

South Australia

Holidays Act 1910

An Act to consolidate and amend the laws constituting public holidays and bank holidays, and for other purposes.

Contents

- 1 Short title
- 3 Days fixed as holidays
- 3A Anzac Day
- 4 Special holidays may be proclaimed
- 4A Bank half-holidays
- 5 Governor may substitute another day for day appointed
- 5A Governor may substitute third Monday in May holiday within an area
- 6 Public offices and ADIs to be closed on holidays
- 7 Payments and other acts on holidays or Saturdays

Schedule 2—Holidays

Part 1—

Part 2—

Legislative history

The Parliament of South Australia enacts as follows:

1—Short title

This Act may be cited as the *Holidays Act 1910*.

3—Days fixed as holidays

- (1) The days mentioned in Schedule 2 will be public holidays and bank holidays but—
 - (a) when a day mentioned in Part 2 of Schedule 2 falls on a Saturday, the following Monday will be a public holiday instead of that day and that day and the following Monday will be bank holidays; and
 - (b) when a day mentioned in Part 2 of Schedule 2 falls on a Sunday, that day and the following Monday will be public holidays and bank holidays.

- (2) 26 December will be a public holiday and a bank holiday but—
 - (a) when 26 December falls on a Saturday, the following Monday will be a public holiday instead of that day and that day and the following Monday will be bank holidays; and
 - (b) when 26 December falls on a Sunday or a Monday, that day and the following Tuesday will be public holidays.

3A—Anzac Day

In addition to the days mentioned in Schedule 2, 25 April will be a public holiday and bank holiday but when that day falls on a Sunday, that day and the following Monday will be public holidays and bank holidays.

4—Special holidays may be proclaimed

- (1) The Governor may, by proclamation, appoint a special day to be a public holiday or bank holiday in a year either—
 - (a) throughout the State; or
 - (b) within a district or locality specified in the proclamation.
- (2) The Governor may, by subsequent proclamation, vary or revoke a proclamation made under this section.

4A—Bank half-holidays

- (1) The Governor may, by proclamation, appoint a part of any specified day to be a bank half-holiday either—
 - (a) throughout the State; or
 - (b) within a district or locality specified in the proclamation.
- (2) When a bank half-holiday is so proclaimed, section 7 applies in relation to the day on which that half-holiday occurs as if the whole of that day had been proclaimed a bank holiday.
- (3) The Governor may, by subsequent proclamation, vary or revoke a proclamation made under this section.

5—Governor may substitute another day for day appointed

- (1) The Governor may, by proclamation, declare some other day to be a public holiday or bank holiday in a year instead of a day by this Act appointed a public holiday or bank holiday, and in that case that other day will in that year be substituted as a public holiday or bank holiday for the day appointed by this Act.
- (2) The Governor may, by subsequent proclamation, vary or revoke a proclamation made under this section.

5A—Governor may substitute third Monday in May holiday within an area

- (1) *The Governor may, by proclamation, substitute another day as a public holiday and bank holiday for the third Monday in May in a year within an area if—*
- (a) *an application for substitution of the day has been made to the Minister not later than four months before the relevant day by the council for the area; and*
 - (b) *the Minister is satisfied that—*
 - (i) *adequate community consultation has occurred about the proposed substitution in the area; and*
 - (ii) *there appears to be substantial community support for the proposed substitution in the area; and*
 - (iii) *the area is sufficiently remote from the Adelaide metropolitan area.*
- (2) *The Governor may only make a substitution under this section within—*
- (a) *the areas of the District Council of Grant and the City of Mount Gambier; and*
 - (b) *if a substitution has been made or is to be made in the areas of the District Council of Grant and the City of Mount Gambier, an area adjacent to the area of the District Council of Grant; and*
 - (c) *the area of the City of Port Lincoln; and*
 - (d) *if a substitution has been made or is to be made in the area of the City of Port Lincoln, the area of—*
 - (i) *the District Council of Ceduna; and*
 - (ii) *the District Council of Cleve; and*
 - (iii) *the District Council of Elliston; and*
 - (iv) *the District Council of Franklin Harbour; and*
 - (v) *the District Council of Kimba; and*
 - (vi) *the District Council of Le Hunte; and*
 - (vii) *the District Council of Lower Eyre Peninsula; and*
 - (viii) *the District Council of Streaky Bay; and*
 - (ix) *the District Council of Tumby Bay.*
- (3) *Where a proclamation is made under this section in respect of an area, the council for the area must cause a notice of the substitution to be published in a newspaper circulating throughout the State and in a newspaper circulating in the area.*
- (4) *A notice under subsection (3) must be published—*
- (a) *not less than one month before the relevant day; or*
 - (b) *within a shorter period before the relevant day approved by the Minister, on the application of the council for the area.*

