

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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## Legislative history

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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 section, unless the contrary intention appears—

*authorised officer*—see Part 3;

*Board* means the Libraries Board of South Australia continued under this Act;

*council* has the same meaning as in the *Local Government Act 1999*;

*LGA* means the Local Government Association of South Australia;

*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;

*member* means member of the Board;

*occupy*, in relation to premises, means have, or be entitled to, possession or control of the premises;

*official insignia*—see Part 3A;

*premises of the Board* means premises owned or occupied by the Board;

*promote*, in relation to an event or activity, includes organise, commission, fund, support, market, advertise or act as project manager.

## **Part 2—Objectives of Act**

### **7—Objectives of Act**

- (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 or the payment of a membership fee.

## **Part 2A—Libraries Board of South Australia**

### **Division 1—Continuation of Libraries Board of South Australia**

#### **8—Continuation of Libraries Board of South Australia**

- (1) The Libraries Board of South Australia continues in existence.
- (2) The Board—
  - (a) is a body corporate; and
  - (b) has perpetual succession and a common seal; and
  - (c) can sue and be sued in its corporate name; and
  - (d) is an instrumentality of the Crown and holds property on behalf of the Crown; and
  - (e) has the functions and powers assigned or conferred under this or any other Act.

## **Division 2—Membership, proceedings etc**

### **9—Composition of Board**

- (1) The Board will consist of not more than 8 members appointed by the Governor, of whom—
  - (a) 3 will be persons, nominated by the LGA, who may comprise, in any combination—
    - (i) council members; or
    - (ii) librarians employed in a public library; or
    - (iii) community information officers employed by a council; or
    - (iv) any other officers or employees of a council; or
    - (v) any other persons with experience in local government; and
  - (b) the remainder will be nominated by the Minister.
- (2) At least 2 members must be women and at least 2 must be men.
- (3) The Governor will appoint 1 of the members to be the presiding member.
- (4) The Governor may appoint a suitable person to be a deputy of a member (being a person nominated by the body or person who nominated the member) and the deputy may perform or exercise the functions and powers of the member in the member's absence.

### **10—Conditions of membership**

- (1) A member will be appointed for a term not exceeding 3 years and on conditions determined by the Governor and specified in the instrument of appointment.
- (2) A member will, at the expiration of a term of appointment, be eligible for reappointment (subject to the qualification that a person cannot serve as a member for more than 9 consecutive years).
- (3) A member whose term of office expires may nevertheless continue to act as a member, for a period of up to 3 months, until he or she is reappointed or a successor is appointed (as the case may be).
- (4) The Governor may remove a member from office—
  - (a) for misconduct; or
  - (b) for failure or incapacity to carry out the duties of his or her office satisfactorily; or
  - (c) for contravention of a condition of his or her appointment; or
  - (d) if serious irregularities have occurred in the conduct of the Board's affairs or the Board has failed to carry out its functions satisfactorily and its membership should, in the opinion of the Governor, be reconstituted for that reason.
- (5) The office of a member becomes vacant if the member—
  - (a) dies; or

- (b) completes a term of office and is not reappointed; or
  - (c) resigns by written notice to the Minister; or
  - (d) is convicted of an indictable offence or sentenced to imprisonment for an offence; or
  - (e) ceases to satisfy the qualification by virtue of which the member was eligible for appointment to the Board; or
  - (f) is absent without leave of the presiding member of the Board from 3 consecutive meetings of the Board; or
  - (g) is removed from office under subsection (4).
- (6) On the office of a member becoming vacant, a person may be appointed in accordance with this Division to the vacant office.
- (7) A member is entitled to fees, allowances and expenses determined by the Governor.

## **11—Proceedings**

- (1) A quorum of the Board consists of half of the total number of its members (ignoring any fraction resulting from the division) plus 1.
- (2) In the absence of the presiding member at a meeting of the Board, a member chosen by the members present at the meeting will preside.
- (3) A decision carried by a majority of the votes cast by members at a meeting is a decision of the Board.
- (4) Each member present at a meeting of the Board has 1 vote on any question arising for decision and, if the votes are equal, the member presiding at the meeting may exercise a casting vote.
- (5) A conference by telephone or other electronic means between members will, for the purposes of this section, be taken to be a meeting of the Board at which the participating members are present if—
  - (a) notice of the conference is given to all members in the manner determined by the Board for the purpose; and
  - (b) each participating member is capable of communicating with every other participating member during the conference.
- (6) A proposed resolution of the Board becomes a valid decision of the Board despite the fact that it is not voted on at a meeting of the Board if—
  - (a) notice of the proposed resolution is given to all members in accordance with procedures determined by the Board; and
  - (b) a majority of the members expresses concurrence in the proposed resolution by letter, fax or other written communication setting out the terms of the resolution.
- (7) The Board must meet at least 6 times in each year.
- (8) The Board must have accurate minutes kept of its proceedings.
- (9) Subject to this Act, the Board may determine its own procedures.

