

INTERPRETATION ACT 1918-1975.

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The FIRST SCHEDULE.

The SECOND SCHEDULE.

INTERPRETATION.

9° Geo. V., No. XX.

No. 30 of 1918.

[As amended by Acts:

No. 31 of 1929, assented to 23rd December, 1929;
No. 28 of 1938, assented to 31st January, 1939;
No. 8 of 1948, assented to 11th November, 1948;
No. 73 of 1954,¹ assented to 14th January, 1955;
No. 7 of 1957, assented to 29th August, 1957;
No. 34 of 1957, assented to 5th November, 1957;
No. 13 of 1962, assented to 1st October, 1962;
No. 6 of 1970, assented to 29th April, 1970;
No. 79 of 1970, assented to 30th November, 1970;
No. 64 of 1972,² assented to 31st October, 1972;
No. 27 of 1974,³ assented to 29th October, 1974;
No. 105 of 1975, assented to 1st December, 1975;

and reprinted pursuant to the Amendments Incorporations Act 1938.]

AN ACT for consolidating enactments relating to the Interpretation of Acts of Parliament, and for further shortening and interpreting the Language used in Acts of Parliament.

[Assented to 29th November, 1918.]

BE it enacted—

1. This Act may be cited as the *Interpretation Act 1918-1975*.

Short title and citation.
Amended by No. 105 of 1975, s. 1.

2. The Acts mentioned in the First Schedule to this Act are hereby repealed.

Repeal. First Schedule.

¹ Proclaimed to come into operation 1st March, 1955; see *Gazette* 18/2/55, p. 343.

² Came into operation on 22nd June, 1973.

³ Proc. 1 December, 1974; see *G.G.* 6/12/1974, p. 5204.

Interpretation.
Application of this Act.

Application
to Acts of
Parliament
and regula-
tions.
62 Vict., No.
30, s. 19.
S.A., No.
1215, s. 3.

3. (1) In the absence of express provision to the contrary, this Act shall apply to every Act of the Parliament of the State, heretofore or hereafter passed, and to every regulation made under any such Act, except in so far as—

- (a) any provision of this Act is inconsistent with the intent and object of the particular Act or regulation to be interpreted, or, in the case of a regulation with the intent and object of the Act under which such regulation purports to have been made; or
- (b) the interpretation which any provision of this Act would give to anything contained in such particular Act or regulation is inconsistent with the context; or
- (c) any provision of this Act is inconsistent with any definition or interpretation contained in such particular Act or regulation, or in the case of a regulation, with any definition or interpretation contained in the Act under which such regulation purports to have been made.

(2) The fact that any provision of this Act refers in terms to an Act and not to regulations also shall not, by itself, be taken to indicate that such provision is intended to apply to Acts only.

(3) In this section the term "regulation" includes rule and by-law.

Definitions.

Meanings of
certain
terms.
Amended by
No. 64 of
1972, s. 3.
See 62 Vict.,
No. 30, s. 3;
S.A. No. 1215,
s. 4.

4. In this Act, and in every other Act, unless the contrary intention appears:—

"Act" includes any Act or Ordinance passed by the Parliament of Western Australia, or by any Council heretofore having authority or power to pass laws in Western Australia, such Act or Ordinance having been assented to by or on behalf of His Majesty:

“Bank holiday” means a day that is appointed a bank holiday by or under the Public and Bank Holidays Act 1972:

“British possession” means any part of the British Empire, exclusive of the United Kingdom, and where parts of such Empire are under both a central and a local legislature, all parts under the central legislature shall, for the purposes of this definition, be deemed to be one British possession:

“By-law” means a by-law made under the Act wherein the term is used:

“Court of summary jurisdiction” or “Court of petty sessions” means any justice or justices, or any police or resident magistrate, or other stipendiary magistrate to whom jurisdiction is given by, or who is authorized to act under the Justices Act 1902, or any Act amending that Act, and whether acting thereunder, or under any other Act, or by virtue of his commission, or under the common law:

“Daily penalty” means a penalty for each day during which, or any part of which, an offence continues:

