

South Australia

Historic Shipwrecks Act 1981

An Act relating to the protection of certain shipwrecks and relics of historic significance.

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Legislative history

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Historic Shipwrecks Act 1981*.

3—Interpretation

- (1) In this Act, unless the contrary intention appears—

Adelaide Dolphin Sanctuary has the same meaning as in the *Adelaide Dolphin Sanctuary Act 2005*;

the Commonwealth Act means the *Historic Shipwrecks Act 1976* of the Commonwealth;

historic relic—see section 4A(2);

historic shipwreck—see section 4A(1);

inspector means a person appointed as an inspector under section 21 or a police officer;

marine park has the same meaning as in the *Marine Parks Act 2007*;

protected zone means a protected zone constituted under section 7;

Register means the Register of Historic Shipwrecks kept under section 12;

River Murray has the same meaning as in the *River Murray Act 2003*;

River Murray Protection Area means a River Murray Protection Area under the *River Murray Act 2003*;

ship includes any vessel used in navigation by water;

territorial waters of the State means—

- (a) waters within the limits of the State; or
- (b) waters adjacent to the State being waters to which the Commonwealth Act does not apply;

Tribunal means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*;

vessel has the same meaning as in the *Harbors and Navigation Act 1993*.

- (2) A reference in this Act to the remains of a ship, or to an article or articles being situated in, or having been removed from, any waters includes a reference to the remains of a ship or to an article or articles—
- (a) being situated in or forming part of, or having been removed from, as the case may be, the surface or subsoil of land submerged by those waters; or
 - (b) being situated on or forming part of, or having been removed from, as the case may be, a reef in those waters.

- (3) A thing will not be taken not to be an article for the purposes of this Act by reason that it is attached to the remains of a ship, to a reef or, to the subsoil of submerged land.
- (4) A reference in this Act to an article associated with a ship will be construed as a reference to an article that appears to have formed part of, to have been installed or carried on, or to have been constructed or used by a person associated with, a ship.

4—Act to bind Crown

This Act binds the Crown.

Part 2—Protection of historic shipwrecks and relics

4A—Certain shipwrecks and shipwreck relics are historic

- (1) Subject to this section, the remains of a ship are a historic shipwreck for the purposes of this Act if—
 - (a) in the case of remains situated in territorial waters of the State—
 - (i) the remains have been situated in such waters for 75 years or more; or
 - (ii) a declaration under section 5 or 6 is in force in relation to the remains; or
 - (b) in the case of remains that have been removed from territorial waters of the State (whether before or after the commencement of this Act)—
 - (i) the 75th anniversary of the date on which the remains first came to rest on the seabed of such waters has passed; or
 - (ii) a declaration under section 5 or 6 is in force in relation to the remains.
- (2) Subject to this section, an article associated with a ship is a historic relic for the purposes of this Act if—
 - (a) in the case of an article situated in territorial waters of the State—
 - (i) the article has been situated in such waters for 75 years or more; or
 - (ii) a declaration under section 5 or 6 is in force in relation to the article; or
 - (b) in the case of an article that has been removed from territorial waters of this State (whether before or after the commencement of this Act)—
 - (i) the 75th anniversary of the date on which the article first came to rest on the seabed of such waters has passed; or
 - (ii) a declaration under section 5 or 6 is in force in relation to the article.
- (3) The Governor may, by proclamation—
 - (a) declare that subsection (1)(a)(i) or (1)(b)(i) does not apply to the remains, or part of the remains, of a ship or class of ships; or
 - (b) declare that subsection (2)(a)(i) or (2)(b)(i) does not apply to an article or class of articles.

5—Declaration that shipwrecks and relics are historic

- (1) If the Minister is of the opinion that—
 - (a) the remains of a ship situated in territorial waters of the State; or
 - (b) any part of the remains of a ship removed from territorial waters of the State, are of historic significance, the Minister may, by notice in the Gazette, declare the remains to be a historic shipwreck.
- (2) If the Minister is of the opinion that an article, particular articles or all articles associated with a ship and situated in, or removed from, territorial waters of the State are of historic significance, the Minister may, by notice in the Gazette, declare the article or articles to be a historic relic or historic relics.
- (3) Subject to this Act, a declaration under this Act continues to apply to remains or an article despite the removal of the remains or article from the territorial waters of the State after the making of the declaration.
- (4) This section does not apply to or in relation to—
 - (a) the remains of a ship that are a historic shipwreck by virtue of section 4A(1)(a)(i) or 4A(1)(b)(i); or
 - (b) an article that is a historic relic by virtue of section 4A(2)(a)(i) or 4A(2)(b)(i).

