

(Reprint No. 1)

SOUTH AUSTRALIA

DEBTORS ACT, 1936

This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at 6 July 1992.

It should be noted that the Act has not been revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

SUMMARY OF PROVISIONS**Section**

1. Short title
2. Repeal
3. Abolition of imprisonment for debt
4. Penalty for debtor absconding or attempting to abscond

DEBTORS ACT, 1936

being

Debtors Act, 1936, No. 2266 of 1936 [Assented to 13 August 1936]

as amended by

Statutes Repeal and Amendment (Courts) Act 1991 No. 69 of 1991 [Assented to 12 December 1991]¹

An Act to consolidate certain enactments relating to debtors.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short title

1. This Act may be cited as the *Debtors Act, 1936*.

Repeal

2. The Acts mentioned hereunder are repealed:—

The Intercolonial Debts Act, 1887 (No. 407 of 1887).

The Abolition of Imprisonment for Debt Act (No. 466 of 1889).

Abolition of Imprisonment for Debt

Abolition of imprisonment for debt

3. No person shall be arrested or imprisoned for making default in payment of a sum of money, except in the following cases:—

(a) Default in payment of a fine or penalty, or sum in the nature of a fine or penalty, other than a fine or penalty in respect of any contract:

(b) Default in payment of any sum recoverable summarily before a justice or justices or a special magistrate of the State:

* * * * *

Provided that—

- (i) no person shall be imprisoned, in any case excepted from the operation of this section, for a longer period than six months;

¹Came into operation 6 July 1992: *Gaz.* 2 July 1992, p. 209.

Note: 1. Asterisks indicate repeal or deletion of text.

2. For the legislative history of the Act see Appendix. Entries appearing in the Appendix in bold type indicate the amendments incorporated since the last reprint.

- (ii) nothing in this section shall alter the effect of any judgment or order of any Court for payment of money except as regards the arrest and imprisonment of the person making default in paying that money;
- (iii) nothing in this section affects powers of arrest or imprisonment under the *Enforcement of Judgments Act 1991*.
- (iv) nothing in this section shall affect any right or power under *The Insolvent Act, 1886*, to arrest or imprison any person, or entitle any person imprisoned under that Act to be discharged from custody, except as provided in that Act.

Absconding Debtors

Penalty for debtor absconding or attempting to abscond

4. If any debtor quits the State, or makes preparation for quitting the State, with intent—

- (a) to defraud any creditor to whom, either alone or jointly with any other creditor or creditors, he is indebted to the amount of twenty dollars or upwards, whether on an unsatisfied judgment of a local court or otherwise; or,
- (b) to defraud any creditor who, alone or jointly with any other creditor or creditors, has sustained damage to the extent of forty dollars or upwards through breach of contract or through any tort on the part of the debtor,

he shall be guilty of a misdemeanour punishable by imprisonment, with or without hard labour, for a term not exceeding two years.

APPENDIX

Legislative History

Section 3(c) and (d):
Section 3:

repealed by 69, 1991, s. 6(a)
amended by 69, 1991, s. 6(b)