“Estate,” used with reference to land, includes any estate or interest, easement, right, title, claim, demand, charge, lien, or encumbrance, in, over, to, or in respect of the land:

“Financial year,” used in respect of any matter relating to the Consolidated Revenue of the State, or to moneys provided by Parliament, or to the Treasury or the Colonial Treasurer, or to taxes or finance, or to accounting or reporting to the Colonial Treasurer about public moneys, means the period of twelve months ending on the thirtieth day of June:

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"Gazette," or "Government Gazette" means *The Government Gazette* of Western Australia, printed and published, or purporting to be printed and published, by the Government Printer of the State, and includes any supplement thereto printed and published as aforesaid:

"Governor," or "Lieutenant-Governor" means the Governor of the State, or other the officer for the time being administering the Government of the State:

"His Majesty" or "Her Majesty," "the King" or "the Queen," or "the Crown," means His Majesty the King, or Her Majesty the Queen, Sovereign for the time being of the United Kingdom of Great Britain and Ireland, and the British Dominions beyond the Seas, and includes the predecessors and the heirs and successors of such King or Queen:

"Judge" means a Judge of the Supreme Court:

"Justice" means a Justice of the Peace:

"Land" includes messuages, tenements, and hereditaments, and houses and buildings, unless there are words to exclude houses and buildings:

"Minister" means the Minister of the Crown to whom the administration of the Act or enactment or the Part thereof in which the term is used is for the time being committed by the Governor, and includes any Minister of the Crown for the time being discharging the duties of the office of the Minister:

"Month" means calendar month:

"Oath" and "affidavit," in all cases where persons are allowed by law to affirm or to declare instead of swearing, include affirmation and declaration:

"Parliament" means the Parliament of the State:

“Person” or “party” includes a body corporate:

“Petty Sessional Court-house” means any court-house or place where a court of petty sessions is accustomed to be held:

“Proclamation” means proclamation made by the Governor and published in the *Gazette*:

“Prescribed” means prescribed by the Act wherein the term is used, or by a regulation, rule, or by-law made thereunder:

“Public half-holiday” means a part of a day that is appointed a public half-holiday by or under the Public and Bank Holidays Act 1972:

“Public holiday” means a day that is appointed a public holiday by or under the Public and Bank Holidays Act 1972:

“Regulation,” “rule,” or “by-law” means regulation, rule, or by-law (as the case may be) made under the Act wherein the term is used:

“Sitting days,” used with reference to either House of Parliament, means days on which such House actually sits:

“Statutory declaration,” if made—

- (a) in Western Australia, means a declaration made under the Evidence Act 1906, or the Declarations and Attestations Act 1913;
- (b) in the United Kingdom or any British possession other than Western Australia, means a declaration made before a justice of the peace, notary public, or other person having authority therein under any law for the time being in force to take or receive a declaration;
- (c) in any other place, means a declaration made before a British Consul or Vice-Consul, or before any person having authority under any Act of

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the Parliament of the United Kingdom, or any Act of the Parliament of Western Australia, for the time being in force, to take or receive a declaration:

“Summary conviction” means a conviction by a court of summary jurisdiction:

“Supreme Court” means the Supreme Court of the State:

“Swear,” in all cases where persons are allowed by law to affirm or to declare instead of swearing, includes to affirm and to declare:

“The Commonwealth” means the Commonwealth of Australia:

“The State” or “this State” means the State of Western Australia:

“This Act” includes regulations, rules, and by-laws made under the Act wherein the expression occurs:

“United Kingdom” means the United Kingdom of Great Britain and Ireland:

Expressions referring to writing include references to printing, painting, engraving, typewriting, lithography, photography, and all other modes of representing or reproducing words in a visible form.

References
in State law
to British
subjects
etc.
Added by
No. 79 of
1970, s. 2.

4A. (1) In this section—

“Commonwealth Act” means the Citizenship Act 1948-1969 of the Parliament of the Commonwealth and any Act passed in amendment of, or substitution for, that Act;

“Law of the State” means—

- (a) an Act and any other law in force in the State;

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- (b) an instrument, including a regulation, rule or by-law having effect by virtue of such an Act, as is referred to in paragraph (a) of this definition;
- (c) an instrument having effect by virtue of such an instrument as is referred to in paragraph (b) of this definition.