- (10) Subject to the directions of the Board and section 13A, this section applies to a committee of the Board in the same way as to the Board.

## **12—Validity of acts**

An act or proceeding of the Board or a committee of the Board is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

## **13—Ministerial control**

- (1) Subject to subsection (2), the Board is subject to the general control and direction of the Minister.
- (2) No Ministerial direction can be given—
- (a) as to the nature or content of—
    - (i) library collections; or
    - (ii) events or activities conducted or promoted by the Board; 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; or
  - (e) as to any advice or recommendation that the Board makes or is required to make to the Minister.

## **Division 2A—Committees and delegation**

### **13A—Committees**

- (1) The Board may establish such committees (including advisory committees or subcommittees) as the Board thinks fit.
- (2) The membership and conditions of membership of a committee will be determined by the Board and may, but need not, consist of, or include, members of the Board.
- (3) The procedures to be observed in relation to the conduct of the business of a committee will be—
- (a) as determined by the Board; and
  - (b) insofar as a procedure is not determined under paragraph (a)—as determined by the committee.

### **13B—Delegation**

- (1) The Board may delegate a function or power of the Board under this Act (other than this power of delegation) to any person or committee or other body (including a person for the time being performing particular duties or holding or acting in a specified position).
- (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 delegator 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.
- (4) A delegate must not act pursuant to the delegation in any matter in which the delegate has a direct or indirect pecuniary or personal interest.  
Maximum penalty: \$10 000 or imprisonment for 2 years.
- (5) It is a defence to a charge of an offence against subsection (4) to prove that the defendant was, at the time of the alleged offence, unaware of his or her interest in the matter.
- (6) In legal proceedings, an apparently genuine certificate, purportedly signed by the Board containing particulars of a delegation under this section, will, in the absence of proof to the contrary, be accepted as proof that the delegation was made in accordance with the particulars.

## **Division 2B—Conflict of interest under Public Sector (Honesty and Accountability) Act**

### **13C—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.

## **Division 2C—Common seal and execution of documents**

### **13D—Common seal and execution of documents**

- (1) The common seal of the Board must not be affixed to a document except in pursuance of a decision of the Board and the fixing of the seal must be attested by the signatures of 2 members of the Board.
- (2) The Board may, by instrument under the common seal of the Board, authorise a person or persons (whether nominated by name or by office or title) to execute documents on behalf of the Board subject to conditions and limitations (if any) specified in the instrument of authority.
- (3) Without limiting subsection (2), the Board may authorise 2 or more persons to execute documents jointly on behalf of the Board.
- (4) A document is duly executed by the Board if—
  - (a) the common seal of the Board is affixed to the document in accordance with this section; or
  - (b) the document is signed on behalf of the Board by a person or persons in accordance with authority conferred under this section.

- (5) If an apparently genuine document purports to bear the common seal of the Board, it will be presumed, in the absence of proof to the contrary, that the common seal of the Board was duly affixed to the document.

## **Division 3—Functions and powers of Board**

### **14—Functions**

The functions of the Board are—

- (a) to formulate policies and guidelines for the provision of public library services; and
- (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 an administrative unit of the Public Service or any other public sector agency (within the meaning of the *Public Sector Act 2009*) and any other authority or body, in the provision of library and information services; and
- (g) to make recommendations to the Minister on the allocation of funds that are available for the purposes of public libraries and public library services; 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; and
- (o) to carry out any other functions assigned to the Board under this or any other Act or by the Minister.

### **15—Powers**

- (1) The Board has, in addition to any other powers conferred on it under this or any other Act, all the powers of a natural person.
- (2) The Board may, for example, do any 1 or more of the following (subject to this Act):
  - (a) engage agents, consultants or other contractors;
  - (b) enter into contracts or agreements with authors, librarians or other persons involved in library services, or employ such persons;
  - (c) enter into other contracts, agreements or arrangements;
  - (d) acquire, hold, take on hire, lend, exchange or dispose of library materials;
  - (e) acquire, hold, deal with or dispose of—



