

South Australia

Industries Development Act 1941

An Act to enact certain provisions for the promotion and development of industries, and for incidental purposes.

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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 *Industries Development Act 1941*.

2—Interpretation

In this Act, unless the contrary intention appears—

business in relation to an industry, includes any industrial activity whether or not that activity is carried on for, or in the expectation of, profit or reward;

the Committee means the Industries Development Committee under this Act;

the Economic and Finance Committee means the Committee of that name established by the *Parliamentary Committees Act 1991*;

industry includes—

- (a) any sporting, cultural or social activity whether or not that activity is carried on for, or in the expectation of, profit or reward;
- (b) any overseas industry;

member includes chairman;

overseas industry means an industry—

- (a) that is carried on wholly or mainly in a proclaimed country; and
- (b) that is or will be of substantial benefit to an industry carried on wholly or mainly in the State;

proclaimed country means a country for the time being declared by proclamation under section 2A to be a proclaimed country for the purposes of this Act;

the Treasurer means the Treasurer of the State, or any other Minister of the Crown for the time being acting in that office.

2A—Proclaimed country

The Governor may by proclamation—

- (a) declare a country to be a proclaimed country for the purposes of this Act; or
- (b) amend, vary or revoke any such declaration.

Part 2—Industries Development Committee

3—The Industries Development Committee

- (1) The *Industries Development Committee* is established.

4—Members of Committee

- (1) The Committee is to consist of five members of whom—
 - (a) four are to be members of the Economic and Finance Committee nominated from time to time by that Committee; and
 - (b) one is to be a person nominated from time to time by the Treasurer.
- (2) Of the members nominated by the Economic and Finance Committee, two must be members of the group in the House of Assembly led by the Premier and two must be members of the group in that House led by the Leader of the Opposition.
- (3) A Minister of the Crown cannot be a member of the Committee.

8—Quorum and majority decision

- (1) At any meeting of the Committee three members form a quorum.
- (2) Subject to this Act, every matter coming before the Committee will be decided by a majority of the votes of the members of the Committee present and voting at a meeting of the Committee.
- (2a) The members present at a meeting of the Committee must elect one of their number to preside at the meeting.
- (3) At meetings of the Committee, the member presiding has a deliberative vote only, and in the event of equality of votes on any question, that question must be adjourned to the next meeting of the Committee.
- (4) Notwithstanding subsections (1) and (2), a recommendation that a guarantee be given under this Act is not valid unless at least four members of the Committee concur in it.

9—Vacancies and defects

- (1) No act or proceeding of the Committee is invalid or illegal in consequence only of the number of members of the Committee not being complete at the time of the act or proceeding.
- (2) Every act and proceeding of the Committee is, notwithstanding any defect in the nomination of a member, as valid as if that member had been properly nominated to the Committee.

10—Functions of the Committee

- (1) The functions of the Committee are—
 - (a) to investigate and report upon such matters relating to assistance to industry as are referred to the Committee by the Treasurer; and
 - (b) to perform such other functions and duties as are imposed upon the Committee under this Act.
- (2) The functions of the Committee include the investigation of matters referred to it under or pursuant to any Act and the making of such reports and recommendations on any such matter as the Committee thinks fit.

11—Appointment of officers

- (1) The Governor may appoint a secretary and such other officers to assist the Committee as the Governor thinks fit.

- (2) Every person so appointed will hold office for such period and on such terms and conditions as the Governor determines.
- (3) With the consent of the Minister administering any department of the Public Service of the State the Committee may make use of the services of any officer of that department.

12—Membership does not affect seat in Parliament

The seat of a member of the House of Assembly is not liable to be vacated and the member is not liable to any forfeiture, fine or disability by reason that the member is a member of the Committee.

