

South Australia

Libraries Act 1982

An Act to provide for the administration of public libraries and library services in South Australia; and for other purposes.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Libraries Act 1982*.

5—Interpretation

In this Act, unless the contrary intention appears—

the Board means the Libraries Board of South Australia;

council means a municipal or district council and includes a body corporate exercising the powers of a municipal or district council;

library materials means books, magazines, newspapers, records, cassettes, films, videotapes and other materials of a kind commonly lent by, or available for reference at, a library;

the repealed Act means the *Libraries and Institutes Act 1939* repealed by this Act.

Note—

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

6—Crown to be bound by this Act

This Act binds the Crown.

Part 2—Administration of libraries and library services

Division 1—Objectives

7—Objectives

- (1) The objectives to be sought in the administration of this Act are as follows:
 - (a) to achieve and maintain a co-ordinated system of libraries and library services that adequately meets the needs of the whole community;
 - (b) to promote and facilitate the establishment and maintenance of libraries and library services by councils and other appropriate bodies;
 - (c) to promote a co-operative approach to the provision of library services;
 - (d) to ensure that the community has available to it adequate research and information services providing access to library materials and information stored in libraries and other institutions both within and outside the State.
- (2) The library services referred to in subsection (1) include the lending of library materials without direct lending charge.

Division 2—The Libraries Board of South Australia

8—Continuance of the Board

- (1) The Libraries Board of South Australia shall continue in existence.
- (2) The Board shall—
 - (a) be a body corporate with perpetual succession and a common seal; and
 - (b) be capable of suing and being sued; and
 - (c) be capable of holding, acquiring, dealing with and disposing of real and personal property; and
 - (d) be capable of acquiring or incurring any other rights and liabilities; and
 - (e) have the powers, rights, functions and duties conferred or imposed by this Act; and
 - (f) hold its property on behalf of the Crown.
- (3) Where an apparently genuine document purports to bear the common seal of the Board, it shall be presumed in any legal proceedings, in the absence of proof to the contrary, that the common seal of the Board was duly affixed to that document.
- (4) Subject to subsection (5), the Board shall be subject to the control and direction of the Minister.
- (5) No direction may be given under subsection (4)—
 - (a) as to the nature, content or regulation of library collections; or
 - (b) suppressing the dissemination of information; or

- (c) preventing or controlling access by the public to library materials at times when the libraries in which those materials are stored are open to the public; or
- (d) as to the manner in which the Board is to deal with a testamentary or other gift.

9—Membership of the Board

- (1) The Board is to consist of nine members appointed by the Governor of whom—
 - (a) two are members or officers of councils nominated by the Local Government Association of South Australia, one of whom must be a librarian employed in a public library or a community information officer employed by a council; and
 - (b) one is a person with experience in local government (who may, but need not, be a member or officer of a council) nominated by the Local Government Association of South Australia; and
 - (c) six are persons nominated by the Minister, one of whom must have experience in local government (who may, but need not, be a member or officer of a council).
- (2) The Governor may appoint one member of the Board to be the presiding member and another member to be the deputy presiding member of the Board.
- (5) The Governor may appoint a suitable person to be a deputy of a member of the Board.
- (6) In the absence of a member of the Board from the duties of his office, his deputy may act as a member of the Board.

10—Terms and conditions of membership

- (1) Subject to subsection (4), a member of the Board may be appointed for a term not exceeding four years as specified in the instrument of appointment and is eligible for re-appointment at the expiration of a term of appointment.
- (2) The Governor may remove a member of the Board from office on the grounds of—
 - (a) mental or physical incapacity to carry out satisfactorily the duties of his office; or
 - (b) dishonourable conduct; or
 - (c) neglect of duty.
- (3) The office of a member of the Board becomes vacant if—
 - (a) he dies; or
 - (b) his term of office expires; or
 - (c) he resigns by notice in writing addressed to the Minister; or
 - (d) in the case of a member qualifying for appointment to the Board by reason of being a member or officer of a council, the member ceases to be a member or officer of a council; or
 - (e) he is removed from office by the Governor under subsection (2).

- (4) Upon the office of a member of the Board becoming vacant, a person shall be appointed to the vacancy in accordance with this Act, but where the office of a member of the Board becomes vacant before the expiration of the term for which he was appointed, the person appointed in his place shall be appointed only for the balance of that term.