- (i) licences; or
  - (ii) intellectual property (including patents and copyright); or
  - (iii) any other property (whether real or personal); or
  - (iv) any interest in such property;
- (f) provide courses of training for such persons as the Board thinks fit;
  - (g) accept grants or obtain financial sponsorship from any person or body;
  - (h) carry on advertising and promotional activities;
  - (i) conduct events and establish, operate, manage or make available venues and other facilities (including facilities for food and liquor) at the State Library, another public library or any other premises of the Board;
  - (j) regulate and control admission to any venue for any events or activities conducted or promoted by the Board;
  - (k) charge and collect fees for admission to exhibitions, events or activities conducted on special occasions or for special purposes;
  - (l) grant for fee or other consideration advertising or sponsorship rights or other rights, licences or concessions in connection with events or activities conducted or promoted by the Board;
  - (m) publish or produce books, programs, brochures, films, souvenirs and other information or things relating to events or activities conducted or promoted by the Board;
  - (n) sell or supply food and drink (including liquor), books, programs, brochures, films, souvenirs and other things in connection with events or activities conducted or promoted by the Board;
  - (o) grant or dispose of rights to televise, broadcast or record any events or activities conducted or promoted by the Board;
  - (p) restrict, control and make charges for the use of official insignia;
  - (q) take out policies of insurance in its own right or on behalf of the State;
  - (r) participate (whether as a member or otherwise) in, or otherwise be involved in the activities of, national or international organisations or associations involved in library services, or the promotion of library services;
  - (s) give or contribute towards prizes in competitions designed to encourage activities of an educational, historical, cultural or artistic nature within the State or make grants and give other assistance for such purposes;
  - (t) enter into any partnership or joint venture arrangement;
  - (u) form, or acquire, hold, deal with and dispose of shares or other interests in, or securities issued by, bodies corporate, whether within or outside of the State;
  - (v) borrow money and obtain other forms of financial accommodation;
  - (w) act as trustee on behalf of another person in connection with the performance of its functions under this Act.

- (3) However, the Board must not, without the approval of the Treasurer, exercise a power referred to in subsection (2)(u) or (v).
- (4) The Board is not obliged to accept or keep material that is not, in its opinion, of sufficient educational, historical or other interest to justify its collection or preservation under this Act.
- (5) The Board may exercise its powers within or outside of the State.

## **Division 4—Staff**

### **16—Staff**

- (1) The Board's staff consists of Public Service employees assigned to assist the Board.
- (2) The Board may, under an arrangement established by the Minister administering an administrative unit of the Public Service, make use of the services or staff of that administrative unit.

## **Division 5—Financial matters and annual reports**

### **18—Annual budget**

- (1) The Board must, from time to time, prepare and submit to the Minister a budget for the next financial year or for some other period determined by the Minister.
- (2) The budget must set out estimates of the Board's receipts and expenditures for the period to which the budget relates.
- (3) The budget must conform with any requirements of the Minister as to its form and the matters to be addressed by the budget.
- (4) The Minister may approve a budget submitted under this section with or without modification.
- (5) Subject to subsection (6), the Board must not, without the consent of the Minister, make an expenditure that is not provided for by a budget that has been approved by the Minister under this section.
- (6) The Board is not required to have the approval of the Minister with respect to the expenditure of money received by the Board by way of a testamentary or other gift.

### **19—Accounts and audit**

- (1) The Board must cause proper accounting records to be kept in relation to the financial affairs of the Board, and must have annual statements of account prepared in respect of each financial year.
- (2) The accounting records and the statements of account must comply with—
  - (a) any instructions of the Treasurer under section 41 of the *Public Finance and Audit Act 1987*; and
  - (b) any further requirements imposed by the Auditor-General.
- (3) The Auditor-General may at any time audit the accounts of the Board and must audit the annual statements of account.

## 20—Annual report

- (1) The Board must, on or before 30 September in every year, forward to the Minister a report on the work and operations of the Board for the preceding financial year.
- (2) The report must contain the audited statements of account of the Board for the preceding financial year.
- (3) The Minister must, within 12 sitting days after receiving a report under this section, have copies of the report laid before both Houses of Parliament.

## 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 is to 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 3—Authorised officers

### 23—Appointment of authorised officers

- (1) The Minister may appoint persons to be authorised officers for the purposes of this Act.
- (2) Each police officer is an authorised officer for the purposes of this Act.
- (3) An appointment under subsection (1) may be made subject to conditions or limitations specified in the instrument of appointment (and the exercise by an authorised officer of powers conferred under this Act is subject to the conditions and limitations (if any) specified in his or her instrument of appointment).
- (4) An authorised officer other than a police officer must be issued with an identity card—
  - (a) containing the person's name and a photograph of the person; and
  - (b) stating that the person is an authorised officer for the purposes of this Act; and
  - (c) stating any conditions or limitations on the authorised officer's authority.
- (5) An authorised officer must, at the request of a person in relation to whom the authorised officer intends to exercise any powers under this Act, produce for inspection by the person—
  - (a) in the case of an authorised officer appointed under subsection (1)—his or her identity card; and
  - (b) in the case of an authorised officer who is a police officer and is not in uniform—his or her certificate of authority.

- (6) If a person in possession of an identity card issued to the person under this section ceases to be an authorised officer, the person must immediately return the identity card to the Minister.

Maximum penalty: \$250.

