

South Australia

Supreme Court (Vexatious Litigants) Amendment Bill 2026

A BILL FOR

An Act to amend the *Supreme Court Act 1935* and to make related amendments to the *Judicial Conduct Commissioner Act 2015* and the *Legal Practitioners Act 1981*.

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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 *Supreme Court (Vexatious Litigants) Amendment Act 2026*.

2—Commencement

This Act comes into operation on a day to be fixed by proclamation.

Part 2—Amendment of *Supreme Court Act 1935*

3—Insertion of Part 2 Division 2A

Part 2—after Division 2 insert:

Division 2A—Vexatious litigant orders

28A—Interpretation

In this Division—

proceedings includes—

- (a) any cause, matter, action, suit, proceeding, trial, complaint or inquiry of any kind within the jurisdiction of any court or tribunal; and
- (b) any proceeding, including any interlocutory proceeding, taken in connection with or incidental to a proceeding pending before a court or tribunal; and
- (c) any calling into question of a decision, whether or not a final decision, of a court or tribunal, whether by appeal, challenge, review or in another way;

vexatious litigant order means an order made under section 28B(2) or 28C(1);

vexatious proceedings means proceedings—

- (a) that are an abuse of the process of a court or a tribunal; or
- (b) that are instituted or conducted to harass or annoy, to cause delay or detriment, or for another ulterior purpose; or
- (c) that are instituted or pursued without reasonable ground; or
- (d) that are conducted to achieve a wrongful purpose, or in a way that harasses, or causes unreasonable annoyance, delay or detriment, regardless of the subjective intention of the person who instituted the proceedings.

28B—Vexatious litigant orders

- (1) This section applies to a person if the court is satisfied that the person—

- (a) has frequently instituted or conducted vexatious proceedings; or
- (b) has, acting in concert with a person who is subject to a vexatious litigant order or is the subject of proceedings for the making of a vexatious litigant order under this section, instituted or conducted a vexatious proceeding in Australia.

- (2) The court may make 1 or more of the following orders in relation to a person to whom this section applies:
- (a) an order prohibiting the person from instituting further proceedings, or further proceedings of a particular class, without permission of the court;
 - (b) an order staying proceedings already instituted by the person;
 - (c) an order prohibiting the person from contacting staff of any court or tribunal, other than a registrar;
 - (d) an order directing that the person may only file documents in a certain manner (for example, by mail);
 - (e) an order to give security for costs;
 - (f) an order for costs;
 - (g) any other orders the court considers appropriate in the circumstances.
- (3) In making an order under this section, the court may have regard to proceedings regardless of whether they were instituted or conducted before or after the commencement of the *Supreme Court (Vexatious Litigants) Amendment Act 2026*.
- (4) In addition to an order under subsection (2), the court may, as part of proceedings under this Division, make an order under the *Intervention Orders (Prevention of Abuse) Act 2009* for the protection of any person against whom it is reasonable to suspect the person the subject of the proceedings may commit an act of abuse within the meaning of that Act.
- (5) An order under this section may be made—
- (a) on the application of the Attorney-General or any other interested person; or
 - (b) on referral by a State court or tribunal, or registrar of a State court or tribunal, where it appears that there may be proper grounds for the making of a vexatious litigant order; or
 - (c) on the court's own motion.
- (6) An order under this section remains in force (subject to variation by the court)—
- (a) if a period for the operation of the order is fixed—until the expiration of that period or the revocation of the order (whichever occurs first); or
 - (b) if no such period is fixed—until revocation of the order.

(7) For the purposes of subsection (1)(a), a person will be taken to have frequently instituted or conducted vexatious proceedings if any other Australian court or tribunal has previously made an order against the person—

- (a) declaring the person to be a vexatious litigant; or
- (b) preventing the person, without the permission of a court, from instituting or continuing proceedings, or proceedings of a particular class, in a court or tribunal.

(8) For the purposes of subsection (1)(b), a person (the ***first person***) has acted in concert with another person if the first person has—

- (a) acted on behalf of the other person; or
- (b) acted for the predominant benefit of the other person; or
- (c) acted on the instructions of the other person; or
- (d) acted in collusion with the other person,

unless the first person is—

- (e) a legal practitioner acting for the person; or
- (f) a guardian, as defined in the *Guardianship and Administration Act 1993*, of the relevant adult; or
- (g) any other person authorised or required by law to act on behalf of the person.

28C—Interim vexatious litigant orders

(1) The court may, before finalising proceedings for an order under section 28B, make an order—

- (a) to stay any other proceedings the respondent has brought in any court or tribunal of the State; or
- (b) to prohibit the filing of any documents in any extant proceedings (other than the proceedings for the vexatious litigant order); or
- (c) to prohibit the respondent from instituting or conducting any new proceedings pending the final determination of the proceedings for the vexatious litigant order.

(2) An order under this section remains in force (subject to variation by the court) until—

- (a) proceedings under section 28B are finalised; or
- (b) the order is revoked,

whichever occurs first.

28D—Permission to institute or conduct fresh proceedings

- (1) An application for permission to institute proceedings by a person subject to a vexatious litigant order must be made in accordance with the following:

- (a) the question of permission should be considered at first instance by the court on the papers without the need for any other party to make submissions;
- (b) if, and only if, the court forms a view that there is a reasonable basis for permission to be granted, the court must then invite submissions from any other relevant parties;
- (c) a judgment dismissing an application for permission is not subject to an appeal.

- (2) In this section—

relevant parties means each of the following people:

- (a) the person against or in relation to whom the applicant proposes to institute the proceedings;
- (b) the Attorney-General;
- (c) if the vexatious litigant order was made on the application of an interested person under section 28B(5)(a) and the court considers it appropriate that the person be invited to make submissions—that person;
- (d) if the vexatious litigant order was made subsequent to a referral under section 28B(5)(b)—the registrar (however described) of the court or tribunal which made the referral.

28E—Register of vexatious litigant orders

- (1) The registrar must maintain and publish on a website determined by the registrar a register containing a copy of—

- (a) each vexatious litigant order; and
- (b) any order of the court varying a vexatious litigant order.

- (2) The court may choose not to publish, or to remove, a copy of an order required to be published in accordance with subsection (1) in its absolute discretion.
- (3) A failure to comply with subsection (1) in relation to a vexatious litigant order does not affect the validity or enforceability of the order.

28F—Division does not limit court's inherent powers regarding vexatious litigants

Nothing in this Division limits or derogates from the court's inherent power to deal with vexatious litigants.

4—Repeal of section 39

Section 39—delete the section

Schedule 1—Related amendments and transitional provision

Part 1—Amendment of *Judicial Conduct Commissioner Act 2015*

1—Amendment of section 12—Making of complaints

Section 12(2)—delete "section 39" and substitute:

Part 2 Division 2A

Part 2—Amendment of *Legal Practitioners Act 1981*

2—Amendment of section 77B—Investigations by Commissioner

Section 77B(3b)—delete "section 39" and substitute:

Part 2 Division 2A

Part 3—Transitional provision

3—Transitional provision

(1) An order made under section 39 of the principal Act prior to the commencement of section 4 of this Act continues in force as if it were an order under section 28B(2) of the principal Act (as inserted by this Act), subject to its terms.

(2) An order continued in force under subclause (1) must be published on the register under section 28E of the principal Act (as inserted by this Act) as soon as practicable after the commencement of this Schedule.

(3) In this clause—

principal Act means the *Supreme Court Act 1935*.