11—Proceedings of the Board

- (1) Five members of the Board shall constitute a quorum of the Board, and no business shall be transacted at a meeting of the Board unless a quorum is present.
- (2) The presiding member of the Board shall preside at all meetings of the Board at which he is present, and in his absence the deputy presiding member shall preside, and in the absence of both the presiding member and the deputy presiding member, the members present at the meeting shall choose one of their number to preside at that meeting.
- (3) A decision carried by a majority of the votes cast by the members present at a meeting shall be a decision of the Board.
- (4) Each member present at a meeting of the Board shall be entitled to one vote on a question arising for decision at that meeting, and, in the event of an equality of votes, the person presiding at the meeting shall have a second or casting vote.
- (5) The Board shall cause accurate minutes to be kept of its proceedings.
- (6) Subject to this Act, the Board may conduct its proceedings in such manner as it thinks fit.

11A—Conflict of interest under Public Sector (Honesty and Accountability) Act

A member of the Board will not be taken to have a direct or indirect interest in a matter for the purposes of the *Public Sector (Honesty and Accountability) Act 1995* by reason only of the fact that the member has an interest in a matter that is shared in common with public librarians generally, or a substantial section of public librarians.

12—Validity of acts of Board

- (1) An act or proceeding of the Board shall not be invalid by reason of a vacancy in its membership or a defect in the appointment of a member.

13—Allowances and expenses

- (1) A member of the Board is entitled to such fees, allowances and expenses as the Governor may, from time to time, determine.
- (2) The office of a member of the Board is not by virtue of this section or of any payments under this section an office of profit from the Crown.

Division 3—Functions of the Board

14—Functions of the Board

The functions of the Board are as follows:

- (a) to formulate policies and guidelines for the provision of public library services; and

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Division 3—Functions of the Board

- (b) to establish, maintain and expand collections of library materials and, in particular, collections of such materials that are of South Australian origin, or have a particular relevance to this State; and
- (c) to administer the State Library; and
- (d) to establish and maintain such other public libraries and public library services as may best conduce to the public interest; and
- (e) to promote, encourage and assist in the establishment, operation and expansion of public libraries and public library services by councils and others; and
- (f) to collaborate with departments and instrumentalities of Government, and with other authorities and bodies, in the provision of library and information services; and
- (g) to make recommendations to the Minister upon the allocation of funds that are available for the purposes of public libraries and public library services; and
- (h) to receive and expend funds for the purposes of this Act; and
- (i) to acquire, deal with and dispose of real and personal property, and to enter into contracts and arrangements, for the purposes of the Board; and
- (k) to initiate and monitor research and experimental projects in relation to public libraries and public library services; and
- (n) to keep library services provided in the State under continuing evaluation and review.

15—Sub-committees

- (1) The Board may, with the consent of the Minister, establish such sub-committees as it thinks fit to assist it in carrying out its functions.
- (2) Any such sub-committee may consist of, or include, persons who are not members of the Board.
- (3) The terms and conditions on which the members of any such sub-committee hold office, and the manner in which the sub-committee conducts its business, shall be as determined by the Board.

16—Delegation

- (1) The Board may, by instrument in writing, delegate any of its powers or functions to a sub-committee established by the Board or to a member of the Board or any other person.
- (2) A delegation under this section is revocable at will, and does not prevent the Board from exercising or discharging a power or function so delegated.

Division 4—Financial provisions

17—Expenditure to be in accordance with approved budget

- (1) Subject to subsection (3), the Board shall not expend moneys except in accordance with a budget approved by the Minister.

- (2) The Board may at any time submit for the approval of the Minister a proposed budget, or a proposed alteration to an approved budget, relating to proposed expenditure by the Board.
- (3) This section does not apply to moneys that arise from a testamentary or other gift.

18—Accounts and audit

- (1) The Board shall cause proper accounts to be kept of its financial affairs.
- (2) The Auditor-General may at any time, and shall at least once in each year, audit the accounts of the Board.