13—Provisions as to Auditor-General

- (1) If the Auditor-General is appointed a member of the Committee, the Governor will—
 - (a) release the Auditor-General from duties as Auditor-General, for the period of membership; and
 - (b) appoint some other person to act as the Auditor-General's deputy during that period.
- (2) Every person so appointed must make and subscribe before the Executive Council a declaration in the form required by the *Public Finance and Audit Act 1987* and the declaration will be kept among the records of the Executive Council.
- (3) Every such person has, while acting as the Auditor-General's deputy, all the powers and duties of the Auditor-General.

Part 3—Assistance to industries

14—Guarantees to assist the establishment, carrying on or expansion of businesses

- (1) Subject to this section, the Treasurer may, for the purpose of assisting a person to establish, carry on or expand a business in any industry—
 - (a) guarantee the repayment of a loan made or to be made to the person for the purposes of the business or proposed business; or
 - (b) give a guarantee (limited to the payment of a fixed or ascertainable amount) in respect of any other liability that has been or may be incurred by the person in connection with the business or proposed business.
- (2) No such guarantee will be given unless—
 - (a) the Committee has first inquired into the business or proposed business in connection with which the guarantee is to be given; and
 - (b) the Committee has reported to the Treasurer—
 - (i) that in its opinion there is a reasonable prospect that the business or proposed business will be profitable; or
 - (ii) in the case of a business consisting of a sporting, cultural or social activity—that there is a reasonable prospect that the business or proposed business will earn an income sufficient to meet its liabilities and commitments; and

- (c) the Committee has reported to the Treasurer that, in its opinion, the giving of the guarantee will be in the public interest and has recommended that the guarantee be given; and
 - (d) the person on whose behalf the guarantee is to be given has agreed to pay to the Treasurer, as consideration for the guarantee, a commission at an agreed rate, not exceeding two per cent per annum, on the amount in respect of which the guarantee is given, and to comply with any other conditions imposed by the Treasurer on the recommendation of the Committee; and
 - (e) the person on whose behalf the guarantee is to be given has given the Treasurer such security (if any) as the Treasurer requires for the repayment to the Treasurer of any money that the Treasurer becomes liable to pay by virtue of the guarantee; and
 - (f) in the case of a guarantee in respect of a loan—
 - (i) the Treasurer is satisfied that the annual rate of interest payable on the loan makes due allowance for the reduced risk carried by the creditor as a result of the guarantee; and
 - (ii) any stipulations of the Treasurer as to giving the lender security for the loan have been complied with by the person on whose behalf the guarantee is to be given or that person has satisfied the Treasurer that the stipulations will be complied with.
- (2a) The Treasurer may, on the recommendation of the Committee, exempt a person from the obligation to comply with subsection (2)(d) or (e) permanently or for a specified period and subject to limitations, restrictions and conditions recommended by the Committee and approved by the Treasurer.
- (3) A guarantee given under this section in respect of a loan may extend—
- (a) to the payment of interest on the loan guaranteed; and
 - (b) to any expenses incidental to the loan; and
 - (c) to any expenses incurred by the creditor in obtaining or endeavouring to obtain payment of the principal, interest and expenses.

14A—Other guarantees

- (1) Subject to this Act, the Treasurer may guarantee the repayment, on such terms and conditions as the Treasurer thinks fit, of any loan made or to be made to any trustees, representative of employees or proposed employees of any person engaged or about to be engaged in an industry, for the purposes of enabling or assisting those trustees to create a prescribed trust fund to acquire for the benefit of those employees an interest in the business of that person in relation to that industry.
- (2) No guarantee referred to in subsection (1) will be given unless—
 - (a) the Committee has first inquired into the business or proposed business in connection with which the guarantee is to be given and has reported to the Treasurer that it is satisfied that a prescribed trust fund will be created and that there are reasonable prospects that—
 - (i) the business or proposed business will be profitable; and