## **24—Powers of authorised officers**

- (1) If an authorised officer reasonably suspects that a person, while at a library or other premises of the Board, has committed, is committing or is about to commit an offence against this or any other Act, the authorised officer may do any 1 or more of the following:

- (a) require the person to state his or her full name and usual place of residence;
- (b) if the authorised officer suspects on reasonable grounds that the name or place of residence stated is false—require the person to produce evidence of his or her full name or usual place of residence;
- (c) require the person to leave the library or those premises immediately and not to return for a stated period or not to enter the library or those premises;
- (d) if the person refuses or fails to comply with a requirement under paragraph (c)—use such force as is reasonably necessary for the purpose of removing or excluding the person from the library or those premises;
- (e) cause the person to be detained and handed over into the custody of a police officer as soon as reasonably practicable.

- (2) An authorised officer may also—

- (a) require a person to surrender any object, substance or thing that the authorised officer reasonably suspects has been, is being, or is about to be, used at a library or other premises of the Board in contravention of this Act; and
- (b) give such directions to persons at a library or other premises of the Board that the authorised officer considers necessary for—
  - (i) the maintenance of good order, the prevention of interference with events or other activities, or the safe and efficient regulation of vehicular or pedestrian traffic, at the library or those premises; or
  - (ii) the protection of property under the care or control of the Board; and
- (c) use such force as may reasonably be required—
  - (i) for the purpose of removing or excluding from a library or other premises of the Board a person who refuses or fails to comply with a requirement or direction under this section; or
  - (ii) for the purposes of seizing goods under section 29; and
- (d) exercise any other prescribed power.

- (3) An authorised officer may, in exercising powers under this Act, be accompanied by such assistants as are reasonably required in the circumstances.

- (4) For the purposes of this section, a reference to a *library or other premises of the Board* includes a reference to a part of a library or those premises.

## 25—Hindering etc authorised officers

- (1) A person who—
  - (a) without reasonable excuse hinders or obstructs an authorised officer; or
  - (b) fails to answer a question put by an authorised officer to the best of his or her knowledge, information or belief; or
  - (c) produces a document that he or she knows, or ought to know, is false or misleading in a material particular; or
  - (d) fails without reasonable excuse to comply with a requirement or direction of an authorised officer under this Act; or
  - (e) uses abusive, threatening or insulting language to an authorised officer or a person assisting an authorised officer; or
  - (f) falsely represents, by words or conduct, that he or she is an authorised officer,is guilty of an offence.  
Maximum penalty: \$2 500.
- (2) A person is not obliged to answer a question or to produce a document as required under this Act if to do so might tend to incriminate the person or make the person liable to a penalty.

## Part 3A—Official insignia

### 26—Interpretation

- (1) In this Part—

*official insignia* means—

  - (a) an official title (declared under section 27); or
  - (b) a logo (declared under section 27); or
  - (c) a combination of the above.
- (2) For the purposes of this Part, goods will be taken to be marked with official insignia if the insignia is affixed or annexed to, marked on, or incorporated in or with—
  - (a) the goods; or
  - (b) any covering or container in which the goods are wholly or partly enclosed;  
or
  - (c) anything placed in or attached to any such covering or container; or
  - (d) anything that is attached to the goods or around which the goods are wrapped or wound.

### 27—Official titles and logos

- (1) *State Library of South Australia* is declared to be an official title.
- (2) The Minister may, by notice in the Gazette—
  - (a) declare some other name under which the Board may conduct its operations or part of its operations to be an official title; or

- (b) declare a name or a title of an event or activity conducted or promoted by the Board to be an official title; or
  - (c) declare a logo (being a design, the copyright of which is vested in the Crown in right of the State) to be a logo in respect of the Board or a particular event or activity conducted or promoted by the Board.
- (3) However, the Minister must not make a declaration under subsection (2) in relation to a name or title that is registered or otherwise protected under another Act unless the Minister is acting with the consent or agreement of the person who has the benefit of the registration or protection.
- (4) An official title declared under this section is not required to be registered or otherwise protected under any other Act.
- (5) The Minister may, by notice in the Gazette, vary or revoke a notice under this section.

## **28—Unlawful use of official insignia**

- (1) The Board has a proprietary interest in all official insignia.
- (2) A person must not, without the consent of the Board, in the course of a trade or business—
- (a) use a name in which the Board has a proprietary interest under this section for the purpose of promoting the sale of services or the provision of any benefits; or
  - (b) sell goods marked with official insignia; or
  - (c) use official insignia for the purpose of promoting the sale of goods or services.

Maximum penalty: \$20 000.

- (3) A person must not, without the consent of the Board, assume a name or description that consists of, or includes, official insignia.

Maximum penalty: \$20 000.

