

South Australia

## Unauthorised Documents Act 1916

An Act to prohibit the printing, publication, sale, or use of documents pretended to be official, and for purposes incidental thereto.

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### Legislative history

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### The Parliament of South Australia enacts as follows:

#### 1—Short title

This Act may be cited as the *Unauthorised Documents Act 1916*.

#### 2—Interpretation

In this Act the term—

*document* includes—

- (a) any legal notice, statement of claim, demand, or process; and
- (b) any document used in enforcing a distress for rent or other extrajudicial remedy; and
- (c) any copy of any document.

### 3—Improper use of Royal Arms etc an offence

Every person who, directly or indirectly, without the previous written authority of the King or a member of the Royal Family, or of the person for the time being in charge of any department of the Government of the United Kingdom of Great Britain and Ireland, or of the Governor-General or Governor or other the person administering the Government of any part of the King's dominions (exclusive of the United Kingdom), or of the person for the time being in charge of any department of the Government of any such part of the King's dominions, or without the authority of an Act of Parliament in force in the said State—

- (a) prints or publishes, or causes to be printed or published, or
- (b) sends or delivers to or serves on, or causes to be sent or delivered to or served on, any person,

any written or printed matter whatsoever in or upon which the Royal Arms or the Arms of any part of the King's dominions, or any token or insignia so nearly resembling the Royal Arms or the Arms of any part of the King's dominions as to be capable of being readily mistaken for the same, appear in such a manner as, in the opinion of the special magistrate or justices hearing the case, to be likely to lead other persons to believe that permission has been duly given to use such Arms in or upon such written or printed matter, or that such use of such Arms has official significance, shall be guilty of an offence against this Act.

### 3A—State Badge and other emblems of the State

- (1) Any person who, without the permission of the Minister—

- (a) prints, publishes or manufactures; or
- (b) causes to be printed, published or manufactured,

any document, material or object incorporating, depicting or in the form of, a prescribed emblem—

- (c) for any commercial purpose; and
- (d) in such a manner as to suggest that the document, material or object has official significance,

shall be guilty of an offence.

- (2) In this section—

*prescribed emblem* means an emblem declared by regulation to be—

- (a) a State Badge; or
- (b) an official emblem of the State,

and includes any other emblem that is so similar to an emblem so declared that it could readily be mistaken for such an emblem.

- (3) The Governor may, by regulation, declare any emblem described, depicted or referred to in the regulation to be—

- (a) a State Badge; or
- (b) an official emblem of the State.

- (4) This section shall not prevent or derogate from the continued use of the Royal Arms in accordance with any law or any established custom or usage.

### **3B—Use of State commercial emblems**

- (1) A person who, except in accordance with the permission of the Minister—
- (a) prints or publishes, or causes to be printed or published, a State commercial emblem; or
  - (b) manufactures or supplies, or causes to be manufactured or supplied, material or an object incorporating or depicting, or in the form of, a State commercial emblem; or
  - (c) in any other way uses, or causes to be used, a State commercial emblem,
- for any commercial purpose, or in a manner suggesting that official approval has been granted for use of the emblem or that official significance attaches to its use, is guilty of an offence.
- (2) Permission under subsection (1) may be granted unconditionally or on conditions, including a condition requiring payment of a fee, of such amount as the Minister thinks fit, for use of a State commercial emblem.
- (3) The Minister may, by notice in writing, vary or revoke a permission under subsection (1).
- (4) The Minister is entitled to either or both of the following remedies in the event of a person contravening this section:
- (a) compensation for any loss arising out of the contravention;
  - (b) an injunction restraining the person from committing any further such contravention.
- (5) The Minister may recover compensation from a person under subsection (4)(a) on application to the court that convicts the person, or by action in a court of competent jurisdiction.
- (6) A member of the police force may seize and retain goods that the member suspects on reasonable grounds have been, are being or are intended to be supplied in contravention of this section.
- (7) Where—
- (a) goods are seized from a person under subsection (6); but
  - (b) —
    - (i) proceedings for an offence against this section in relation to the goods are not instituted within three months after their seizure; or
    - (ii) proceedings for such an offence are instituted within that period but the defendant is not convicted of the offence,
- the person from whom the goods were seized may, by action in a court of competent jurisdiction, recover from the Minister—
- (c) the goods, or if they have been destroyed or deteriorated, 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.
- (8) Where—
- (a) goods are seized from a person under subsection (6); and
  - (b) proceedings for an offence against this section in relation to the goods are instituted within three months after their seizure,
- the court may, if it convicts the defendant of the offence, order that the goods be forfeited to the Crown and, in that event, the goods may be disposed of in such manner as the Minister directs.
- (9) Where goods are sold by the Minister, the proceeds must be paid into the Consolidated Account of the State.
- (10) In this section—
- State commercial emblem* means an emblem declared by regulation to be a State commercial emblem, and includes any other emblem that is so similar to an emblem so declared that it could readily be mistaken for such an emblem.
- (11) The Governor may, by regulation, declare any emblem described, depicted or referred to in the regulation, being an emblem the copyright of which is vested in the Crown in right of the State, to be a State commercial emblem.
- (12) This section does not derogate from any right or power to institute civil or criminal proceedings in respect of an act or omission referred to in this section.