19—Borrowings

- (1) The Board may, with the consent of the Treasurer, borrow moneys for the purposes of this Act.
- (2) The obligations of the Board under any loan contracted under subsection (1) are guaranteed by the Treasurer.
- (3) Any moneys required to be paid in pursuance of a guarantee under subsection (2) shall be paid out of the General Revenue of the State which is appropriated to the necessary extent.

20—Investment

- (1) The Board may, with the consent of the Treasurer, invest any of its moneys that are not immediately required for the purposes of this Act (not being moneys to which subsection (2) applies) in such manner as the Treasurer may approve.
- (2) Moneys of the Board arising from a testamentary or other gift may, subject to the terms of the gift, be invested by the Board as it thinks fit.

Division 5—Subsidies etc

21—Subsidies etc

- (1) The Minister may, on the recommendation of the Board, pay such subsidies, or grant such other assistance, as the Minister thinks fit for the establishment, maintenance and extension of public libraries, public library services and community information services.
- (2) Where charges are made in respect of the lending of library materials from a public library the amount or value of a subsidy or other assistance to be provided under this section in respect of the maintenance of the library and the provision of public library services from the library shall be reduced by the amount of the total estimated revenue to be derived from the making of the charges over the period to which the subsidy or other assistance relates.

Part 4—Miscellaneous

35—Copies of material published in South Australia to be lodged with the Board and Parliamentary Librarian

- (1) The publisher of material published in South Australia to which this section applies shall, within one month after publication, deliver at his own expense a copy of the material—
 - (a) to the Board; and
 - (b) to the Parliamentary Librarian.
- (2) Where material to which this section applies is published in various forms of differing quality, the copies delivered under this section must be of the finest quality.
- (3) If a publisher fails to comply with this section he shall be guilty of an offence.
Penalty: Division 8 fine.
- (4) A receipt shall be issued for material delivered under this section.
- (5) This section applies to—
 - (a) a book, or a part or division of a book; and
 - (b) a newspaper, magazine, journal or pamphlet; and
 - (c) a map, plan, chart or table; and
 - (d) printed music; and
 - (e) a record, cassette, film, video or audio tape, disc or other item made available to the public, designed to store and facilitate the reproduction of visual images, sound or information,

but does not include a second or subsequent edition of any such material that does not differ from a former edition published in South Australia or prescribed material, or material of a prescribed class.

36—Affiliated societies

- (1) The following societies are affiliated with the Board—
 - (a) the Royal Society of South Australia (Incorporated);
 - (b) the Royal Geographical Society of Australasia (South Australian Branch) Incorporated.
- (2) The Board may, with the consent of the Minister, affiliate with any educational, literary or scientific society or body that desires such affiliation upon such terms as are agreed between the Board and the society or body.
- (3) The Board may accord to any body or association or society affiliated with it such rights in relation to use of property of the Board as the Board thinks fit.

37—Vesting of certain property in the Board

A gift or bequest made to or for the benefit of a library administered by the Board or the governing body of such a library or the former Institutes Association of South Australia, or institutes generally which were formerly members of that Association, shall be deemed to be a gift or bequest to the Board and shall be applied by the Board towards the purposes to which the gift or bequest was made.

38—Training of librarians

The Board may provide courses of training as librarian for such persons as it thinks fit.

39—Damage to property of the Board

- (1) A person who, without proper authority to do so, damages, removes or interferes with property of the Board shall be guilty of an offence.
Penalty: Division 7 fine.
- (2) A court by which a person is convicted of an offence under subsection (1) may order the convicted person to pay to the Board such compensation as the court thinks fit.

40—Conditions on which library materials are to be lent etc

- (1) The Board may, by notice published in the Gazette—
 - (a) determine conditions to be observed by persons to whom library materials are lent by the Board;
 - (b) determine conditions upon which persons may have access to library or other materials in the possession of the Board;
 - (c) fix fines, or a scale of fines, to be paid by any person who contravenes or fails to comply with, a condition in force under this section;
 - (d) fix fees to be paid for services rendered by the Board (other than the lending of library materials);
 - (e) vary or revoke a notice previously published under this section.
- (2) A person by whom a fine is payable by virtue of a notice under subsection (1) who refuses or fails to comply forthwith with a demand by the Board for payment of the fine shall be guilty of an offence.
Penalty: Division 10 fine.

41—Proceedings

Proceedings for an offence against this Act shall be disposed of summarily.