6—Provisional declaration that shipwrecks and relics are historic

- (1) If it appears to the Minister that an article or articles appearing to be the remains of a ship situated in, or removed from, territorial waters of the State may be of historic significance, the Minister may, by notice in the Gazette, provisionally declare the article or articles to be a historic shipwreck.
- (2) If it appears to the Minister that an article, or particular articles, situated in or removed from territorial waters of the State—
 - (a) may have been associated with a ship; and
 - (b) may be of historic significance,the Minister may, by notice in the Gazette, provisionally declare the article or articles to be a historic relic or historic relics.
- (3) Subject to this Act, a declaration under this Act continues to apply to remains or an article despite the removal of the remains or article from the territorial waters of the State after the making of the declaration.
- (5) A notice under this section remains in force, unless sooner revoked, until the expiration of twelve months from the date of publication of the notice in the Gazette, but the revocation or expiration of a notice under this section does not prevent the publication in the Gazette of a further notice under this section in relation to an article or articles to which the revoked or expired notice applied.
- (6) This section does not apply to or in relation to—
 - (a) the remains of a ship that are a historic shipwreck by virtue of section 4A(1)(a)(i) or 4A(1)(b)(i); or
 - (b) an article that is a historic relic by virtue of section 4A(2)(a)(i) or 4A(2)(b)(i).

7—Declaration of protected zones

- (1) The Minister may, by notice in the Gazette, declare an area (not exceeding 100 hectares) consisting of water or partly of water and partly of land within which a historic shipwreck or historic relic is, situated to be a protected zone.
- (2) If a notice declaring an area to be a protected zone is in force under subsection (1), the protected zone will be taken to include the airspace above that area and, to the extent to which that area consists of the surface of water, to include the waters beneath that area and the surface and subsoil of the land submerged by those waters.
- (3) Subject to subsection (4), a notice under this section ceases to have force if the protected zone declared by the notice relates to the remains of a ship, or an article associated with a ship, that is the subject of a notice under section 5 or 6 that has been revoked or has otherwise ceased to be in force.
- (4) A notice under this section remains in force despite subsection (3) if—
 - (a) the notice relates to an area within which the remains of a ship are situated and the remains are a historic shipwreck by virtue of section 4A(1)(a)(i); or
 - (b) the notice relates to an area within which an article associated with a ship is situated and the article is a historic relic by virtue of section 4A(2)(a)(i).
- (5) Nothing in subsection (3) prevents the publication in the Gazette of a further notice under this section in relation to the remains of a ship, or in relation to an article associated with a ship, if a further notice is published in the Gazette under section 5 or 6 in relation to the remains or in relation to the article.

8—Further publication of notices

If a notice under section 5, 6 or 7 is published in the Gazette, the Minister may cause a copy of the notice to be published in newspapers, periodicals or other publications as the Minister thinks appropriate.

9—Notice of location of historic shipwrecks and relics

- (1) If—
 - (a) a person has possession, custody or control of an article; and
 - (b) a notice applying in respect of the article is published in the Gazette under section 5 or 6,

the person must, within thirty days after the date of publication of the notice in the Gazette, give the prescribed notice to the Minister in relation to the article.

Maximum penalty: \$10 000.

- (2) If an article in respect of which a notice published in the Gazette under section 5 or 6 applies comes into the possession, custody or control of a person, the person must, within thirty days after the day on which the article comes into the person's possession, custody or control, give the prescribed notice to the Minister in relation to the article.

Maximum penalty: \$10 000.

- (3) It is a defence to a charge of an offence against subsection (1) or (2) in relation to an article in respect of which a notice was published in the Gazette under section 5 or 6 if the person proves that the person did not know, and had no reasonable grounds for believing, that the article was an article to which the notice related.
- (4) For the purposes of this section, the prescribed notice in relation to an article means a notice in writing describing the article and stating where the article is situated.

10—Power of Minister to ascertain location of historic shipwrecks and relics

- (1) If it appears to the Minister that—
 - (a) a person may have, or may have had, possession, custody or control of an article; and
 - (b) the article is or may be, or is or may be a part of, a historic shipwreck or is or may be a historic relic,

the Minister may, by notice in writing to the person, require the person, within the time specified in the notice—

- (c) to inform the Minister whether the person has, or has had, possession, custody or control of the article; and
 - (d) if the person has ceased to have possession, custody or control of the article, to give the Minister particulars of the circumstances in which the person ceased to have possession, custody or control of the article; and
 - (e) if the person has transferred possession, custody or control of the article to another person, to give the Minister the name and address of the person to whom possession, custody or control of the article was transferred.
- (2) A person to whom a notice is given by the Minister under subsection (1) must not—
 - (a) refuse or fail to comply with the notice to the extent that the person is capable of complying with it; or
 - (b) in purported compliance with the notice, knowingly furnish information that is false or misleading.

Maximum penalty: \$10 000.

- (3) A person is not excused from furnishing information under this section on the ground that the information may tend to incriminate the person but the information furnished is not admissible in evidence against the person except in proceedings for an offence against this section.

11—Power of Minister to give directions in relation to custody of historic shipwrecks and relics

- (1) If a person has possession, custody or control of an article, being, or being a part of, a historic shipwreck or being a historic relic, the Minister may, for the purpose of—
 - (a) the preservation of the article; or
 - (b) the exhibition of, or the provision of access to, the article,

by notice in writing, require the person to take specified action in relation to the article.