- (ii) the objects of the trust in relation to which the guarantee is proposed will be achieved; and
 - (iii) the arrangements made by the trustees to repay the loan will be carried out; and
 - (b) the Treasurer is satisfied that the annual rate of interest payable on the loan in relation to which the guarantee is proposed makes due allowance for the reduced risk carried by the creditor as a consequence of the guarantee.
- (3) In this section—
- prescribed trust fund* means a trust fund created under a trust deed that—
- (a) provides that at least one trustee must have had experience in financial matters and be approved by the person engaged or about to be engaged in the relevant business; and
 - (b) provides, subject to paragraph (a), that the trustees are properly representative of the employees who are or may be beneficiaries of the trust fund; and
 - (c) provides that each employee engaged in the relevant business is eligible to be a beneficiary of the trust fund; and
 - (d) prevents use of the trust fund to acquire more than a one-third interest in the relevant business.
- (4) A guarantee under this section may extend—
- (a) to the payment of interest on the loan guaranteed; and
 - (b) to any expenses incidental to the loan; and
 - (c) to any expenses incurred by the creditor in obtaining or endeavouring to obtain payment of the principal, interest and expenses.

16—Conditions as to raising of capital

The Treasurer may, in consideration of the giving of a guarantee under section 14 in respect of a loan, require the principal debtor to agree that—

- (a) the Treasurer, if at any time satisfied that the business in connection with which the guarantee is given is satisfactorily established, may request the principal debtor to take such reasonable steps as the Treasurer directs for raising capital to repay the loan; and
- (b) the principal debtor will take such steps accordingly.

16A—Power of Treasurer to grant direct assistance to industry

The Treasurer may, on the recommendation of the Committee—

- (a) make loans on terms and conditions determined by the Treasurer and approved by the Committee for the purpose of assisting in the establishment or development of any industry in the State; or
- (b) acquire land and equipment and make it available for use in any industry on terms and conditions determined by the Treasurer and approved by the Committee; or

- (c) make non-repayable monetary grants for the purpose of assisting in the establishment or development of any industry in the State.

Part 4—Miscellaneous

17—Application for guarantee

- (1) An application for a guarantee, grant, loan or other assistance under this Act must be made to the Treasurer, and the applicant must furnish the Treasurer, or the Committee, as the case may require, with all information required by the Treasurer or the Committee in relation to the industry or business in respect of which the guarantee, grant, loan or other assistance is required.
- (2) If any person in connection with an application for a guarantee, grant, loan or other assistance wilfully or negligently furnishes to the Treasurer, or the Committee, any false or misleading information, that person is guilty of an offence.

Penalty: \$500.

18—Auditor-General to report

The Auditor-General must, in every annual report, report upon the guarantees, grants, loans and other assistance given or made under this Act.

19—Expert assistance for industries

- (1) The Treasurer may make available to any person engaged, or about to engage, in any industry, the services of accountants, auditors, engineers, or other competent persons.
- (2) The Treasurer may enter into an agreement with any person to whom services are provided under this section as to payment for those services.

20—Powers of Committee as to inquiry

For the purpose of making any inquiry under this Act, the Committee is a commission within the meaning of the *Royal Commissions Act 1917* and that Act applies accordingly, but—

- (a) no witness other than an applicant for a guarantee, grant, loan or other assistance may be compelled to disclose to the Committee directly or indirectly any information as to his or her methods, processes or costs of production or manufacture;
- (b) the evidence of any witness before the Committee must, if the witness so requests, be taken in private.

21—Financial provision

- (1) The Treasurer may pay out of the General Revenue of the State any money required to satisfy a liability under any guarantee given pursuant to this Act, and this Act without any further appropriation is a sufficient authority for any such payment.
- (2) Any other money required for purposes of this Act will be paid out of money provided by Parliament for those purposes.

22—Legal proceedings

- (1) The Treasurer may, in his or her official name, institute and carry on any legal proceedings for any remedy or relief under or by virtue of any guarantee or security given, or any contract made, under this Act.
- (2) The Committee may in its official name institute and carry on any legal proceedings for any remedy or relief under any agreement made by it under this Act.
- (3) Such proceedings will be instituted in the same court and carried on in accordance with the same practice and procedure as if they were proceedings between subjects.