(2) A reference in any law of the State to a British subject or to a natural born or naturalized subject of Her Majesty or to any other like expression, shall be read as a reference to an Australian citizen and to any other person who, under the Commonwealth Act, has the status of a British subject or has the status of a British subject without citizenship.

(3) Where a rule of law applies to, or in relation to, or has effect with respect to a British subject, that rule of law applies to, or in relation to, or has effect with respect to an Australian citizen and any other person who, under the Commonwealth Act, has the status of a British subject or has the status of a British subject without citizenship, as if that Australian citizen or other person were a British subject.

Citation of Acts.

5. (1) Every Act may, for all purposes, be cited and referred to by its short title (if any) or by the year of the passing, together with the number thereof.

Citation of
Acts.
See 62 Vict.,
No. 30, s. 6.

(2) Any enactment may be cited by reference to the part, section, subsection, or other division of the Act in which the enactment is contained.

(3) The citation of or reference to any Act shall in all cases be made according to the copy of such Act printed, or purporting to be printed, by the Government Printer, or otherwise by or under the authority of the Government of the State.

Commencement of Act.

Meaning of commencement.
62 Vict., No. 30, s. 15 (1).
Com. No. 2 of 1901, s. 3 (1).

6. In every Act the word "commencement" or the word "passing" when used with reference to an Act, shall mean the time at which the Act comes into operation.

Time of coming into operation of Act.
S.A., No. 1215, s. 7.

7. (1) Every Act wherein no time is prescribed for the coming into operation thereof shall, for all purposes whatsoever, be deemed to have come or shall come into operation on the day whereon such Act was or is assented to by the Governor.

(2) In any case in which the Governor has assented or assents to a part of an Act, without assenting at the same time to the other provisions of such Act, and no time for the coming into operation of such part is prescribed in such Act such part shall, for all purposes whatsoever, be deemed to have come or shall come into operation on the day whereon such part was or is so assented to.

Coming into operation of Bills reserved.
S.A., No. 1215, s. 8.

8. Every Bill, or part of a Bill, reserved for the signification of His Majesty's pleasure, and to which His Majesty has assented or hereafter assents, shall be deemed to have come or shall come into operation as an Act—

- (a) on the day whereon a proclamation by the Governor to the effect that His Majesty has assented to such Bill or part was or is published in the *Gazette*; or
- (b) on such subsequent day (if any) as is prescribed in such Bill.

Time when Act or instrument comes into operation, when a particular day fixed.
62 Vict., No. 30, s. 15 (2).
Com. No. 2 of 1901, s. 3. (2).
S.A., No. 1215, s. 9.

9. When any Act, or part of an Act, or any instrument (including any rules, regulations, or by-laws) made, granted, or issued under a power conferred by any Act, came or comes into operation on a particular day, or is expressed to come into operation on a particular day, it shall be deemed to have come or shall come into operation immediately on the expiration of the day next preceding such day.

10. The date appearing on a copy of an Act printed, or purporting to be printed, by the Government Printer, such date purporting to be the date on which the Governor assented to such Act or to a part thereof, or made known His Majesty's assent to such Act, or part, shall be evidence that such date was the date on which the Governor so assented, or made known His Majesty's assent, and shall be judicially noticed accordingly.

Evidence of date of assent to Act.
Com. No. 2 of 1901, s. 6.
S.A., No. 1215, s. 10.

11. (1) Where an Act is not to come into operation immediately on the passing thereof, and confers power or will, upon its coming into operation, amend another Act so as to confer power under the other Act as so amended, to make any appointment, to hold any election, to make, grant or issue any instrument that is to say any proclamation, Order in Council, order, warrant, scheme, letters patent, rules, regulations, or by-laws, to give notices, to prescribe forms, or to do any other thing for the purposes of the Act, the power that is or will be conferred may, unless the Act otherwise provides, be exercised at any time after the passing of the first-mentioned Act but the exercise of the power does not confer a right or impose an obligation upon a person before the coming into operation of the first-mentioned Act except in so far as is necessary or expedient for the purpose of making the first-mentioned Act fully effective upon its coming into operation or the other Act fully effective when so amended.