42—Annual report

- (1) The Board shall, on or before the thirty-first day of October in each year submit to the Minister a report on its work during the year ending on the preceding thirtieth day of June.
- (2) The report should include copies of the audited accounts of the Board for the period to which the report relates.

- (3) The Minister shall, as soon as practicable after his receipt of the report submitted under subsection (1) cause copies of the report to be laid before both Houses of Parliament.

43—Regulations

- (1) The Governor may, on the recommendation of the Board, make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), those regulations may—
- (a) provide for the conduct of the proceedings of the Board or of any sub-committee of the Board; and
 - (b) provide for the management of libraries and institutions under the administration of the Board; and
 - (c) provide for the admission and exclusion or expulsion of persons from libraries or institutions under the administration of the Board; and
 - (d) regulate, restrict or prohibit the driving or parking of motor vehicles on land vested in, or under the control of, the Board; and
 - (e) prescribe penalties not exceeding a Division 9 fine for contravention of, or non-compliance with, a regulation; and
 - (f) fix expiation fees, not exceeding a division 9 fee, for alleged offences against the regulations.
- (3) In proceedings in respect of an offence against a regulation—
- (a) an allegation in a complaint that a person named in the complaint was the owner of a specified vehicle on a specified day shall be deemed to be proved in the absence of proof to the contrary; and
 - (b) where it is proved that a vehicle was parked on land vested in or under the control of the Board in contravention of a regulation, it shall be presumed, in the absence of proof to the contrary, that the vehicle was so parked by the owner of the vehicle.

Legislative history

Notes

- Amendments of this version that are uncommenced are not incorporated into the text.
- 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 *Libraries Act 1982* repealed the following:

Libraries and Institutes Act 1939

Libraries (Subsidies) Act 1955

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1982	70	<i>Libraries Act 1982</i>	1.7.1982	17.2.1983 (<i>Gazette</i> 17.2.1983 p378)
1984	64	<i>Libraries Act Amendment Act 1984</i>	27.9.1984	27.9.1984
1989	40	<i>Libraries Act Amendment Act 1989</i>	4.5.1989	26.6.1989 (<i>Gazette</i> 22.6.1989 p1684) except ss 3, 4, 10, 13 & 14—28.6.1990 (<i>Gazette</i> 28.6.1990 p1710)
1996	34	<i>Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996</i>	2.5.1996	Sch (cl 22)—3.2.1997 (<i>Gazette</i> 19.12.1996 p1923)
1997	8	<i>State Records Act 1997</i>	20.3.1997	31.10.1997 (<i>Gazette</i> 4.9.1997 p612)
2009	84	<i>Statutes Amendment (Public Sector Consequential Amendments) Act 2009</i>	10.12.2009	Pt 83 (ss 195—198)—1.2.2010 (<i>Gazette</i> 28.1.2010 p320)
2010	19	<i>Statutes Amendment (Arts Agencies Governance and Other Matters) Act 2010</i>	28.10.2010	Pt 7 (ss 48—65) & Sch 1 (Pt 4 & Pt 9 cll 7 & 18)—uncommenced

Provisions amended

New entries appear in bold.

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

Provision	How varied	Commencement
Long title	amended under <i>Legislation Revision and Publication Act 2002</i>	