- (4) A consent under this section—
- (a) may be given with or without conditions (including conditions requiring payment to the Board); and
  - (b) may be given generally by notice in the Gazette or by notice in writing addressed to an applicant for the consent; and
  - (c) may be revoked by the Board for breach of a condition by notice in writing given personally or by post to a person who has the benefit of the consent.
- (5) The Supreme Court may, on the application of the Board, grant an injunction to restrain a breach of this section.
- (6) The court by which a person is convicted of an offence against this section may, on the application of the Board, order the convicted person to pay compensation of an amount fixed by the court to the Board.
- (7) Subsections (5) and (6) do not derogate from any civil remedy that may be available to the Board apart from those subsections.

## **29—Seizure etc of goods marked with official insignia**

- (1) If—
  - (a) goods apparently intended for a commercial purpose are marked with official insignia; and
  - (b) an authorised officer suspects on reasonable grounds that the use of the insignia has not been authorised by the Board,the authorised officer may seize those goods.
- (2) If goods have been seized under this section and—
  - (a) proceedings are not instituted for an offence against section 28(2) in relation to the goods within 3 months of their seizure; or
  - (b) after proceedings have been instituted and completed, the defendant is not convicted,the person from whom they were seized is entitled to recover—
  - (c) the goods or, if they have been destroyed, compensation equal to the market value of the goods at the time of their seizure; and
  - (d) compensation for any loss suffered by reason of the seizure of the goods.
- (3) An action for the payment of compensation under subsection (2) may be brought against the Board in any court of competent jurisdiction.
- (4) The court by which a person is convicted of an offence against this Act may order that goods to which the offence relates be forfeited to the Crown.
- (5) Any goods forfeited to the Crown must be disposed of in such manner as the Minister may direct and, if sold, the proceeds of the sale paid into the Consolidated Account.

## **Part 4—Miscellaneous**

### **35—Copies of certain material to be lodged with Board and Parliamentary Librarian**

- (1) Subject to this section, if a person or body publishes material to which this section applies, the person or body must, within 1 month after publication, provide a copy of the material to the Board, and a copy to the Parliamentary Librarian, at the person's own expense.  
Maximum penalty: \$2 500.
- (2) A person or body may, by notice in writing to the person or body from the Parliamentary Librarian, be exempted from providing all or a specified part of the material required to be provided to the Parliamentary Librarian under subsection (1).
- (3) If material to which this section applies is published in various forms of differing quality, the copies to be provided under subsection (1) must be of the finest quality (unless provided in electronic form under subsection (4)).  
Maximum penalty: \$2 500.
- (4) A copy of material may only be provided under subsection (1) in electronic form—
  - (a) if it is material or material of a kind prescribed by regulation; or

- (b) in the case of material to be provided to the Board—with the agreement in writing of the Board; or
  - (c) in the case of material to be provided to the Parliamentary Librarian—with the agreement in writing of the Parliamentary Librarian.
- (5) A receipt must be issued for material provided under this section.
- (6) This section applies to material of South Australian origin, or material that has particular relevance to this State, in the form of—
- (a) a book, or a part or division of a book; or
  - (b) a newspaper, magazine, journal or pamphlet; or
  - (c) a map, plan, chart or table; or
  - (d) printed music; or
  - (e) a record, cassette, film, video or audio tape, CD, DVD or other item made available to the public, designed to store and facilitate the reproduction of visual images, sound or information.
- (7) This section does not apply to—
- (a) a second or subsequent edition of material referred to in subsection (6) that does not differ from a former edition; or
  - (b) material or material of a kind prescribed by regulation.

### **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 on 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—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 on 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 under subsection (1) who refuses or fails to comply with a demand by the Board for payment of the fine is guilty of an offence.

Maximum penalty: \$1 250.

### 38—Gifts etc

- (1) The Board may accept—
- (a) grants, conveyances, transfers and leases of land from the Crown, an instrumentality of the Crown or any other person or body; and
  - (b) rights to the use, control, management or occupation of any land; and
  - (c) gifts of personal property of any kind to be used or applied by it for the purposes of this Act.
- (2) A gift or bequest made to or for the benefit or purposes of—
- (a) a library administered by the Board; or
  - (b) the governing body of such a library; or
  - (c) the former Institutes Association of South Australia; or
  - (d) institutes that were formerly members of that Association,
- will be taken to be a gift or bequest to the Board and must be applied by the Board towards the purposes for which the gift or bequest was made.
- (3) Despite the *Stamp Duties Act 1923*, no stamp duty is payable on any instrument by which land or any interest in or right over land is granted or assured to or vested in the Board or on any contract or instrument executed by the Board for the purpose of disposing of any property.