Exercise of statutory power between passing and coming into operation of an Act or any provision thereof.
Repealed and re-enacted by No. 105 of 1975, s. 2.

(2) A power purporting to have been exercised at a time before the date of the coming into operation of the Interpretation Act Amendment Act 1975 for the purposes of an Act that came into operation before that date, shall be deemed to have been exercised as validly and effectually as it would have been if this section as re-enacted by the Interpretation Act Amendment Act 1975 had been in operation at that time.

(3) In this section a reference to an Act includes a reference to a provision or provisions of an Act.

Repeal and Expiration of Acts.

Repeal of Act not to revive previously repealed Act. 62 Vict., No. 30, s. 5 (1).

12. Where any Act passed after the thirteenth day of April, One thousand eight hundred and fifty-three, repeals a repealing enactment, it shall not be construed as reviving any Act or enactment previously repealed, unless it contains a provision expressly reviving that Act or enactment.

Repealed provisions in force until substituted provisions operate. 62 Vict., No. 30, s. 5 (2).

13. Where any Act passed after the thirteenth day of April, One thousand eight hundred and fifty-three, repeals wholly or in part any former Act, and in lieu of the repealed provisions substitutes other provisions, such repealed provisions shall remain in force until the substituted provisions come into operation.

Reference to Act includes reference to amending or substituted Acts.

S.A. No. 1215, s. 13.
See 62 Vict., No. 30, s. 18 (1).

14. Where in any Act reference is made to any other Act, or to any provision thereof, such reference shall be deemed to include a reference—

- (a) to all Acts amending such other Act and to all Acts amending such amending Acts or any of them, and to any Act substituted for such other Act, or for any of such amending Acts; or
 - (b) to the corresponding provision of the amending or substituted Act,
- as the case may require.

Saving of existing districts, appointments, etc. S.A. No. 1215, s. 15.

15. Where an Act repeals and re-enacts with or without modification any provision of a former Act, then—

- (a) all districts or other local divisions or areas; and
- (b) all councils, corporations, boards, trusts, or other bodies constituted, and all elections and appointments of members thereof made; and
- (c) all offices constituted and appointments of officers made; and

- (d) all proclamations, orders, by-laws, rules, regulations, warrants, certificates, and documents made; and
- (e) all other acts, matters, and things whatsoever,

which, at the commencement of the repealing Act, are respectively in existence, or in force or operation, under or for the purposes of such provision, shall, in so far as is not inconsistent with the repealing Act, subsist and enure for the purposes of such Act, and shall continue as if the repealing Act had been in force when they respectively originated or were constituted, made, or done, and they had originated or been constituted, made, or done thereunder.

16. (1) Where any Act repeals or has repealed a former Act or any provision or words thereof, or where any Act or enactment expires or has expired, then, unless the contrary intention appears, such repeal or expiry shall not—

- (a) revive anything not in force or existing at the time at which such repeal or expiry takes effect; or
- (b) affect the operation of the repealed or expired Act or enactment, or alter the effect of the doing, suffering, or omission of anything prior to such repeal or expiry; or
- (c) affect any right, interest, title, power, or privilege created, acquired, accrued, established, or exercisable, or any status or capacity existing, prior to such repeal or expiry; or
- (d) affect any duty, obligation, liability, or burden of proof imposed, created, or incurred prior to such repeal or expiry; or
- (e) subject to section eleven of the Criminal Code, affect any penalty, forfeiture, or punishment incurred or imposed or liable to be incurred or imposed, prior to such repeal or expiry; or

Saving of operation of repealed or expired Act as regards rights and liabilities thereunder.
See 62 Vict., No. 30, s. 18;
S.A. No. 1215, s. 16.

- (f) affect any investigation, legal proceeding, or remedy in respect of any such right, interest, title, power, privilege, status, capacity, duty, obligation, liability, burden of proof, penalty, forfeiture, or punishment as aforesaid.

Legal proceedings may be instituted or continued.

