

South Australia

## Unclaimed Moneys Act 1891

An Act to provide for giving publicity to information relating to unclaimed funds, and for other purposes.

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**The Parliament of South Australia enacts as follows:**

#### 1—Short title

This Act may be cited for all purposes as the *Unclaimed Moneys Act 1891*.

#### 2—Interpretation

In this Act, unless the context otherwise requires, the terms following in inverted commas shall have the respective meanings hereby assigned to them, that is to say:

*company* shall mean—

- (a) every company which, having for its object the acquisition of gain, is registered or incorporated in the State of South Australia under any Act relating to companies: and
- (b) every company which, having for its object the acquisition of gain, and carrying on business in South Australia aforesaid, is registered or incorporated elsewhere than in South Australia: and shall include

- (c) every ADI and life assurance company or association, except the Savings Bank of South Australia, howsoever or wheresoever registered or incorporated, carrying on business within the said State, and shall include the liquidator of any company;

*unclaimed moneys* shall mean all principal and interest money, and all dividends, bonuses, profits, and sums of money whatsoever, which prior to the passing of this Act, or which hereafter, shall have been in the possession of any company for a period of six years or upwards, and in respect whereof no claim shall have been made by the owner against the company, and which shall arise out of any dealing had within the said State by any owner or person with the company;

*owner* shall mean the person entitled to any unclaimed moneys, and shall include his executors, administrators, or assigns, or his or their lawful attorney or agent in South Australia.

**Note—**

For definition of divisional penalties (and divisional expiation fees) see Appendix.

### **3—Register of unclaimed moneys to be kept**

It shall be the duty of every company, on the first day of January in each year, to enter, in an alphabetical register to be kept by such company at its head or principal office in South Australia, in the form set forth in the Schedule to this Act, and with the particulars therein specified, all unclaimed moneys exceeding ten dollars in an account which has not been operated upon for six years; and from and after the eighth day of January in each year such register shall be open to the inspection of all persons at such head or principal office during the hours within which the company transacts its ordinary business, on payment of a fee of twenty cents.

### **4—Copy of register to be gazetted**

A copy of every such register shall be published by the company in the South Australian Government Gazette annually, during the month of January.

### **5—Penalty for neglect in keeping register etc**

Any company failing to keep such register or to publish such copy, or refusing inspection thereof, shall be liable to a penalty not exceeding four dollars for every day during which such default or refusal continues.

Expiation fee: Division 11 fee.

### **6—Unclaimed moneys to be paid to the Treasurer as public revenue**

- (1) All unclaimed moneys which shall not have been paid by the company to the owner thereof within two years after the first publication of such notice in the Government Gazette shall be paid by the company to the Treasurer of the State of South Australia, for the use of the public revenue.
- (2) The company may deduct out of all unclaimed moneys paid by the company to the Treasurer, or to any claimant, the expenses paid by the company in the publication of the notices hereinbefore referred to.

**7—Treasurer may examine accounts etc**

The Treasurer may, at any time after the publication of any notice as aforesaid, examine any of the accounts relating to the unclaimed moneys in such notice referred to, and may for that purpose require the production before him, or before such public officer as he may appoint, of any book, vouchers, or documents referring to such moneys; and if any error shall be found in any register or notice aforesaid, he may direct the register or notice, or both of them, to be amended.

**7A—Payment of unclaimed moneys to Treasurer**

Any person (not being a company) in possession of any moneys whatsoever which have been in the possession of that person for a period of one year or upwards and of which the owner cannot be found may pay such moneys to the Treasurer of the State for the use of the public revenue: Provided that the said person when paying any such moneys to the Treasurer shall lodge with the Treasurer a statutory declaration setting forth the details of the said moneys and the circumstances under which he came into possession thereof and that the owner thereof cannot be found. The receipt of the Treasurer for the said moneys shall be a discharge to the person paying the same of his liability in respect thereof.

**8—Treasurer may pay lawful claimant**

If any claimant shall make any demand against the Treasurer for any money paid to him pursuant to any of the provisions of this Act, the Treasurer, upon being satisfied that the claimant is the owner of the money demanded by him, shall order and direct payment thereof to be made to him.

**9—Treasurer not responsible for payments in certain cases**

Where any moneys paid to any claimant pursuant to section 8 of this Act shall be afterwards claimed by any other person the Treasurer shall not be responsible for the payment of the same, but such person may have recourse against the claimant to whom the Treasurer shall have paid the moneys.

**11—Summary procedure**

All proceedings for the recovery of any pecuniary penalty by this Act imposed for any omissions, defaults, acts, or offences shall be had and taken, and may be heard and determined in a summary way.

## Schedule

.....Company [or Bank etc]

Register of unclaimed money held by the [*here insert name of company*].

<b>Name of owner on books</b>	<b>Total amount due to owner</b>	<b>Description of unclaimed money</b>	<b>Date of last claim</b>
Bryan O'Dillon, Torrens Island, Port Adelaide	\$600.00	First dividend on 600 shares in the Electric Light Company, Ltd.	April 1st, 1970
Sarah Gamp, Pier Street, Glenelg	\$874.00	Or deposit, or balance of account in the Bank of Adelaide ( <i>or such other particulars as may be a sufficient description of the money</i> )	Aug. 25th, 1973

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

### Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1891	539	<i>The Unclaimed Moneys Act 1891</i>	19.12.1891	19.12.1891
1935	2246	<i>Statute Law Revision Act 1935</i>	19.12.1935	19.12.1935
1962	20	<i>Unclaimed Moneys Act Amendment Act 1962</i>	25.10.1962	25.10.1962
1975	118	<i>Statute Law Revision Act (No. 2) 1975</i>	4.12.1975	4.12.1975
1992	71	<i>Statutes Amendment (Expiation of Offences) Act 1992</i>	19.11.1992	1.3.1993 ( <i>Gazette 18.2.1993 p600</i> )
1999	33	<i>Financial Sector Reform (South Australia) Act 1999</i>	17.6.1999	Sch (item 60)—1.7.1999 being the date specified under s 3(16) of the <i>Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999</i> of the Commonwealth as the transfer date for the purposes of that Act: s 2(2)

### Provisions amended since 3 February 1976

- Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 11 of The Public General Acts of South Australia 1837–1975 at page 210.

New entries appear in bold.

Provision	How varied	Commencement
s 2		
company	amended by 33/1999 Sch (item 60)	1.7.1999
s 5	amended by 71/1992 s 3(1) (Sch)	1.3.1993

### Historical versions

Reprint No 1—1.3.1993

## Appendix—Divisional penalties and expiation fees

At the date of publication of this version divisional penalties and expiation fees are, as provided by section 28A of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
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	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	—	\$500	\$100
10	—	\$200	\$75
11	—	\$100	\$50
12	—	\$50	\$25

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