23—Disposal of money recovered in legal proceedings

- (1) All money received or recovered by the Treasurer or the Committee under section 21 or 22 will be paid into the General Revenue of the State.
- (2) Any money that the Treasurer or the Committee becomes liable to pay in or as the result of any legal proceedings taken under section 22 will be paid by the Treasurer out of the General Revenue of the State, and this Act without any further appropriation is sufficient authority for such payment.

23B—Vesting of property, rights and liabilities in the Crown

- (1) All property, rights, powers and liabilities (whether vested or contingent) of the South Australian Development Corporation vested in or attached to the Crown on the commencement of the *Industries Development Act Amendment Act 1981*.
- (2) The property, rights and powers referred to in subsection (1) will be administered or exercisable, on behalf of the Crown, by a Minister nominated by the Governor.
- (3) The Minister nominated under subsection (2) may deal with or dispose of property that vested in the Crown under this section as he or she thinks fit.
- (4) Where an estate or interest in real property vested in the Crown under this section, the Registrar-General must upon the application of the Minister nominated under subsection (2), register that Minister as the proprietor of that estate or interest.

24—Regulations

- (1) The Governor may, on the recommendation of the Treasurer, make regulations—
 - (a) specifically authorising or approving a particular act or thing; or
 - (b) specifically authorising or approving acts or things of a particular kind.
- (2) Where the Treasurer is of the opinion—
 - (a) that a particular act or thing, or acts or things of a particular kind is not, or are not, such as should be considered in determining whether a contravention of a provision of Part IV of the *Trade Practices Act 1974* of the Commonwealth has been committed; and
 - (b) that it is in the public interest that that act or thing, or that acts or things of that kind be authorised or approved,

the Treasurer may recommend the making of a regulation under subsection (1) in relation to the relevant act or thing, or in relation to acts or things of the relevant class.

- (3) The Governor may—
- (a) make such other regulations as may be necessary or expedient for the purposes of this Act; and
 - (b) may, by any such regulation, prescribe a fine (not exceeding \$100) for breach of any regulation.

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.

Repeal of Act

The *Industries Development Act 1941* was repealed by s 65 of the *Statutes Amendment and Repeal (Simplify) Act 2017* on 15.3.2017.

Principal Act and amendments

Year	No	Title	Assent	Commencement
1941	29	<i>Industries Development Act 1941</i>	13.11.1941	13.11.1941
1943	23	<i>Industries Development Act Amendment Act 1943</i>	16.12.1943	16.12.1943
1947	50	<i>Industries Development Act Amendment Act 1947</i>	11.12.1947	11.12.1947
1949	46	<i>Industries Development Act Amendment Act 1949</i>	1.12.1949	1.12.1949
1951	34	<i>Industries Development Act Amendment Act 1951</i>	6.12.1951	6.12.1951
1958	39	<i>Industries Development Act Amendment Act 1958</i>	27.11.1958	27.11.1958
1965	2	<i>Statutes Amendment (Industries Development and Land Settlement Committees) Act 1965</i>	24.6.1965	24.6.1965
1971	21	<i>Industries Development Act Amendment Act 1971</i>	15.4.1971	1.6.1971 (<i>Gazette 13.5.1971 p2428</i>)
1971	65	<i>Industries Development Act Amendment Act (No. 2) 1971</i>	21.10.1971	21.10.1971
1972	90	<i>Industries Development Act Amendment Act 1972</i>	26.10.1972	9.8.1973 (<i>Gazette 9.8.1973 p850</i>)
1974	29	<i>Industries Development Act Amendment Act 1974</i>	11.4.1974	23.1.1975 (<i>Gazette 23.1.1975 p258</i>)
1974	101	<i>Industries Development Act Amendment Act (No. 2) 1974</i>	5.12.1974	5.12.1974
1976	10	<i>Industries Development Act Amendment Act 1975</i>	4.3.1976	4.3.1976
1977	15	<i>Industries Development Act Amendment Act 1977</i>	5.5.1977	5.5.1977