(2) Any such investigation, legal proceeding, or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture, or punishment may be imposed and enforced, as if the repealing Act had not been passed, or as if the expired Act or enactment had not expired (as the case may be).

Matters in progress may be concluded under repealed Act.

(3) Any Act or enactment, notwithstanding the repeal or expiry thereof, shall continue and be in force for the purpose of continuing and completing under such repealed or expired Act or enactment any civil proceeding, act, matter, or thing commenced or in progress thereunder, if there is no substituted Act or enactment adapted to the continuance and completion thereof.

Application to compiled Act.

(4) Where the repealing Act is a compilation Act passed as provided in the Statutes Compilation Act 1905, then any such investigation or civil or other legal proceeding or remedy may be instituted, prosecuted, continued, enforced, and completed under and subject to the provisions of the compiled Act enacted by such compilation Act.

Effect of repeal of regulations. C. No. 4 of 1916, s. 4.

17. Where any Act confers power to make regulations, the repeal of any regulations which have been made under the Act shall not, unless the contrary intention appears in the Act or regulations effecting the repeal—

- (a) affect any right, privilege, obligation, or liability acquired, accrued, or incurred under any regulations so repealed; or
- (b) affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any regulations so repealed; or

(c) affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid,

and any such investigation, legal proceeding, or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture, or punishment may be imposed, as if the repealing Act or regulations had not been passed or made.

18. When a Bill for continuing a temporary Act has been introduced into Parliament, and at the date of the expiration of such Act has not been passed, such Bill, upon receiving the Governor's assent, shall, unless the contrary intention appears therein, be deemed to have taken effect in continuing such temporary Act on and from the date of the expiration thereof:

Continuing Act to operate from expiration of continued Act, but no penalties incurred in the interval. S.A., No. 1215, s. 17.

Provided that no person shall be subjected to any punishment, penalty, or forfeiture for or in respect of anything done, or omitted to be done, by him, contrary to any provision of such Act, between the date of its expiration and the date of such assent.

General Rules of Construction.

19. Every Act passed after the thirteenth day of April, Eighteen hundred and fifty-three, shall be deemed to be a public Act unless the contrary is therein expressly provided.

Act to be deemed public Act. 62 Vict., No. 30, s. 4 (2).

20. Every section of an Act shall, without any introductory words, have effect as a substantive enactment.

Sections to be substantive enactments. 62 Vict., No. 30, s. 4 (1).

21. (1) The headings of the parts, divisions, and subdivisions into which any Act is divided shall be deemed to be part of the Act.

Headings, schedules, marginal notes, and footnotes. C. No. 2 of 1801, s. 13.

(2) Every schedule to an Act shall be deemed to form part thereof.

(3) Neither the marginal notes nor the footnotes to any Act shall be deemed to be part thereof.

Amending
Act to be
read with
principal
Act.
S.A. No. 1215,
s. 20.

22. Every Act passed in amendment or continuation of a former Act shall be read and construed according to the definitions and interpretations, if any, contained in the amended or continued Act; and the provisions of the amended or continued Act (except in so far as the same are altered by, or are inconsistent with, the provisions of the amending or continuing Act) shall extend and apply to the cases provided for by the amending or continuing Act, in the same way as if the amending or continuing Act had been incorporated with and formed part of the amended or continued Act; and the amending or continuing Act and the amended or continued Act shall, except as aforesaid, be read as one Act.

Special Rules of Construction.

Acts to be
construed
subject to
legislative
power of
the State.
Added by
No. 6 of
1970, s. 2.

22A. Every Act shall be read and construed subject to the limits of the legislative power of the State and so as not to exceed that power to the intent that, where any enactment thereof, but for this section, would be construed as being in excess of that power, it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.

Act to be
done by
Governor
to mean
with advice
of Executive
Council.
S.A., No.
1215, s. 23.

23. When in any Act the Governor is authorized or required to do any act, matter, or thing, it shall be taken to mean that such act, matter, or thing may or shall be done by the Governor with the advice and consent of the Executive Council.