- (2) The action that a person may be required to take in relation to an article by a notice under subsection (1) includes but is not limited to—
 - (a) keeping the article in a particular manner or place; and
 - (b) removing the article to a particular place within a particular time; and
 - (c) doing a particular act in relation to the article within a particular time, being an act designed to assist in the preservation of the article; and
 - (d) delivering the article into the custody of a particular person within a particular time.
- (3) If the Minister gives a notice to a person under subsection (1) requiring the person to take action in relation to an article other than action referred to in subsection (2)(d), the notice must include a statement that the person may, in lieu of taking that action, deliver the article within a specified time into the custody of a person specified in the notice.
- (4) A person to whom a notice is given by the Minister under subsection (1) must comply with the notice.
Maximum penalty: \$10 000 or imprisonment for 2 years, or both.
- (5) A civil action does not lie against a person in respect of action taken in accordance with a notice given to the person by the Minister under subsection (1).
- (6) If the Minister decides to give a person a notice under subsection (1), the person may, within 1 month after receiving the notice (or such longer period as the Tribunal may allow), seek a review of the decision by the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013*.
- (8) A person to whom a notice is given under subsection (1) may recover, as a debt due to the person from the Crown, reasonable costs incurred by the person in carrying out the requirements of the notice.

12—Register of Historic Shipwrecks

- (1) The Minister must cause to be kept a register to be known as the Register of Historic Shipwrecks.
- (2) The Minister must cause to be entered in the Register—
 - (a) particulars of all known remains and articles that are historic shipwrecks or historic relics by virtue of section 4A(1)(a)(i), (1)(b)(i), (2)(a)(i) or (2)(b)(i); and
 - (b) particulars of all remains and articles in relation to which declarations of historic shipwrecks or historic relics under section 5 or 6 are in force; and
 - (c) particulars of areas in relation to which declarations of protected zones under section 7 are in force.
- (3) A person may inspect the Register and, on payment of the prescribed fee, is entitled to be furnished with a copy of the Register or a part of the Register.

13—Prohibition of certain action in relation to historic shipwrecks and relics

- (1) Except in accordance with a permit, a person must not—
 - (a) damage or destroy a historic shipwreck or a historic relic; or

- (b) interfere with a historic shipwreck or a historic relic; or
- (c) dispose of a historic shipwreck or a historic relic; or
- (d) remove a historic shipwreck or a historic relic from the territorial waters of the State.

Maximum penalty: \$20 000 or imprisonment for 4 years, or both.

- (2) A reference in subsection (1) to the removal of a historic shipwreck or a historic relic from the territorial waters of the State includes a reference to the removal of a historic shipwreck or a historic relic from the surface or subsoil of land submerged by those waters or from a reef in those waters.
- (4) In this section—
historic shipwreck includes a part of a historic shipwreck.

15—Permits for exploration or recovery of shipwrecks and relics

- (1) The Minister may, in the Minister's discretion, on application by a person, grant a permit to that person authorising that person and other persons named or described in the permit to do an act or thing specified in the permit the doing of which would otherwise be prohibited by section 13 or the regulations.
- (2) The Minister may, when granting a permit or at any time while a permit is in force, impose conditions in respect of the permit and may at any time revoke or vary any conditions so imposed.
- (3) The conditions that may be imposed under subsection (2) in respect of a permit authorising the doing of an act or thing include but are not limited to—
 - (a) a condition requiring the act or thing to be done in a specified manner; and
 - (b) a condition requiring the act or thing to be done only in accordance with the directions of a person named or described in the permit as a person empowered to give such directions; and
 - (c) a condition requiring articles obtained by the doing of an act that is authorised by the permit to be done to be held in custody, or dealt with, as specified in the permit or in directions given by a person named or described in the permit as a person empowered to give such directions.
- (3a) If an application for a permit relates to a historic shipwreck or historic relic located within—
 - (a) the Adelaide Dolphin Sanctuary—
 - (i) the Minister must, in considering the application, seek to further the objects and objectives of the *Adelaide Dolphin Sanctuary Act 2005* and take into account the provisions of the Adelaide Dolphin Sanctuary Management Plan under that Act; and
 - (ii) if so required under the regulations—the Minister must, before making the Minister's decision on the application, consult with and have regard to the views of the Minister to whom the administration of the *Adelaide Dolphin Sanctuary Act 2005* is committed; or
 - (b) a marine park—