1977	45	<i>Industries Development Act Amendment Act (No. 2) 1977</i>	15.12.1977	4.5.1978 (<i>Gazette 4.5.1978 p1541</i>)
1978	5	<i>Statutes Amendment (Remuneration of Parliamentary Committees) Act 1978</i> repealed by 101/1978	2.3.1978	repealed by 101/1978 without coming into operation
1978	23	<i>Industries Development Act Amendment Act 1978</i>	30.3.1978	4.5.1978 (<i>Gazette 4.5.1978 p1540</i>)
1978	55	<i>Industries Development Act Amendment Act (No. 2) 1978</i>	31.8.1978	31.8.1978
1981	97	<i>Industries Development Act Amendment Act 1981</i>	23.12.1981	1.1.1982 (<i>Gazette 23.12.1981 p2467</i>)
1985	115	<i>Industries Development Act Amendment Act 1985</i>	10.11.1985	10.11.1985
1990	18	<i>Statutes Repeal and Amendment (Remuneration) Act 1990</i>	19.4.1990	19.4.1990 (<i>Gazette 19.4.1990 p1136</i>)
1991	50	<i>Parliamentary Committees Act 1991</i>	21.11.1991	11.2.1992 (<i>Gazette 5.12.1991 p1668</i>)
2003	44	<i>Statute Law Revision Act 2003</i>	23.10.2003	Sch 1—24.11.2003 (<i>Gazette 13.11.2003 p4048</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 5 of The General Public Acts of South Australia 1837-1975 at page 148.
- Certain textual alterations were made to this Act by the Commissioner of Statute Revision when preparing the reprint of the Act that incorporated all amendments in force as at 26 October 1987. A Schedule of these alterations was laid before Parliament on 3 November 1987.

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

Provision	How varied	Commencement
Pt 1	heading inserted by 44/2003 s 3(1) (Sch 1)	24.11.2003
s 2		
<i>the corporation</i>	<i>substituted by 10/1976 s 2</i>	<i>4.3.1976</i>
	<i>amended by 45/1977 s 3(b)</i>	<i>4.5.1978</i>
	<i>deleted by 97/1981 s 3(b)</i>	<i>1.1.1982</i>
the Economic and Finance Committee	inserted by 50/1991 Sch Pt 2	11.2.1992
industry	amended by 45/1977 s 3(a)	4.5.1978
<i>the metropolitan area</i>	<i>deleted in pursuance of the Acts Republication Act 1967 as the expression no longer appears in the Act</i>	<i>26.10.1987</i>
overseas industry	amended by 97/1981 s 3(a)	1.1.1982
Pt 2	heading preceding s 3 deleted and Pt 2 heading inserted by 44/2003 s 3(1) (Sch 1)	24.11.2003
s 3		
s 3(2) and (3)	<i>deleted by 50/1991 Sch Pt 2</i>	<i>11.2.1992</i>
s 4	substituted by 50/1991 Sch Pt 2	11.2.1992