23A. When, pursuant to an Order in Council made under the Ministers of the Crown (Statutory Designations) and Acts Amendment Act 1974, the designation, style or title of any Minister of the Crown contained in any Act or in any regulation, rule, or by-law made thereunder, is to be read and construed as a reference to any other Minister of the Crown effect shall be given to that direction.

Change of Ministerial designation. Added by No. 27 of 1974, s. 7.

24. Within the meaning of this Act, and of any other Act whenever passed, a later Act shall be deemed to be substituted for an earlier Act, or a provision of a later Act shall be deemed to be substituted for a provision of an earlier Act, when such earlier Act or such provision of such earlier Act (as the case may be) is repealed or superseded, and such later Act deals with the same matter as the Act or provision so repealed or superseded, whether it deals with such matter in the same manner or otherwise, and whether it deals only with such matter or with other matters also.

When Act or provision deemed to be substituted for another. S.A., No. 1215, s. 24.

25. Whenever, by any Act, or by any regulation, rule, or by-law made thereunder, forms are prescribed, it shall be deemed to be provided that forms to the same effect shall be sufficient.

Variation of forms. S.A., No. 1215, s. 25.

26. In every Act—

- (a) every word of the masculine gender shall be construed as including the feminine gender;
- (b) every word in the singular number shall be construed as including the plural number;
- (c) every word in the plural number shall be construed as including the singular number;
- (d) every word in either of the said genders or numbers shall be construed as including a body corporate as well as an individual.

Words importing masculine gender and singular number to include feminine gender and plural number. 62 Vict., No. 30, s. 3.

Provisions as
to limitation
of time.
S.A., No.
1215, s. 27.
Com. No. 2
of 1901, s. 36.

27. (1) The time prescribed or allowed by an Act for any proceeding, or for the doing of anything, or for suffering anything, shall be deemed not to include the day, or the day of the act or event from or after which such time is to be calculated, but to include the day whereon such proceeding is to be taken or such thing is to be done or suffered.

(2) If the time so prescribed or allowed falls or expires on a Sunday, or on any day which is a bank holiday or a public holiday throughout the State, or part of the State in which part the proceeding is to be taken or the thing is to be done or suffered, such time shall be extended so as to fall or expire on the day next following such Sunday or bank or public holiday which is not itself a bank or public holiday or Sunday.

(3) Where no time is prescribed or allowed within which anything shall be done, such thing shall be done with all convenient speed, and as often as the prescribed occasion arises.

Measure-
ment of
distances.
62 Vict., No.
30, s. 14.

28. (1) In the measurement of any distance for the purpose of any Act passed before the twenty-eighth day of October, One thousand eight hundred and ninety-eight, such distance shall, unless the contrary intention appears, be measured along the shortest route usually used in travelling.

(2) In the measurement of any distance for the purpose of any Act passed on or after the twenty-eighth day of October, One thousand eight hundred and ninety-eight, such distance shall, unless the contrary intention appears, be measured in a straight line on a horizontal plane.

Penalty in
or at foot of
section or
subsection.
1912, No. 72,
s. 5.

29. The penalty or punishment, pecuniary or other, set out—

(a) in, or at the foot of, any section of any Act;
or

- (b) in, or at the foot of, any part of any section of any Act,

shall indicate that any contravention of such section or part, whether by act or omission, shall be an offence against such Act, punishable upon conviction by a penalty or punishment not exceeding that so set out; or, where a minimum as well as a maximum penalty or punishment is so set out, by a penalty or punishment not less than such minimum, and not more than such maximum:

Provided that where the penalty or punishment is expressed to apply to a part only of the section, it shall apply to that part only.

30. A provision that imprisonment may be awarded shall be deemed to provide also that the imprisonment may be awarded either with or without hard labour.

Provision for imprisonment implies with or without hard labour. S.A., No. 1215, s. 31.

31. (1) Where by any Act any notice or other document is required to be served, whether the expression "serve" or the expression "give," "deliver," "send," or any other expression is used, the service may be effected on the person to be served—

Meaning of service of a notice or document. Amended by No. 7 of 1957, s. 2. See 62 Vict., No. 30, s. 9.

