

South Australia

Solicitor-General Act 1972

An Act to provide for the appointment of a Solicitor-General, to provide for the terms and conditions of service of a person appointed to that office and for matters incidental thereto.

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Legislative history

The Parliament of South Australia enacts as follows:

1—Short title

This Act may be cited as the *Solicitor-General Act 1972*.

3—Definition

In this Act, unless the contrary intention appears—

service as Solicitor-General means service as Solicitor-General under this Act, and where that service was not continuous includes the aggregate of any periods of such service as Solicitor-General;

Solicitor-General means the person for the time being holding the office of Solicitor-General of the State of South Australia.

4—Appointment of Solicitor-General

- (1) The Governor may appoint a legal practitioner of not less than seven years' standing to be Solicitor-General of the State of South Australia.

5—Terms and appointment of Solicitor-General

- (1) Subject to this Act, the Solicitor-General shall be appointed and hold office on such terms and conditions as the Governor from time to time determines.

- (2) The Solicitor-General shall be paid such salary and allowances as the Governor from time to time determines.
- (3) The moneys required to be paid for the purposes of this section shall be payable out of the General Revenue of the State on the warrant of the Governor which warrant the Governor is by this subsection authorised and required to issue from time to time.

6—Duties and obligations of Solicitor-General

The Solicitor-General—

- (a) shall at the request of the Attorney-General—
 - (i) act as Her Majesty's counsel; and
 - (ii) perform such other duties as are ordinarily performed by counsel; and
- (b) shall not, except with the consent of the Attorney-General, engage in any other remunerative employment.

7—Removal from office of Solicitor-General

The Governor may by writing under his hand remove the Solicitor-General from office on the ground—

- (a) that the Solicitor-General is, otherwise than by reason of temporary illness, incapable of performing the duties of his office; or
 - (b) that the Solicitor-General has been guilty of misconduct,
- and upon such removal the office of the Solicitor-General shall become vacant.

8—Resignation and retirement

- (1) The Solicitor-General may resign his office by writing signed by him and delivered to the Governor and upon that delivery the office of the Solicitor-General shall become vacant.
- (2) The Solicitor-General shall retire from office on the day on which he attains the age of sixty-five years and on that day the office of the Solicitor-General shall become vacant.

9—Leave on retirement

- (1) Subject to this section, the Governor may grant to the Solicitor-General immediately prior to his retirement on attaining the age of sixty-five years not more than six months leave of absence on full salary.
- (2) Where the Solicitor-General retires without taking any leave which had been or could have been granted to him under subsection (1) of this section, the Governor may direct that a cash payment be made to him in lieu of the leave not so taken, but the payment shall not exceed the amount of the salary of the Solicitor-General for a period equal to the period of the leave not so taken, calculated at the rate at which he was being paid at the time of the retirement.
- (3) A direction under subsection (2) of this section may be given before or after the retirement of the Solicitor-General and a payment under that subsection may be made before or after that retirement.

- (4) If the Solicitor-General dies before the commencement or during the currency of any leave granted or before such leave has been granted pursuant to subsection (1) of this section, the Governor may, in respect of the period of the leave so granted or the unexpired portion thereof, or in respect of the period of the leave which might have been granted (according to the circumstances of the case), pay to the dependants (if any) of the Solicitor-General the amounts of salary which would have been payable to the Solicitor-General himself if he had survived and if the Solicitor-General died without leaving any dependants the Governor may pay the said amounts of salary to his personal representative.
- (5) Any question as to—
- (a) whether there are any dependants in any particular case, or who are the dependants; or
 - (b) what dependant or dependants shall be entitled to the benefit of payments made under this subsection, and in what proportions if more than one dependant,
- shall be settled by the Governor, as he deems proper.
- (6) In subsection (5) of this section the terms—
- dependants* means those members of the family of the Solicitor-General who were wholly or in part dependant upon his earnings at the time of his death;
- members of the family* includes surviving spouse, parents, grandparents, step-parents, children, grand-children, step-children, brothers, sisters, half-brothers and half-sisters.
- (7) Where leave is granted to the Solicitor-General under this section, the Solicitor-General may, at the commencement of such leave, be paid the total salary which would be payable to him during the currency of the leave.

10—Pension rights of Solicitor-General and application of *Judges' Pensions Act 1971*

- (1) The *Judges' Pensions Act 1971* shall in all respects apply to and in relation to the Solicitor-General as if—
- (a) he were a judge as defined in that Act; and
 - (b) his service as Solicitor-General were judicial service as defined in that Act.
- (2) A pension payable to a person who was Solicitor-General or to the surviving spouse or child of any such person by virtue of subsection (1) of this section, shall for all purposes be deemed to be a pension payable under the *Judges' Pensions Act 1971*.
- (3) Notwithstanding anything in this section, unless the Governor otherwise directs, no pension shall be payable under the *Judges' Pensions Act 1971* to or in relation to a Solicitor-General who has been removed from office pursuant to section 7 of this Act.

11—Solicitor-General appointed Judge

- (1) Where a person who is or has been Solicitor-General is appointed a Judge as defined in the *Judges' Pensions Act 1971*, that Act shall apply to and in relation to that person as if—
- (a) the service as Solicitor-General of that person were judicial service as defined in that Act; and

- (b) section 5 of that Act had not been enacted.
- (2) Where a person referred to in subsection (1) of this section was, immediately before his appointment as a Judge, in receipt of a pension under the *Judges' Pensions Act 1971*, that pension shall upon that appointment cease and determine.

Legislative history

Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1972	18	<i>Solicitor-General Act 1972</i>	30.3.1972	20.4.1972 (<i>Gazette 20.4.1972 p1498</i>)
1985	59	<i>Statutes Amendment (Remuneration) Act 1985</i>	30.5.1985	s 18—13.6.1985 (<i>Gazette 13.6.1985 p2132</i>)
1990	18	<i>Statutes Repeal and Amendment (Remuneration) Act 1990</i>	19.4.1990	s 26—19.4.1990 (<i>Gazette 19.4.1990 p1136</i>)
2009	84	<i>Statutes Amendment (Public Sector Consequential Amendments) Act 2009</i>	10.12.2009	Pt 134 (ss 305 & 306)—1.2.2010 (<i>Gazette 28.1.2010 p320</i>)
2019	46	<i>Statutes Amendment (Legalisation of Same Sex Marriage Consequential Amendments) Act 2019</i>	19.12.2019	Pt 16 (ss 35 & 36)—1.5.2020 (<i>Gazette 30.4.2020 p838</i>)

Provisions amended since 3 February 1976

New entries appear in bold.

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

Provision	How varied	Commencement
<i>s 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	
<i>s 4</i>		
<i>s 4(2) and (3)</i>	<i>deleted by 84/2009 s 305</i>	<i>1.2.2010</i>
<i>s 5</i>		
<i>s 5(2)</i>	amended by 59/1985 s 18	13.6.1985
	amended by 18/1990 s 26	19.4.1990
<i>s 5(4)</i>	<i>deleted by 84/2009 s 306</i>	<i>1.2.2010</i>
s 9		
s 9(6)		
members of the family	amended by 46/2019 s 35	1.5.2020

s 10

s 10(2)

amended by 46/2019 s 36

1.5.2020

Historical versions

Reprint No 1—15.1.1992

1.2.2010