian

35. (1) The publisher of material published in South Australia to which this section applies shall, within one month after publication, deliver at his own expense a copy of the material—

(a) to the Board;

and

(b) to the Parliamentary Librarian.

(2) Where material to which this section applies is published in various forms of differing quality, the copies delivered under this section must be of the finest quality.

(3) If a publisher fails to comply with this section he shall be guilty of an offence.

Penalty: Division 8 fine.

(4) A receipt shall be issued for material delivered under this section.

(5) This section applies to—

(a) a book, or a part or division of a book;

(b) a newspaper, magazine, journal or pamphlet;

(c) a map, plan, chart or table;

(d) printed music;

and

(e) a record, cassette, film, video or audio tape, disc or other item made available to the public, designed to store and facilitate the reproduction of visual images, sound or information,

but does not include a second or subsequent edition of any such material that does not differ from a former edition published in South Australia or prescribed material, or material of a prescribed class.

Affiliated societies

36. (1) The following societies are affiliated with the Board—

(a) the Royal Society of South Australia (Incorporated);

(b) the Royal Geographical Society of Australasia (South Australian Branch) Incorporated.

* * * * *

(2) The Board may, with the consent of the Minister, affiliate with any educational, literary or scientific society or body that desires such affiliation upon such terms as are agreed between the Board and the society or body.

(3) The Board may accord to any body or association or society affiliated with it such rights in relation to use of property of the Board as the Board thinks fit.

Vesting of certain property in the Board

37. A gift or bequest made to or for the benefit of a library administered by the Board or the governing body of such a library or the former Institutes Association of South Australia, or institutes generally which were formerly members of that Association, shall be deemed to be a gift or bequest to the Board and shall be applied by the Board towards the purposes to which the gift or bequest was made.

Training of librarians

38. The Board may, subject to the provisions of the *Public Service Act, 1967-1981*, provide courses of training as librarian for such persons as it thinks fit, whether those persons are employed under this Act or not.

Damage to property of the Board

39. (1) A person who, without proper authority to do so, damages, removes or interferes with property of the Board shall be guilty of an offence.

Penalty: Division 7 fine.

(2) A court by which a person is convicted of an offence under subsection (1) may order the convicted person to pay to the Board such compensation as the court thinks fit.

Conditions on which library materials are to be lent, etc.

40. (1) The Board may, by notice published in the *Gazette*—

- (a) determine conditions to be observed by persons to whom library materials are lent by the Board;
- (b) determine conditions upon which persons may have access to library or other materials in the possession of the Board;
- (c) fix fines, or a scale of fines, to be paid by any person who contravenes or fails to comply with, a condition in force under this section;
- (d) fix fees to be paid for services rendered by the Board (other than the lending of library materials);
- (e) vary or revoke a notice previously published under this section.

(2) A person by whom a fine is payable by virtue of a notice under subsection (1) who refuses or fails to comply forthwith with a demand by the Board for payment of the fine shall be guilty of an offence.

Penalty: Division 10 fine.

Proceedings

41. Proceedings for an offence against this Act shall be disposed of summarily.

Annual report

42. (1) The Board shall, on or before the thirty-first day of October in each year submit to the Minister a report on its work during the year ending on the preceding thirtieth day of June.

(2) The report should include copies of the audited accounts of the Board for the period to which the report relates.

(3) The Minister shall, as soon as practicable after his receipt of the report submitted under subsection (1) cause copies of the report to be laid before both Houses of Parliament.

Regulations

43. (1) The Governor may, on the recommendation of the Board, make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of subsection (1), those regulations may—

- (a) provide for the conduct of the proceedings of the Board or of any sub-committee of the Board;
- (b) provide for the management of libraries and institutions under the administration of the Board;
- (c) provide for the admission and exclusion or expulsion of persons from libraries or institutions under the administration of the Board;
- (d) regulate, restrict or prohibit the driving or parking of motor vehicles on land vested in, or under the control of, the Board;

and

- (e) prescribe penalties not exceeding a Division 9 fine for contravention of, or non-compliance with, a regulation.

(3) In proceedings in respect of an offence against a regulation—

- (a) an allegation in a complaint that a person named in the complaint was the owner of a specified vehicle on a specified day shall be deemed to be proved in the absence of proof to the contrary;

and

- (b) where it is proved that a vehicle was parked on land vested in or under the control of the Board in contravention of a regulation, it shall be presumed, in the absence of proof to the contrary, that the vehicle was so parked by the owner of the vehicle.

(4) Where it is alleged that a person has committed an offence against a regulation relating to vehicular traffic or the parking of motor vehicles, the Board may cause to be served personally or by post upon that person a notice to the effect that he may expiate the offence by payment to the Board of an amount specified in the notice, being an amount fixed by regulation, within a time fixed by the notice, and if the offence is expiated no proceedings shall be commenced in any court with respect to the alleged offence.

* * * * *

APPENDIX 1

Legislative History

Section 3:	amended by 40, 1989, s. 3
Section 5:	definition of "the Association" repealed by 40, 1989, s. 4(a) definition of "institute" repealed by 40, 1989, s. 4(b) definition of "the Standing Committee" repealed by 40, 1989, s. 4(c)
Section 9(1):	substituted by 40, 1989, s. 5
Section 9(2):	substituted by 64, 1984, s. 2; 40, 1989, s. 5
Section 9(3) and (4):	repealed by 40, 1989, s. 5
Section 10(1):	substituted by 40, 1989, s. 6(a)
Section 10(3):	amended by 64, 1984, s. 3; 40, 1989, s. 6(b)
Section 11(2):	amended by 40, 1989, s. 7
Section 14:	amended by 40, 1989, s. 8
Section 14(l) and (m):	repealed by 40, 1989, s. 8(b)
Section 21(1):	substituted by 40, 1989, s. 9(a)
Section 21(2):	amended by 40, 1989, s. 9(b)
	Division VII of Part II comprising ss. 23—25 and heading repealed by 40, 1989, s. 10
	Division VIII of Part II comprising ss. 26, 27 and heading repealed by 40, 1989, s. 10
	Division IX of Part II comprising ss. 28 - 30 and heading repealed by 40, 1989, s. 10
Section 32(1) and (4):	amended by 40, 1989, Sched. 2
Section 33(2):	amended by 40, 1989, Sched. 2
Section 35(3):	amended by 40, 1989, Sched. 2
Section 35(5):	amended by 40, 1989, s. 11
Section 36(1):	amended by 40, 1989, s. 12
Section 36(1)(c):	repealed by 40, 1989, s. 12
Section 37:	amended by 40, 1989, s. 13
Section 39(1):	amended by 40, 1989, Sched. 2
Section 40(2):	amended by 40, 1989, Sched. 2
Section 43(2):	amended by 40, 1989, Sched. 2
Schedule:	repealed by 40, 1989, s. 14

APPENDIX 2

Divisional Penalties

At the date of publication of this reprint divisional penalties are, as provided by section 28a of the *Acts Interpretation Act, 1915*, as follows:

Division	Maximum imprisonment	Maximum fine
1	15 years	\$60 000
2	10 years	\$40 000
3	7 years	\$30 000
4	4 years	\$15 000
5	2 years	\$8 000
6	1 year	\$4 000
7	6 months	\$2 000
8	3 months	\$1 000
9	—	\$500
10	—	\$200
11	—	\$100
12	—	\$50

Note: This appendix is provided for convenience of reference only.