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<i>ss 5—7</i>	<i>deleted by 50/1991 Sch Pt 2</i>	<i>11.2.1992</i>
<i>s 8</i>		
<i>s 8(2a)</i>	<i>inserted by 50/1991 Sch Pt 2</i>	<i>11.2.1992</i>
<i>s 8(3)</i>	<i>amended by 50/1991 Sch Pt 2</i>	<i>11.2.1992</i>
<i>s 8(4)</i>	<i>amended by 97/1981 s 4</i>	<i>1.1.1982</i>
<i>s 9</i>		
<i>s 9(2)</i>	<i>amended by 50/1991 Sch Pt 2</i>	<i>11.2.1992</i>
<i>s 10</i>		
<i>s 10(1)</i>	<i>amended by 45/1977 s 4</i>	<i>4.5.1978</i>
<i>s 12</i>	<i>substituted by 18/1990 s 14</i>	<i>19.4.1990</i>
	<i>substituted by 50/1991 Sch Pt 2</i>	<i>11.2.1992</i>
<i>s 12A</i>	<i>amended by 18/1990 s 15</i>	<i>19.4.1990</i>
	<i>deleted by 50/1991 Sch Pt 2</i>	<i>11.2.1992</i>
Pt 3	<i>heading preceding s 14 deleted and Pt 3 heading inserted by 44/2003 s 3(1) (Sch 1)</i>	<i>24.11.2003</i>
<i>s 14</i>		
<i>s 14(1)</i>	<i>substituted by 115/1985 s 2(a)</i>	<i>10.11.1985</i>
<i>s 14(2)</i>	<i>amended by 115/1985 s 2(b)—(e)</i>	<i>10.11.1985</i>
	<i>(g), proviso and second sentence deleted by 115/1985 s 2(e)</i>	<i>10.11.1985</i>
<i>s 14(2a)</i>	<i>inserted by 115/1985 s 2(f)</i>	<i>10.11.1985</i>
<i>s 14(3)</i>	<i>amended by 115/1985 s 2(g)</i>	<i>10.11.1985</i>
<i>s 14A</i>	<i>inserted by 15/1977 s 2</i>	<i>5.5.1977</i>
<i>s 16</i>	<i>amended by 115/1985 s 3</i>	<i>10.11.1985</i>
<i>heading preceding s 16A</i>	<i>substituted by 10/1976 s 3</i>	<i>4.3.1976</i>
	<i>substituted by 45/1977 s 5</i>	<i>4.5.1978</i>
	<i>deleted by 97/1981 s 5</i>	<i>1.1.1982</i>
<i>s 16A</i>	<i>amended by 10/1976 s 4</i>	<i>4.3.1976</i>
	<i>amended by 45/1977 s 6</i>	<i>4.5.1978</i>
	<i>substituted by 97/1981 s 5</i>	<i>1.1.1982</i>
<i>ss 16B—16D</i>	<i>deleted by 97/1981 s 5</i>	<i>1.1.1982</i>
<i>s 16E</i>	<i>substituted by 23/1978 s 3</i>	<i>4.5.1978</i>
	<i>deleted by 97/1981 s 5</i>	<i>1.1.1982</i>
<i>s 16F</i>	<i>amended by 45/1977 s 7</i>	<i>4.5.1978</i>
	<i>deleted by 97/1981 s 5</i>	<i>1.1.1982</i>
<i>s 16G</i>	<i>amended by 45/1977 s 8</i>	<i>4.5.1978</i>
	<i>deleted by 97/1981 s 5</i>	<i>1.1.1982</i>
<i>s 16H</i>	<i>deleted by 97/1981 s 5</i>	<i>1.1.1982</i>
Pt 4	<i>heading preceding s 17 deleted and Pt 4 heading inserted by 44/2003 s 3(1) (Sch 1)</i>	<i>24.11.2003</i>
<i>s 17</i>		
<i>s 17(1)</i>	<i>amended by 97/1981 s 6(a)</i>	<i>1.1.1982</i>
<i>s 17(2)</i>	<i>amended by 97/1981 s 6(b)</i>	<i>1.1.1982</i>

s 18	s 18 redesignated as s 18(1) by 45/1977 s 9	4.5.1978
	s 18(1) redesignated as s 18 in pursuance of the <i>Acts Republication Act 1967</i>	26.10.1987
s 18(2)	<i>inserted by 45/1977 s 9</i>	4.5.1978
	<i>deleted by 97/1981 s 7</i>	1.1.1982
s 23A	<i>deleted by 44/2003 s 3(1) (Sch 1)</i>	24.11.2003
s 23B	inserted by 97/1981 s 8	1.1.1982
s 24	substituted by 55/1978 s 2	31.8.1978

Historical versions

Reprint—26.10.1987

Reprint No 1—15.8.1991

Reprint No 2—11.2.1992