### 39—Ministerial delegation

- (1) The Minister may delegate a function or power of the Minister under this Act (other than this power of delegation) to any person (including a person for the time being performing particular duties or holding or acting in a specified position).
- (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 delegator 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.
- (4) In legal proceedings, an apparently genuine certificate, purportedly signed by the Minister containing particulars of a delegation under this section, will, in the absence of proof to the contrary, be accepted as proof that the delegation was made in accordance with the particulars.

#### **40—Approvals by Treasurer**

- (1) An approval given by the Treasurer under this Act may be—
  - (a) specific or general; and
  - (b) conditional or unconditional.
- (2) An approval given by the Treasurer may be varied or revoked by the Treasurer at any time.

#### **41—Regulations**

- (1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.
- (2) Without limiting the generality of subsection (1), the regulations may—
  - (a) provide for the use, care and protection of objects, works, collections or any other property under the care or control of the Board; and
  - (b) provide for the admission, exclusion or expulsion of members of the public to or from a library or other premises of the Board or a part of a library or those premises; and
  - (c) prohibit disorderly or offensive behaviour at a library or other premises of the Board; and
  - (d) prohibit the use of computers at a library for the purposes of accessing or transmitting defamatory, obscene or other offensive material;
  - (e) prohibit or regulate eating, drinking (including liquor), smoking or the consumption of unlawful substances at a library or other premises of the Board or a part of a library or those premises; and
  - (f) prohibit or regulate any other conduct or activities for the purposes of—
    - (i) maintaining good order, and preventing interference with events or activities conducted, at a library or other premises of the Board; and
    - (ii) protecting property under the care or control of the Board; and
  - (g) prohibit or regulate the driving, parking or standing of vehicles on premises of the Board; and
  - (h) prescribe fees for the parking of vehicles on premises of the Board and provide for their payment and recovery; and
  - (i) provide that the owner and driver of a vehicle driven, parked or left standing in contravention of the regulations are each guilty of an offence and provide or exclude defences in relation to any such offence; and
  - (j) provide for the management (including disposal) by, and vesting in, the Board of unclaimed property; and
  - (k) provide for the approval by the Board or an authorised officer of any act or activity that would otherwise be prohibited under the regulations; and
  - (l) prescribe penalties not exceeding \$1 250 for breach of any regulation.

- (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, the Board or another prescribed person or authority.
- (4) In proceedings for an offence against a regulation dealing with the driving, parking or standing of vehicles—
- (a) an allegation in a complaint that a person named in the complaint was the owner of a specified vehicle on a specified day will be taken to be proved in the absence of proof to the contrary; and
  - (b) if it is proved that a vehicle was parked in contravention of a regulation, it will 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

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### 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 17.2.1983 p378</i> )
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 22.6.1989 p1684</i> ) except ss 3, 4, 10, 13 & 14—28.6.1990 ( <i>Gazette 28.6.1990 p1710</i> )
1996	34	<i>Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996</i>	2.5.1996	Sch (cl 22)—3.2.1997 ( <i>Gazette 19.12.1996 p1923</i> )
1997	8	<i>State Records Act 1997</i>	20.3.1997	31.10.1997 ( <i>Gazette 4.9.1997 p612</i> )
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 28.1.2010 p320</i> )
<b>2010</b>	<b>19</b>	<b><i>Statutes Amendment (Arts Agencies Governance and Other Matters) Act 2010</i></b>	<b>28.10.2010</b>	<b>Pt 7 (ss 48—65) &amp; Sch 1 (Pt 4 &amp; Pt 9 cl 7 &amp; 18)—12.5.2011 (<i>Gazette 12.5.2011 p1460</i>)</b>

### 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>	
Pt 1		
<i>s 2</i>	<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>	
<i>s 5 before substitution by 19/2010</i>		
<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
<b>s 5</b>	<b>substituted by 19/2010 s 48</b>	<b>12.5.2011</b>
<b>s 6</b>	<b>deleted by 19/2010 Sch 1 Pt 4</b>	<b>12.5.2011</b>
Pt 2		
<b>heading</b>	<b>substituted by 19/2010 s 49</b>	<b>12.5.2011</b>
<b>Div 1 heading</b>	<b>deleted by 19/2010 s 50</b>	<b>12.5.2011</b>
s 7		
s 7(2)	<b>amended by 19/2010 s 51</b>	<b>12.5.2011</b>
<b>Div 2 heading</b>	<b>deleted by 19/2010 s 52</b>	<b>12.5.2011</b>
Pt 2A		
<b>heading</b>	<b>inserted by 19/2010 s 52</b>	<b>12.5.2011</b>
Pt 2A Div 1		
<b>heading</b>	<b>inserted by 19/2010 s 52</b>	<b>12.5.2011</b>
s 8		
s 8(1)	<b>amended by 19/2010 s 53(1)</b>	<b>12.5.2011</b>
s 8(2)	<b>substituted by 19/2010 s 53(2)</b>	<b>12.5.2011</b>
s 8(3)—(5)	<b>deleted by 19/2010 s 53(2)</b>	<b>12.5.2011</b>
<i>s 9 before deletion by 19/2010</i>		
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
<b>s 9</b>	<b>deleted by 19/2010 s 54</b>	<b>12.5.2011</b>
<i>s 10 before deletion by 19/2010</i>		
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
<b>s 10</b>	<b>deleted by 19/2010 s 54</b>	<b>12.5.2011</b>
<i>s 11 before deletion by 19/2010</i>		
s 11(2)	<i>amended by 40/1989 s 7</i>	26.6.1989

