

South Australia

## Evidence (Affidavits) Act 1928

An Act to enable justices of the peace and other persons to take affidavits for use in any court.

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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 *Evidence (Affidavits) Act 1928*.

#### **2—Power of justice to take affidavits**

- (1) Affidavits for use in any court of the State may be sworn before any justice without the issue of any commission for taking affidavits.
- (2) In this section—

*justice* means justice of the peace in and for the State of South Australia and includes any magistrate, by whatever name called, who is authorised to act as a justice of the peace in and for the said State.

#### **2A—Power of members of police force to take affidavits**

- (1) Affidavits for use in any court of the State may be sworn before a proclaimed member of the police force.
- (2) In this section—

*proclaimed member of the police force* means a member of the police force appointed to take declarations and attest the execution of instruments under Part 5 of the *Oaths Act 1936*.

### **3—Judicial notice of signature of justice**

Judicial and official notice shall be taken by every court and every officer of a court of the signature of every person authorised by this Act to take affidavits, when such signature is contained in or subscribed to any affidavit purporting to be sworn before such person.

### **4—Penalty for false swearing**

Any person who wilfully swears falsely in any affidavit sworn before any person authorised by this Act to take affidavits shall be guilty of perjury and may be prosecuted and punished accordingly.

## 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).

### Repeal of Act

The *Evidence (Affidavits) Act 1928* was repealed by Sch 1 cl 1 of the *Oaths (Miscellaneous) Amendment Act 2021* on 1.12.2021.

### Principal Act and amendments

| Year | No   | Title                                                              | Assent     | Commencement                                            |
|------|------|--------------------------------------------------------------------|------------|---------------------------------------------------------|
| 1928 | 1856 | <i>Evidence (Affidavits) Act 1928</i>                              | 4.10.1928  | 4.10.1928                                               |
| 1968 | 5    | <i>Evidence (Affidavits) Act Amendment Act 1968</i>                | 19.9.1968  | 19.9.1968                                               |
| 1974 | 68   | <i>Evidence (Affidavits) Act Amendment Act 1974</i>                | 17.10.1974 | 17.10.1974                                              |
| 1997 | 30   | <i>Statutes Amendment (References to Banks) Act 1997</i>           | 12.6.1997  | Pt 6 (s 8)—3.7.1997 ( <i>Gazette</i> 3.7.1997 p4)       |
| 1998 | 59   | <i>Statutes Amendment (Attorney-General's Portfolio) Act 1998</i>  | 3.9.1998   | Pt 5 (s 9)—13.12.1998 ( <i>Gazette</i> 3.12.1998 p1676) |
| 2005 | 8    | <i>Oaths (Abolition of Proclaimed Managers) Amendment Act 2005</i> | 21.4.2005  | Sch 1 (cl 1)—1.1.2007: s 2(2)                           |

### Provisions amended since 3 February 1976

- Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 3 of The Public General Acts of South Australia 1837-1975 at page 823.

| Provision | How varied                          | Commencement |
|-----------|-------------------------------------|--------------|
| s 2A      | amended by 30/1997 s 8              | 3.7.1997     |
|           | substituted by 59/1998 s 9          | 13.12.1998   |
| s 2A(1)   | amended by 8/2005 Sch 1 cl 1(1)     | 1.1.2007     |
| s 2A(2)   | substituted by 8/2005 Sch 1 cl 1(2) | 1.1.2007     |

### Historical versions

Reprint No 1—3.7.1997

Reprint No 2—13.12.1998