- (i) the Minister must, in considering the application, seek to further the objects of the *Marine Parks Act 2007* and take into account the provisions of the management plan for the marine park under that Act; and
 - (ii) if so required under the regulations—the Minister must, before making the Minister's decision on the application, consult with and have regard to the views of the Minister to whom the administration of the *Marine Parks Act 2007* is committed; or
- (c) the River Murray—
 - (i) the Minister must, in considering the application, seek to further the objects of the *River Murray Act 2003* and the ***Objectives for a Healthy River Murray*** under that Act and take into account the provisions of the River Murray Act Implementation Strategy under that Act; and
 - (ii) if so required under the regulations—the Minister must, before making a decision on the application, consult with and have regard to the views of the Minister to whom the administration of the *River Murray Act 2003* is committed and comply with the Minister's directions (if any) in relation to the application.
- (4) A condition imposed in respect of a permit (other than a condition contained in a permit) or a revocation or variation of a condition so imposed takes effect when notice of the condition or of the revocation or variation is served on the person to whom the permit was granted.
- (5) A person must not contravene a condition imposed in respect of a permit that has been granted to the person or is otherwise applicable to the person.
Maximum penalty: \$10 000 or imprisonment for 2 years, or both.
- (6) The Minister may, at any time, by notice in writing to the person to whom a permit has been granted—
 - (a) revoke the permit; or
 - (b) suspend the permit; or
 - (c) cancel the suspension of the permit.
- (7) A suspension of a permit may be of indefinite duration or for a specified period.

15A—Permits not transferable

A permit granted under this Act is not transferable.

16—Defences

It is a defence to a charge of an offence against section 13 or 15(5), or an offence against the regulations, if the act that constituted the offence was done for the purpose of—

- (a) saving human life; or
- (b) securing the safety of a ship (including a hovercraft or any similar craft) where the ship was endangered by stress of weather or by navigational hazards; or

- (c) dealing with an emergency involving a serious threat to the environment, or was done with any other reasonable excuse.

17—Discovery of shipwrecks and relics to be notified

- (1) A person who finds, in a fixed position in territorial waters of the State, the remains of a ship or of a part of a ship, or an article associated with a ship, must, as soon as practicable, give to the Minister a notice setting out a description of the remains or of the article and a description of the place where the remains are, or the article is, situated, being a description of that place that is sufficient to enable the remains or article to be located.

Maximum penalty: \$10 000.

- (2) It is a defence to a charge of an offence against subsection (1) if the person proves, or proves that the person had reasonable grounds for believing, that a notice setting out a description of the place where the remains are or the article is situated, being a description that is sufficient to enable the remains or article to be located, was given to the Minister by another person before it was practicable for the firstmentioned person to give such a notice.

- (3) A person must not in a notice purporting to be given to the Minister under subsection (1) make a statement that to the person's knowledge is false or misleading in a material particular.

Maximum penalty: \$10 000.

18—Rewards

- (1) The Minister may—

- (a) pay a reward not exceeding the prescribed amount to the person who first notifies the Minister in accordance with section 17 of the location of any remains or article—
- (i) a description of the location of which, being a description sufficient to enable the remains or article to be located, had not previously been published in Australia; and
 - (ii) in respect of which a declaration has, since the notification was made, been made under section 5; and
- (b) offer and pay a reward not exceeding the prescribed amount to the person who first furnishes to the Minister a description of the location of a historic shipwreck, or of a historic relic or historic relics, specified in the offer, being a description sufficient to enable the historic shipwreck or historic relic or historic relics to be located; and
- (c) pay a reward not exceeding the prescribed amount to any person who furnishes information leading to the conviction of a person for an offence against this Act.

- (2) Payments under subsection (1) must be made out of money appropriated by the Parliament for the purpose.

Part 3—Miscellaneous

19—Arrangements for Commonwealth authorities to perform functions in relation to historic shipwrecks and relics

The Governor may make arrangements with the Governor-General of the Commonwealth for the performance of functions by a competent authority of the Commonwealth in relation to the protection, recovery, preservation and exhibition of historic shipwrecks and historic relics.

20—Power of Minister to vest property in historic shipwrecks and relics in the Crown

- (1) If the Minister is of the opinion that it is necessary to do so in order to protect the public interest, the Minister may, by notice in the Gazette, declare any historic shipwreck or historic relic to be vested in the Crown.
- (2) On the publication of a notice under subsection (1), the ownership of the historic shipwreck or historic relic vests in the Crown free of any other interest.
- (3) No notice may be published under subsection (1) in respect of a historic shipwreck or historic relic lawfully in the possession of a person at the commencement of this Act.
- (4) A person who would, but for the publication of a notice under this section, have been entitled to a historic shipwreck or historic relic, or to any interest in a historic shipwreck or historic relic, may, within six months of the publication of the notice, claim compensation for the loss by action against the Crown in the Supreme Court.
- (5) On a claim under subsection (4), the Supreme Court may award such compensation against the Crown as it considers just.

21—Appointment of inspectors

- (1) The Minister may appoint a person to be an inspector for the purposes of this Act.
- (2) The Minister must cause to be issued to each inspector appointed under subsection (1) an identity card containing a photograph of the inspector.
- (3) A person who ceases to be an inspector appointed under subsection (1) must immediately return the person's identity card to the Minister.

Maximum penalty: \$500.