#### **4—Persons printing, publishing, selling, or using pretended official document guilty of an offence**

Every person who unlawfully prints, publishes, or sells, or offers or exhibits for sale, or sends or delivers to or serves on any other person, or causes to be printed, published, or sold, or offered or exhibited for sale, or sent or delivered to or served on any other person—

- (a) any written or printed matter so nearly resembling a document published or issued out of or by or under the authority or with the sanction of a court of law, as, in the opinion of the special magistrate or justices hearing the case, is intended to convey, and is reasonably capable of conveying, the impression that such paper or writing is such document; or
- (b) any written or printed matter which, in the opinion of the special magistrate or justices hearing the case, is intended to convey, and is reasonably capable of conveying, the impression that such paper or writing is issued by or under the authority or with the sanction of a court of law,

shall be guilty of an offence against this Act.

#### **5—No proceedings without consent of Attorney-General**

No proceedings for an offence against this Act shall be taken by any person whomsoever without the written consent of the Attorney-General of the State.

## **6—Other proceedings not affected**

Nothing in this Act shall be held to affect any provision of any other Act, or any law or custom, by virtue of which any remedy, civil or criminal, might have been availed of before the passing of this Act in respect of any act or omission which is an offence against this Act.

## **7—Onus of proof of certain facts**

- (1) In any proceeding for an offence against section 3 the onus of proving that the written authority referred to in that section has been duly given shall be on the defendant.
- (2) In any proceedings for an offence against this Act, the fact that the defendant's name appears on any written or printed matter with respect to which such offence is alleged to have been committed as the apparent printer, publisher, seller, or sender thereof shall be *prima facie* evidence that such matter was printed, published, sold, or sent (as the case may be) by the defendant.

## **8—Penalty**

Every person guilty of an offence against this Act shall be liable to a penalty not exceeding five hundred dollars, or to be imprisoned for any period not exceeding six months.

## **9—Summary proceedings for offences**

All proceedings in respect of offences against this Act shall be disposed of summarily.

## **10—Appeal**

There shall be an appeal in respect of proceedings in respect of offences against this Act.

## **11—Special case**

In the event of an appeal in respect of proceedings in respect of offences against this Act, a special case may be stated.

## Legislative history

### Notes

- Amendments of this version that are uncommenced are not incorporated into the text.
- 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).

### Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1916	1242	<i>Unauthorised Documents Act 1916</i>	5.10.1916	5.10.1916
1979	32	<i>Unauthorised Documents Act Amendment Act 1979</i>	15.3.1979	15.3.1979
1988	65	<i>Unauthorised Documents Act Amendment Act 1988</i>	27.10.1988	22.12.1988 ( <i>Gazette</i> 22.12.1988 p2097)
2006	17	<i>Statutes Amendment (New Rules of Civil Procedure) Act 2006</i>	6.7.2006	Pt 77 (s 252)—4.9.2006 ( <i>Gazette</i> 17.8.2006 p2831)

### Provisions amended since 3 February 1976

New entries appear in bold.

Provision	How varied	Commencement
s 3A	inserted by 32/1979 s 2	15.3.1979
s 3B	inserted by 65/1988 s 3	22.12.1988
s 8	amended by 32/1979 s 3	15.3.1979