<i>s 11</i>	<i>deleted by 19/2010 s 54</i>	<i>12.5.2011</i>
<i>s 11A before deletion by 19/2010</i>	<i>inserted by 84/2009 s 195</i>	<i>1.2.2010</i>
<i>s 11A</i>	<i>deleted by 19/2010 s 54</i>	<i>12.5.2011</i>
<i>s 12 before deletion by 19/2010</i>		
<i>s 12(2) and (3)</i>	<i>deleted by 84/2009 s 196</i>	<i>1.2.2010</i>
<i>s 12</i>	<i>deleted by 19/2010 s 54</i>	<i>12.5.2011</i>
<i>s 13</i>	<i>deleted by 19/2010 s 54</i>	<i>12.5.2011</i>
<b>Pt 2A Div 2</b>	<b>inserted by 19/2010 s 54</b>	<b>12.5.2011</b>
<b>Pt 2A Div 2A</b>	<b>inserted by 19/2010 s 54</b>	<b>12.5.2011</b>
<b>Pt 2A Div 2B</b>	<b>inserted by 19/2010 s 54</b>	<b>12.5.2011</b>
<b>Pt 2A Div 2C</b>	<b>inserted by 19/2010 s 54</b>	<b>12.5.2011</b>
Pt 2A Div 3		
<b>heading</b>	<b>Pt 2 Div 3 heading substituted as Pt 2A Div 3 heading by 19/2010 s 55</b>	<b>12.5.2011</b>
<i>s 14</i>	<i>amended by 40/1989 s 8</i>	<i>26.6.1989</i>
	<i>(l) and (m) deleted by 40/1989 s 8(b)</i>	<i>26.6.1989</i>
	<i>amended by 8/1997 Sch cl 1(c)</i>	<i>31.10.1997</i>
	<i>(j) deleted by 8/1997 Sch cl 1(d)</i>	<i>31.10.1997</i>
	<b>amended by 19/2010 s 56(1)—(3), (5)</b>	<b>12.5.2011</b>
	<b>(h) and (i) deleted by 19/2010 s 56(4)</b>	<b>12.5.2011</b>
<i>s 15</i>	<b>substituted by 19/2010 s 57</b>	<b>12.5.2011</b>
<i>s 16</i>	<i>deleted by 19/2010 s 57</i>	<i>12.5.2011</i>
<b>Pt 2 Div 4 heading</b>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>12.5.2011</i>
<i>ss 17—20</i>	<i>deleted by 19/2010 s 57</i>	<i>12.5.2011</i>
<b>Pt 2A Div 4</b>	<b>inserted by 19/2010 s 57</b>	<b>12.5.2011</b>
Pt 2A Div 5		
<b>heading</b>	<b>Pt 2 Div 5 heading substituted as Pt 2A Div 5 heading by 19/2010 s 58</b>	<b>12.5.2011</b>
<b>ss 18—20</b>	<b>inserted by 19/2010 s 59</b>	<b>12.5.2011</b>
<i>s 21</i>		
<i>s 21(1)</i>	<i>substituted by 40/1989 s 9(a)</i>	<i>26.6.1989</i>
<i>s 21(2)</i>	<i>amended by 40/1989 s 9(b)</i>	<i>26.6.1989</i>
	<b>amended by 19/2010 Sch 1 Pt 4</b>	<b>12.5.2011</b>
<i>Pt 2 Div 6</i>	<i>deleted by 84/2009 s 197</i>	<i>1.2.2010</i>
<i>Pt 2 Div 7</i>	<i>deleted by 40/1989 s 10</i>	<i>28.6.1990</i>
<i>Pt 2 Div 8</i>	<i>deleted by 40/1989 s 10</i>	<i>28.6.1990</i>
<i>Pt 2 Div 9</i>	<i>deleted by 40/1989 s 10</i>	<i>28.6.1990</i>
<i>Pt 3</i>	<i>amended by 40/1989 Sch 2</i>	<i>26.6.1989</i>
	<i>deleted by 8/1997 Sch cl 1(e)</i>	<i>31.10.1997</i>
<b>Pt 3</b>	<b>inserted by 19/2010 s 60</b>	<b>12.5.2011</b>
<b>Pt 3A</b>	<b>inserted by 19/2010 s 60</b>	<b>12.5.2011</b>