22—Powers of inspectors

- (1) An inspector may, as reasonably required for the administration or enforcement of this Act, exercise any of the following powers:
 - (a) at any reasonable time, enter, search and inspect any premises and, if necessary, use reasonable force to break into or open any part of, or anything in or on, the premises;
 - (b) enter and inspect any vehicle, and for that purpose require a vehicle to stop, or to be presented for inspection at a place and time specified by the inspector;
 - (c) board and inspect any vessel and, if necessary—

- (i) require a person apparently in charge of the vessel to facilitate the boarding; and
 - (ii) use reasonable force to break into or open, or require a person to open, any part of, or anything in or on, the vessel;
 - (d) give directions with respect to the stopping, securing or movement of a vehicle, vessel, equipment or other thing;
 - (e) require a person who the inspector reasonably suspects is committing, is intending to commit, or has committed, an offence against this Act to state the person's full name and usual place of residence and to produce evidence of the person's identity;
 - (f) require a person who the inspector reasonably suspects has knowledge of matters in respect of which information is required for the administration or enforcement of this Act to answer questions about those matters;
 - (g) require a person to produce documents, including a written record that reproduces in an understandable form, information stored by computer or other process;
 - (h) examine, copy or take extracts from documents or records so produced or require a person to provide a copy of any such document or record;
 - (i) require a person holding a permit or other authority or required to hold a permit or other authority to produce the permit or other authority for inspection;
 - (j) take photographs, films or video or audio recordings;
 - (k) give directions required in connection with the exercise of a power conferred by any of the paragraphs above or otherwise in connection with the administration or enforcement of this Act.
- (2) An inspector may only exercise the power conferred by subsection (1)(a) in respect of residential premises on the authority of a warrant issued by a magistrate or justice.
- (3) A warrant may not be issued unless the magistrate or justice (as the case may be) is satisfied that the warrant is reasonably required in the circumstances.
- (4) An application for the issue of a warrant—
- (a) may be made either personally or by telephone; and
 - (b) must be made in accordance with any procedures prescribed by the regulations.
- (5) An inspector may in exercising powers under this section be accompanied by such assistants as are reasonably required in the circumstances.
- (6) An inspector may require an occupier of premises, or a person apparently in charge of any vehicle, vessel, equipment or other thing, to give the inspector or a person assisting the inspector such assistance as is reasonably required by the inspector for the effective exercise of the inspector's powers under this section.
- (7) A person must not—
- (a) without reasonable excuse, hinder or obstruct an inspector or other person engaged in the administration or enforcement of this Act; or

- (b) without reasonable excuse, fail to comply with a requirement or direction of an inspector under this Act; or
- (c) fail to answer a question put by an inspector to the best of the person's knowledge, information or belief; or
- (d) produce a document or record that the person knows is false or misleading in a material particular; or
- (e) use abusive, threatening or insulting language to an inspector, or a person assisting an inspector; or
- (f) falsely represent, by words or conduct, that the person is an inspector.

Maximum penalty: \$10 000.

- (8) It is a reasonable excuse for a person to refuse or fail to answer a question or to produce, or provide a copy of, a document or information as required under this section on the ground that to do so might tend to incriminate the person or make the person liable to a penalty.

23—Arrest without warrant

- (1) An inspector may, without warrant, arrest a person if the inspector reasonably believes—
 - (a) that the person has committed an offence against section 13 or the regulations; and
 - (b) that proceedings against the person by summons would not be effective.
- (2) If an inspector (other than a police officer who is in uniform) arrests a person under subsection (1), the inspector must—
 - (a) in the case of an inspector who is a police officer—produce, for inspection by the person arrested, written evidence of the fact that the inspector is a police officer; or
 - (b) in any other case—produce the inspector's identity card for inspection by the person arrested.
- (3) If a person is arrested under subsection (1), an inspector must immediately bring the person, or cause the person to be brought, before a Justice of the Peace or other proper authority to be dealt with in accordance with law.
- (4) Nothing in this section prevents the arrest of a person in accordance with any other law.

24—Seizure and forfeiture

- (1) If an inspector has reason to suspect that any vehicle, vessel, equipment or other thing has been used in, is otherwise involved in, or affords evidence of, the commission of an offence against this Act, the inspector may seize and retain the vehicle, vessel, equipment or other thing—
 - (a) until the expiry of a period of 60 days after the seizure; or

- (b) if a prosecution for an offence against this Act is commenced and the vehicle, vessel, equipment or other thing may have been used in, been otherwise involved in, or afford evidence of, the commission of the alleged offence—until the prosecution is terminated.
- (2) The Minister may authorise any vehicle, vessel, equipment or other thing seized under subsection (1) to be released to its owner, or to the person from whose possession it was seized, either unconditionally or on such conditions as the Minister thinks fit, including conditions as to the giving of security for payment of its value if it is forfeited.
- (3) If a court convicts a person of an offence against this Act, the court may order the forfeiture to the Crown of any vehicle, vessel, equipment or other thing used or otherwise involved in the commission of the offence.
- (4) Any vehicle, vessel, equipment or other thing forfeited under this section may be sold or otherwise dealt with as the Minister thinks fit.
- (5) A reference in this section to a thing involved in the commission of an offence includes a reference to any historic shipwreck, or part of a historic shipwreck or any historic relic, to which the offence relates.