- (5) *To the extent of any inconsistency, a proclamation made under this section prevails over a provision of an award, determination, or enterprise or industrial agreement made under the Industrial and Employee Relations Act 1994.*
- (6) *The Governor may, by subsequent proclamation, vary or revoke a proclamation made under this section.*
- (7) *This section will expire 2 years after the day on which it comes into operation.*
- (8) *In this section—*
area has the same meaning as in the Local Government Act 1999;
council has the same meaning as in the Local Government Act 1999;
relevant day means the third Monday in May that is to be substituted or the proposed public holiday, whichever occurs first.

Note—

Section 5A has expired.

6—Public offices and ADIs to be closed on holidays

- (1) Subject to subsection (2), all offices of the Public Service will be closed on public holidays, and all ADIs will be closed on bank holidays, but nothing in this Act—
 - (a) authorises the closing on a public holiday of an office of the Public Service that is specially required by law to be kept open on the public holiday; or
 - (b) prevent the responsible Minister in charge of an administrative unit from requiring the services of any or all of the officers of the unit during a public holiday in case of emergency.
- (2) Subsection (1) does not require the closure of an ADI on a bank holiday if the opening of the ADI on that day is authorised by a proclamation under subsection (3).
- (3) The Governor may, by proclamation, authorise the opening of ADIs within a specified area on a bank holiday or holidays specified in the proclamation.
- (4) The Governor may, by subsequent proclamation, vary or revoke a proclamation made under this section.

7—Payments and other acts on holidays or Saturdays

- (1) No person is compellable to make a payment or do an act on a public holiday, bank holiday or Saturday that the person would not be compellable to make or do on Sunday.
- (2) When, except for the provisions of this section, a person would be obliged to make a payment or do an act on a public holiday, bank holiday or Saturday, the obligation applies to the next day following that is not a public holiday, bank holiday or Saturday, and payment or performance on that day will be due payment of the money or performance of the act, but nothing in this Act exempts a person from making a payment or doing an act on a public holiday, bank holiday or Saturday that the person is by law specially required to make or do on that day.

Schedule 2—Holidays

Part 1

Sunday.

Good Friday.

The day after Good Friday.

Easter Monday.

The third Monday in May.

The second Monday in June.

The first Monday in October.

Part 2

1 January.

26 January.

Christmas Day.

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.

Legislation repealed by principal Act

The *Holidays Act 1910* repealed the following:

Bank Holidays Act 1873

The Bank Holidays Amendment Act 1893

The Holidays Act 1909

Legislation amended by principal Act

The *Holidays Act 1910* amended the following:

Civil Service Act 1874

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1910	1010	<i>Holidays Act 1910</i>	30.11.1910	30.11.1910
1922	1547	<i>Holidays Act Amendment Act 1922</i> as amended by 2246/1935	21.12.1922	21.12.1922
1935	2246	<i>Statute Law Revision Act 1935</i>	19.12.1935	19.12.1935
1947	6	<i>Holidays Act Amendment Act 1947</i>	2.10.1947	2.10.1947
1958	29	<i>Holidays Act Amendment Act 1958</i> as amended by 21/1959 and 24/1975	13.11.1958	8.1.1960 (<i>Gazette 17.12.1959 p1504</i>)
1959	21	<i>Holidays Act Amendment Act 1959</i>	26.11.1959	26.11.1959
1970	46	<i>Holidays Act Amendment Act 1970</i>	10.12.1970	10.12.1970
1973	60	<i>Holidays Act Amendment Act 1973</i>	22.11.1973	22.11.1973
1975	24	<i>Statute Law Revision Act 1975</i>	27.3.1975	27.3.1975
1980	109	<i>Holidays Act Amendment Act 1980</i>	18.12.1980	18.12.1980
1985	97	<i>Holidays Act Amendment Act 1985</i>	1.11.1985	1.11.1985
1989	10	<i>Holidays Act Amendment Act 1989</i>	30.3.1989	30.3.1989
1991	36	<i>Holidays (Labour Day) Amendment Act 1991</i>	26.9.1991	31.10.1991 (<i>Gazette 31.10.1991 p1198</i>)