Pt 4

<i>s 35 before substitution by 19/2010 s 61</i>		
<i>s 35(3)</i>	<i>amended by 40/1989 Sch 2</i>	26.6.1989
<i>s 35(5)</i>	<i>amended by 40/1989 s 11</i>	26.6.1989
<b>s 35</b>	<b>substituted by 19/2010 s 61</b>	<b>12.5.2011</b>
<i>s 36</i>		
<i>s 36(1)</i>	<i>amended by 40/1989 s 12</i>	26.6.1989
	<i>(c) deleted by 40/1989 s 12</i>	26.6.1989
<b>s 36(2)</b>	<b>amended by 19/2010 Sch 1 Pt 4</b>	<b>12.5.2011</b>
<i>s 37</i>		
	<i>amended by 40/1989 s 13</i>	28.6.1990
	<i>deleted by 19/2010 s 62</i>	12.5.2011
<b>s 37</b>	<b>s 40 redesignated as s 37 by 19/2010 s 63(3)</b>	<b>12.5.2011</b>
<i>s 37</i>		
<b>s 37(1)</b>	<b>s 40(1) amended by 19/2010 s 63(1)</b>	<b>12.5.2011</b>
<i>s 37(2)</i>	<i>s 40(2) amended by 40/1989 Sch 2</i>	26.6.1989
	<b>s 40(2) substituted by 19/2010 s 63(2)</b>	<b>12.5.2011</b>
<i>s 38</i>		
	<i>amended by 84/2009 s 198(1), (2)</i>	1.2.2010
	<b>deleted by 19/2010 s 62</b>	<b>12.5.2011</b>
	<b>inserted by 19/2010 s 64</b>	<b>12.5.2011</b>
<i>s 39 before deletion by 19/2010 s 62</i>		
<i>s 39(1)</i>	<i>amended by 40/1989 Sch 2</i>	26.6.1989
<b>s 39</b>	<b>deleted by 19/2010 s 62</b>	<b>12.5.2011</b>
	<b>inserted by 19/2010 s 65</b>	<b>12.5.2011</b>
<b>s 40</b>	<b>inserted by 19/2010 s 65</b>	<b>12.5.2011</b>
<b>s 41</b>	<b>substituted by 19/2010 s 65</b>	<b>12.5.2011</b>
<i>s 42</i>	<i>deleted by 19/2010 s 65</i>	12.5.2011
<i>s 43 before deletion by 19/2010</i>		
<i>s 43(2)</i>	<i>amended by 40/1989 Sch 2</i>	26.6.1989
	<i>amended by 34/1996 s 4 (Sch cl 22)</i>	3.2.1997
<i>s 43(4)</i>	<i>deleted by 34/1996 s 4 (Sch cl 22)</i>	3.2.1997
<b>s 43</b>	<b>deleted by 19/2010 s 65</b>	<b>12.5.2011</b>
<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.

## *Statutes Amendment (Arts Agencies Governance and Other Matters) Act 2010, Sch 1 Pt 9—Transitional provisions*

### **7—Membership of Libraries Board of South Australia**

- (1) In this clause—  
*principal Act* means the *Libraries Act 1982*.
- (2) A member of the Libraries Board of South Australia (within the meaning of the principal Act) holding office immediately before the commencement of this clause, will, on that commencement, continue in office—
  - (a) for the balance of that term of office; and
  - (b) on such other conditions as if the principal Act as amended by Part 7 of this Act had been in force when he or she was appointed or last re-appointed a member of the Board and that appointment had been made under the principal Act as so amended.
- (3) A member continues in office by virtue of subclause (2) despite the fact that, for some or all of the duration of the balance of that term of office—
  - (a) 1 or more provisions of section 9 of the principal Act as amended by Part 7 of this Act (relating to the composition of the Board) may not be complied with; and
  - (b) section 10(1) of the principal Act as amended by Part 7 of this Act (prohibiting a person from being appointed for a term exceeding 3 years) may not be complied with; and
  - (c) section 10(2) of the principal Act as amended by Part 7 of this Act (prohibiting a person from serving as a member for more than 9 consecutive years) may not be complied with,and, in that case, those provisions will not apply for that duration.



## **18—Authorised persons under *Libraries Regulations 1998***

A person appointed and holding office as an authorised person under the *Libraries Regulations 1998* immediately before the commencement of this Division will be taken to be an authorised officer appointed under Part 3 of the *Libraries Act 1982* as inserted by Part 7 of this Act and subject to the same conditions and limitations (if any).

### **Historical versions**

Reprint No 1—1.10.1991

Reprint No 2—3.2.1997

Reprint No 3—31.10.1997

1.2.2010