26—Certificate by Minister to be evidence

- (1) In any proceedings for an offence against this Act, a certificate by the Minister stating that a place specified in the certificate is a place—
 - (a) in territorial waters of the State; or
 - (b) in a specified protected zone,is proof, in the absence of proof to the contrary, of the matters stated in the certificate.
- (2) An apparently genuine document purporting to be a certificate of the Minister under this section will, in the absence of proof that it is not such a certificate, be accepted as such in any proceedings for an offence against this Act.

27—Delegation

- (1) The Minister may delegate to any body or person (including a person for the time being holding or acting in a specified office or position)—
 - (a) any of the Minister's duties, functions or powers under this Act; or
 - (b) any duties, functions or powers that are, under any other Act or statutory instrument, assigned to the Minister for the time being administering this Act.
- (2) A delegation under this section—
 - (a) must be by instrument in writing; and
 - (b) may be absolute or conditional; and
 - (c) does not derogate from the power of the Minister to act in a matter; and
 - (d) is revocable at will.
- (3) A function or power delegated under this section may, if the instrument of delegation so provides, be further delegated.

28—Notices

- (1) Without prejudice to any other method of service permitted by law, a notice to a person by the Minister under this Act may be served on the person by being sent by post to the person at the address of the person last known by the Minister.
- (2) A notice to the Minister under this Act may be given as prescribed.
- (3) A notice by the Minister that has been published in the Gazette under this Act may be amended or revoked by the Minister by a further notice published in the Gazette.

29—Regulations

- (1) The Governor may make such regulations as are contemplated by, or are necessary or expedient for the purposes of, this Act.
- (2) Without limiting the generality of subsection (1), the regulations may—
 - (a) prohibit or restrict any of the following:
 - (i) the bringing into a protected zone of—
 - (A) equipment constructed or adapted for the purpose of diving, salvage or recovery operations; or
 - (B) explosives, instruments or tools,
the use of which would be likely to damage or interfere with a historic shipwreck or a historic relic situated within that protected zone;
 - (ii) the use within a protected zone of such equipment, explosives, instruments or tools;
 - (iii) causing a vessel carrying such equipment, explosives, instruments or tools to enter, or remain within, a protected zone;
 - (iv) trawling, diving or any other underwater activity within a protected zone;
 - (v) the mooring or use of a vessel within a protected zone; and
 - (b) prohibit the doing of an act referred to in paragraph (a) except in accordance with a permit; and
 - (c) prescribe fees for the issue of a permit under this Act; and
 - (d) prescribe penalties, not exceeding \$10 000, for offences against the regulations; and
 - (e) fix expiation fees, not exceeding \$750, for alleged offences against the regulations; and
 - (f) empower inspectors to give expiation notices for alleged offences against the regulations.
- (3) The regulations may—
 - (a) be of general or limited application; and
 - (b) make different provision according to the persons, things or circumstances to which they are expressed to apply; and

- (c) provide that any matter or thing is to be determined, dispensed with, regulated or prohibited according to the discretion of the Minister; and
- (d) include evidentiary provisions to facilitate proof of breaches of the regulations for the purposes of proceedings for offences.

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
1981	76	<i>Historic Shipwrecks Act 1981</i>	19.11.1981	3.12.1981 (<i>Gazette 3.12.1981 p2206</i>)
1983	81	<i>Historic Shipwrecks Act Amendment Act 1983</i>	24.11.1983	24.11.1983
2000	4	<i>District Court (Administrative and Disciplinary Division) Amendment Act 2000</i>	20.4.2000	Sch 1 (cl 18)—1.6.2000 (<i>Gazette 18.5.2000 p2554</i>)
2003	35	<i>River Murray Act 2003</i>	31.7.2003	Sch (cl 10)—24.11.2003 (<i>Gazette 20.11.2003 p4203</i>)
2005	5	<i>Adelaide Dolphin Sanctuary Act 2005</i>	14.4.2005	Sch 2 (cll 29 & 30)—1.7.2005 (<i>Gazette 2.6.2005 p1684</i>)
2005	20	<i>Statutes Amendment (Environment and Conservation Portfolio) Act 2005</i>	9.6.2005	Pt 2 (ss 4—8) & Sch 2—23.6.2005 (<i>Gazette 23.6.2005 p1901</i>)
2007	60	<i>Marine Parks Act 2007</i>	29.11.2007	Sch 1 (cll 28 & 29)—6.11.2008 (<i>Gazette 6.11.2008 p5055</i>)
2011	11	<i>Statutes Amendment (Personal Property Securities) Act 2011</i>	14.4.2011	Pt 12 (s 40)—16.6.2011 (<i>Gazette 16.6.2011 p2610</i>)
2017	1	<i>Historic Shipwrecks (Miscellaneous) Amendment Act 2017</i>	28.2.2017	1.5.2017 (<i>Gazette 5.4.2017 p1022</i>)
2017	51	<i>Statutes Amendment (SACAT No 2) Act 2017</i>	28.11.2017	Pt 22 (ss 118 to 120)—14.12.2017 (<i>Gazette 12.12.2017 p4960</i>)
2019	45	<i>Supreme Court (Court of Appeal) Amendment Act 2019</i>	19.12.2019	Sch 1 (cl 49)—1.1.2021 (<i>Gazette 10.12.2020 p5638</i>)

Provisions amended

New entries appear in bold.