1993	88	<i>Holidays (Proclamation Day, Australia Day and Bank Holidays) Amendment Act 1993</i>	4.11.1993	4.11.1993 (<i>Gazette 4.11.1993 p2168</i>)
1997	30	<i>Statutes Amendment (References to Banks) Act 1997</i>	12.6.1997	Pt 9 (s 11)—3.7.1997 (<i>Gazette 3.7.1997 p4</i>)
1999	33	<i>Financial Sector Reform (South Australia) Act 1999</i>	17.6.1999	Sch (item 28)—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)
2002	41	<i>Holidays (Adelaide Cup and Volunteers Day) Amendment Act 2002</i>	5.12.2002	10.7.2003 (<i>Gazette 10.7.2003 p2913</i>)

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 4 of *The Public General Acts of South Australia 1837-1975* at page 706.

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>deleted by 41/2002 Sch</i>	<i>10.7.2003</i>
<i>s 2A</i>	<i>inserted by 30/1997 s 11</i>	<i>3.7.1997</i>
	<i>deleted by 33/1999 Sch (item 28)</i>	<i>1.7.1999</i>
s 3	amended by 109/1980 s 2	18.12.1980
	substituted by 88/1993 s 3	4.11.1993
s 3(1)	substituted by 41/2002 s 3(a)	10.7.2003
s 3(2)	amended by 41/2002 s 3(b)	10.7.2003
s 3A	substituted by 41/2002 s 4	10.7.2003
<i>s 3B</i>	<i>substituted by 88/1993 s 4</i>	<i>4.11.1993</i>
	<i>deleted by 41/2002 s 4</i>	<i>10.7.2003</i>
s 4		
s 4(1)	amended by 41/2002 s 5(a), Sch	10.7.2003
s 4(2)	substituted by 41/2002 s 5(b)	10.7.2003
s 4A		
s 4A(1) and (2)	amended by 41/2002 Sch	10.7.2003
s 4A(3)	inserted by 41/2002 s 6	10.7.2003
s 5		
s 5(1)	s 5 redesignated as s 5(1) by 109/1980 s 3	18.12.1980
	amended by 41/2002 Sch	10.7.2003
s 5(2)	inserted by 109/1980 s 3	18.12.1980
	amended by 41/2002 Sch	10.7.2003
s 5A	inserted by 41/2002 s 7	10.7.2003
	expired: s 5A(7)	(10.7.2005)

Holidays Act 1910—10.7.2003 to 1.4.2012

Legislative history

s 6		
s 6(1)	s 6 amended and redesignated as s 6(1) by 97/1985 s 2	1.11.1985
	amended by 33/1999 Sch (item 28)	1.7.1999
	amended by 41/2002 Sch	10.7.2003
s 6(2)	inserted by 97/1985 s 2(b)	1.11.1985
	substituted by 10/1989 s 2	30.3.1989
	amended by 33/1999 Sch (item 28)	1.7.1999
s 6(3)	inserted by 97/1985 s 2(b)	1.11.1985
	substituted by 10/1989 s 2	30.3.1989
	amended by 33/1999 Sch (item 28)	1.7.1999
	amended by 41/2002 Sch	10.7.2003
s 6(4)	inserted by 10/1989 s 2	30.3.1989
s 7		
s 7(1)	amended by 88/1993 s 5(a)	4.11.1993
	amended by 41/2002 Sch	10.7.2003
s 7(2)	amended by 88/1993 s 5(b)	4.11.1993
	amended by 41/2002 Sch	10.7.2003
<i>Sch 1</i>	<i>deleted by 41/2002 Sch</i>	<i>10.7.2003</i>
Sch 2		
Pt 1	amended by 109/1980 s 4	18.12.1980
	amended by 36/1991 s 3	31.10.1991
Pt 2	substituted by 88/1993 s 6	4.11.1993
<i>Pt 3</i>	<i>deleted by 88/1993 s 6</i>	<i>4.11.1993</i>
<i>Sch 3</i>	<i>deleted by 88/1993 s 7</i>	<i>4.11.1993</i>

Historical versions

Reprint No 1—15.8.1991

Reprint No 2—31.10.1991

Reprint No 3—4.11.1993

Reprint No 4—3.7.1997

Reprint No 5—1.7.1999