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Legislative history

Pt 1		
s 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	
s 3	<i>amended by 40/1989 s 3</i>	28.6.1990
	<i>deleted by 8/1997 Sch cl 1(a)</i>	31.10.1997
s 4	<i>omitted under Legislation Revision and Publication Act 2002</i>	
s 5		
<i>the Association</i>	<i>deleted by 40/1989 s 4(a)</i>	28.6.1990
<i>institute</i>	<i>deleted by 40/1989 s 4(b)</i>	28.6.1990
<i>public instrumentality</i>	<i>deleted by 8/1997 Sch cl 1(b)</i>	31.10.1997
<i>public record</i>	<i>deleted by 8/1997 Sch cl 1(b)</i>	31.10.1997
<i>the Standing Committee</i>	<i>deleted by 40/1989 s 4(c)</i>	28.6.1990
Pt 2		
Pt 2 Div 2		
s 9		
s 9(1)	<i>substituted by 40/1989 s 5</i>	26.6.1989
s 9(2)	<i>substituted by 64/1984 s 2</i>	27.9.1984
	<i>substituted by 40/1989 s 5</i>	26.6.1989
s 9(3) and (4)	<i>deleted by 40/1989 s 5</i>	26.6.1989
s 10		
s 10(1)	<i>substituted by 40/1989 s 6(a)</i>	26.6.1989
s 10(3)	<i>amended by 64/1984 s 3</i>	27.9.1984
	<i>amended by 40/1989 s 6(b)</i>	26.6.1989
s 11		
s 11(2)	<i>amended by 40/1989 s 7</i>	26.6.1989
s 11A	<i>inserted by 84/2009 s 195</i>	1.2.2010
s 12		
<i>s 12(2) and (3)</i>	<i>deleted by 84/2009 s 196</i>	1.2.2010
Pt 2 Div 3		
s 14	<i>amended by 40/1989 s 8</i>	26.6.1989
	<i>(l) and (m) deleted by 40/1989 s 8(b)</i>	26.6.1989
	<i>amended by 8/1997 Sch cl 1(c)</i>	31.10.1997
	<i>(j) deleted by 8/1997 Sch cl 1(d)</i>	31.10.1997
Pt 2 Div 5		
s 21		
s 21(1)	<i>substituted by 40/1989 s 9(a)</i>	26.6.1989
s 21(2)	<i>amended by 40/1989 s 9(b)</i>	26.6.1989
Pt 2 Div 6	<i>deleted by 84/2009 s 197</i>	1.2.2010
<i>Pt 2 Div 7</i>	<i>deleted by 40/1989 s 10</i>	28.6.1990
<i>Pt 2 Div 8</i>	<i>deleted by 40/1989 s 10</i>	28.6.1990
<i>Pt 2 Div 9</i>	<i>deleted by 40/1989 s 10</i>	28.6.1990

<i>Pt 3</i>	<i>amended by 40/1989 Sch 2</i>	26.6.1989
	<i>deleted by 8/1997 Sch cl 1(e)</i>	31.10.1997
<i>Pt 4</i>		
s 35		
s 35(3)	amended by 40/1989 Sch 2	26.6.1989
s 35(5)	amended by 40/1989 s 11	26.6.1989
s 36		
s 36(1)	amended by 40/1989 s 12	26.6.1989
	(c) deleted by 40/1989 s 12	26.6.1989
s 37	amended by 40/1989 s 13	28.6.1990
s 38	amended by 84/2009 s 198(1), (2)	1.2.2010
s 39		
s 39(1)	amended by 40/1989 Sch 2	26.6.1989
s 40		
s 40(2)	amended by 40/1989 Sch 2	26.6.1989
s 43		
s 43(2)	amended by 40/1989 Sch 2	26.6.1989
	amended by 34/1996 s 4 (Sch cl 22)	3.2.1997
s 43(4)	<i>deleted by 34/1996 s 4 (Sch cl 22)</i>	3.2.1997
<i>Sch</i>	<i>deleted by 40/1989 s 14</i>	28.6.1990

Transitional etc provisions associated with Act or amendments

Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996

5—Transitional provision

An Act repealed or amended by this Act will continue to apply (as in force immediately prior to the repeal or amendment coming into operation) to an expiation notice issued under the repealed or amended Act.

State Records Act 1997, Sch

4—Transitional provisions

- (1) All official records in the custody of the Libraries Board of South Australia immediately before the commencement of this Act pursuant to Part 3 of the *Libraries Act 1982* will, on the commencement of this Act, be placed in the custody of State Records.
- (2) For the purposes of this Act, the agency responsible for an official record in the custody of State Records will, in the case of a record placed in the custody of State Records under subclause (1), be determined in accordance with section 3(3) as if the agency with corresponding responsibility for the record when in the custody of the Libraries Board immediately before the commencement of this Act had, on the commencement of this Act, delivered the record into the custody of State Records.

- (3) All principles and determinations promulgated by the Libraries Board of South Australia and in operation immediately before the commencement of this Act relating to the disposal of records will continue in operation until the Manager otherwise determines with the approval of the Council.

Historical versions

Reprint No 1—1.10.1991

Reprint No 2—3.2.1997

Reprint No 3—31.10.1997

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.