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

Provision	How varied	Commencement
Pt 1		

Historic Shipwrecks Act 1981—1.1.2021Legislative history

s 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	24.11.2003
s 3		
s 3(1)		
Adelaide Dolphin Sanctuary	inserted by 5/2005 Sch 2 (cl 29)	1.7.2005
historic relic	amended by 20/2005 s 4(1) substituted by 1/2017 s 4(1)	23.6.2005 1.5.2017
historic shipwreck	amended by 20/2005 s 4(2) substituted by 1/2017 s 4(1)	23.6.2005 1.5.2017
inspector	amended by 20/2005 Sch 2	23.6.2005
marine park	inserted by 60/2007 Sch 1 cl 28	6.11.2008
protected zone	substituted by 81/1983 s 2(a) amended by 20/2005 Sch 2	24.11.1983 23.6.2005
River Murray	inserted by 35/2003 Sch cl 10(a)	24.11.2003
River Murray Protection Area	inserted by 35/2003 Sch cl 10(a)	24.11.2003
<i>sea</i>	<i>deleted by 81/1983 s 2(b)</i>	24.11.1983
Tribunal	inserted by 51/2017 s 118	14.12.2017
vessel	inserted by 1/2017 s 4(2)	1.5.2017
s 3(2)	amended by 81/1983 s 2(c)	24.11.1983
s 3(3)	amended by 81/1983 s 2(d) amended by 20/2005 Sch 2	24.11.1983 23.6.2005
s 3(4)	amended by 20/2005 Sch 2	23.6.2005
Pt 2		
s 4A	inserted by 20/2005 s 5 substituted by 1/2017 s 5	23.6.2005 1.5.2017
s 5	substituted by 20/2005 Sch 2	23.6.2005
s 5(4)	inserted by 1/2017 s 6	1.5.2017
s 6		
s 6(1) and (2)	amended by 20/2005 Sch 2	23.6.2005
s 6(3)	substituted by 20/2005 Sch 2	23.6.2005
s 6(4)	<i>deleted by 20/2005 Sch 2</i>	23.6.2005
s 6(6)	inserted by 1/2017 s 7	1.5.2017
s 7		
s 7(1)	amended by 81/1983 s 3(a) amended by 20/2005 Sch 2	24.11.1983 23.6.2005
s 7(2)	amended by 81/1983 s 3(b) amended by 20/2005 Sch 2	24.11.1983 23.6.2005
s 7(3)	amended by 20/2005 Sch 2 substituted by 1/2017 s 8	23.6.2005 1.5.2017
s 7(4) and (5)	inserted by 1/2017 s 8	1.5.2017
s 8	amended by 20/2005 Sch 2	23.6.2005
s 9		

s 9(1)	amended by 20/2005 Sch 2	23.6.2005
	amended by 1/2017 s 9(1)	1.5.2017
s 9(2)	amended by 20/2005 Sch 2	23.6.2005
	amended by 1/2017 s 9(2), (3)	1.5.2017
s 9(3)	amended by 20/2005 Sch 2	23.6.2005
	amended by 1/2017 s 9(4)	1.5.2017
s 10		
s 10(1)	amended by 20/2005 Sch 2	23.6.2005
s 10(2)	amended by 20/2005 Sch 2	23.6.2005
	amended by 1/2017 s 10	1.5.2017
s 10(3)	amended by 20/2005 Sch 2	23.6.2005
s 11		
s 11(1)	amended by 20/2005 Sch 2	23.6.2005
s 11(3)	amended by 20/2005 Sch 2	23.6.2005
s 11(4)	amended by 20/2005 Sch 2	23.6.2005
	amended by 1/2017 s 11	1.5.2017
s 11(5)	amended by 20/2005 Sch 2	23.6.2005
s 11(6)	amended by 4/2000 s 9(1) (Sch 1 cl 18(a))	1.6.2000
	substituted by 51/2017 s 119	14.12.2017
s 11(7)	<i>deleted by 4/2000 s 9(1) (Sch 1 cl 18(b))</i>	1.6.2000
s 11(8)	amended by 20/2005 Sch 2	23.6.2005
s 12		
s 12(1)	amended by 20/2005 Sch 2	23.6.2005
s 12(2)	substituted by 20/2005 s 6	23.6.2005
	substituted by 1/2017 s 12	1.5.2017
s 12(3)	amended by 20/2005 Sch 2	23.6.2005
s 13		
s 13(1)	amended by 20/2005 Sch 2	23.6.2005
	amended by 1/2017 s 13	1.5.2017
s 13(2)	amended by 81/1983 s 4	24.11.1983
s 13(3)	<i>deleted by 20/2005 Sch 2</i>	23.6.2005
s 14 before deletion by 1/2017		
s 14(1) and (2)	<i>substituted by 20/2005 s 7(1)</i>	23.6.2005
s 14(3)	<i>amended by 20/2005 s 7(2)</i>	23.6.2005
s 14(3a)	<i>inserted by 20/2005 s 7(3)</i>	23.6.2005
s 14	<i>deleted by 1/2017 s 14</i>	1.5.2017
s 15		
s 15(1)	amended by 20/2005 Sch 2	23.6.2005
	amended by 1/2017 s 15(1)	1.5.2017
s 15(3)	amended by 20/2005 Sch 2	23.6.2005
s 15(3a)	inserted by 35/2003 Sch cl 10(b)	24.11.2003
	substituted by 60/2007 Sch 1 cl 29	6.11.2008

Historic Shipwrecks Act 1981—1.1.2021Legislative history

	amended by 1/2017 s 15(2), (3)	1.5.2017
s 15(3b)	<i>inserted by 35/2003 Sch cl 10(b)</i>	24.11.2003
	<i>amended by 20/2005 Sch 2</i>	23.6.2005
	<i>deleted by 60/2007 Sch 1 cl 29</i>	6.11.2008
s 15(3c) and (3d)	<i>inserted by 5/2005 Sch 2 (cl 30)</i>	1.7.2005
	<i>deleted by 60/2007 Sch 1 cl 29</i>	6.11.2008
s 15(5)	amended by 20/2005 Sch 2	23.6.2005
	amended by 1/2017 s 15(4)	1.5.2017
s 15A	inserted by 11/2011 s 40	16.6.2011
s 16	amended by 20/2005 Sch 2	23.6.2005
	amended by 1/2017 s 16	1.5.2017
s 17		
s 17(1)	amended by 20/2005 Sch 2	23.6.2005
	amended by 1/2017 s 17(1)	1.5.2017
s 17(2)	amended by 20/2005 Sch 2	23.6.2005
	amended by 1/2017 s 17(2)	1.5.2017
s 17(3)	amended by 20/2005 Sch 2	23.6.2005
	amended by 1/2017 s 17(3)	1.5.2017
s 18		
s 18(2)	amended by 20/2005 Sch 2	23.6.2005
Pt 3		
s 20		
s 20(1) and (2)	amended by 20/2005 Sch 2	23.6.2005
s 20(4) and (5)	amended by 20/2005 Sch 2	23.6.2005
	amended by 45/2019 Sch 1 cl 49	1.1.2021
s 21		
s 21(1) and (2)	amended by 20/2005 Sch 2	23.6.2005
s 21(3)	amended by 20/2005 Sch 2	23.6.2005
	amended by 1/2017 s 18(1), (2)	1.5.2017
<i>s 22 before substitution by 1/2017</i>		
<i>s 22(1), (2) and (4)—(7)</i>	<i>amended by 20/2005 Sch 2</i>	23.6.2005
s 22	substituted by 1/2017 s 19	1.5.2017
s 23		
s 23(1)	amended by 1/2017 s 20(1)	1.5.2017
s 23(2)	amended by 20/2005 Sch 2	23.6.2005
	amended by 1/2017 s 20(2)	1.5.2017
s 23(3)	amended by 20/2005 Sch 2	23.6.2005
s 24		
s 24(1)	amended by 20/2005 Sch 2	23.6.2005
	substituted by 1/2017 s 21(1)	1.5.2017
s 24(2)	amended by 1/2017 s 21(2)	1.5.2017

s 24(3)	amended by 20/2005 Sch 2	23.6.2005
	amended by 1/2017 s 21(3)	1.5.2017
s 24(4)	amended by 1/2017 s 21(4)	1.5.2017
s 24(5)	amended by 1/2017 s 21(5)	1.5.2017
s 24(6)	<i>deleted by 1/2017 s 21(6)</i>	<i>1.5.2017</i>
s 25	<i>deleted by 20/2005 s 8</i>	<i>23.6.2005</i>
s 26		
s 26(2)	amended by 20/2005 Sch 2	23.6.2005
s 27	substituted by 20/2005 Sch 2	23.6.2005
s 27(1)	substituted by 1/2017 s 22	1.5.2017
s 28		
s 28(3)	amended by 20/2005 Sch 2	23.6.2005
s 29	substituted by 1/2017 s 23	1.5.2017

Transitional etc provisions associated with Act or amendments

Statutes Amendment (SACAT No 2) Act 2017

120—Transitional provisions

- (1) A right to appeal to the Administrative and Disciplinary Division of the District Court under section 11 of the principal Act in relation to a matter in existence (but not yet exercised) before the relevant day, will be exercised as if this Part had been in operation before the right arose, so that the relevant proceedings may be commenced instead before the Tribunal.
- (2) Nothing in this section affects any proceedings before the Administrative and Disciplinary Division of the District Court commenced under the principal Act before the relevant day.
- (3) In this section—
principal Act means the *Historic Shipwrecks Act 1981*;
relevant day means the day on which this Part comes into operation;
Tribunal means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

Historical versions

Reprint No 1—15.8.1991
Reprint No 2—1.6.2000
Reprint No 3—24.11.2003
23.6.2005 (electronic only)
1.7.2005
6.11.2008
16.6.2011
1.5.2017
14.12.2017