- (a) by delivering the notice or document to him personally; or
- (b) by leaving it for him at his usual or last known place of abode, or, if he is in business, at his usual or last known place of business; or
- (c) by posting the notice or document to him as a letter addressed to him at his usual or last known place of abode, or, if he is in business, at his usual or last known place of business:

Provided that no place shall be deemed the place of business of any person unless he is a principal in the business.

(2) A notice or document may be served on a corporation by delivering it, leaving it, or posting it as a letter, the notice or document being addressed in each case to the corporation at its principal office in the State, and a notice or document may be served on all the members of a partnership or unincorporated company by being delivered or left or posted as a letter, the notice or document being addressed in each case to the partnership or company at the principal place of business thereof in the State.

Presumption
in case of
service by
post.

(3) In the case of service by post, whether service by post is required by the Act or not, the service shall be presumed, unless the contrary is shown, to have been effected at the time when, by the ordinary course of post, the letter would be delivered.

As to
certified
mail, see
Postal
Regulations,
Part XIII A.,
S.R. 1856.
No. 67.
Common-
wealth
Gazette of
28/9/56.

(4) Where by any Act, regulation, rule, or by-law, service of any document is permitted or required to be effected by registered post, then if the document is eligible and acceptable for transmission as certified mail pursuant to regulations made under the Post and Telegraph Act 1901 of the Commonwealth Parliament or under any Act passed by that Parliament in amendment of or substitution for that Act, the service of the document may be effected either by registered post or by certified mail.

(5) The provisions of subsection (3) or subsection (4) of this section do not derogate from or otherwise affect—

Cf. No. 11 of
1936, s. 2.

(a) the provisions of any Act, regulation, rule or by-law which require the production of an acknowledgment signed by a person to whom a document was addressed, to the effect that the document was delivered to that person; or

(b) the provisions of section three of this Act.

Rules as to Powers and Duties.

32. Where, in any Act passed after the commencement of this Act the word "may" is used in conferring a power, such word shall be interpreted to imply that the power so conferred may be exercised or not, at discretion; and where in any such Act the word "shall" is used in conferring a power, such word shall be interpreted to mean that the power so conferred must be exercised.

"May" imports a discretion, "shall" is imperative. S.A., No. 1215, s. 34.

33. Words directing or empowering any Minister of the Crown or any public officer or functionary to do any act or thing, or otherwise applying to him by name of his office, shall be construed as applying to every person for the time being acting in such office or discharging the duties thereof.

Words applying to occupant of public office to apply to successive occupants. See 62 Vict., No. 30, s. 3.

34. Words giving power to appoint to any office or place, or to appoint a deputy, shall be deemed to include power—

Power to appoint includes power to remove, etc. S.A., No. 1215, s. 38.

- (a) to suspend or remove any person appointed under such power;
- (b) to reinstate or reappoint any person so suspended or removed;
- (c) to appoint temporarily or permanently some other person in the stead of a person so suspended or removed,

in the discretion of the person in whom the power to appoint is vested; and

- (d) to appoint temporarily or permanently another person in the place of the person so appointed who is sick or absent, or is otherwise incapacitated, or when from any cause the office or place has become vacant:

Provided that where the power of any person or authority to make any such appointment is only exercisable upon the recommendation or subject to

Subject to conditions. C. No. 2 of 1901, s. 33 (4).

the approval or consent of some other person or authority, such power of removal shall, unless the contrary intention appears, only be exercisable upon the recommendation or subject to the approval or consent of such other person or authority:

Provided, also, that nothing in this section shall affect the tenure of office of any person under the express or implied provisions of any statute.

Powers may be exercised from time to time.
S.A., No. 1215, s. 37.

35. Power given by any Act to do any act or thing, or to submit to any act or thing, or to make any appointment, shall be capable of being exercised from time to time, as occasion requires, unless the context, or the nature of the act or thing, indicates a contrary intention.

Registers, books of account, etc.
Added by No. 31 of 1929, s. 2.

35A. Where by any Act passed before or after the commencement of this Act, provision is made for recording or accounting in Government departments by means of books any method or system commonly used in commerce for recording or accounting, if adopted with the approval of the Governor in Council, shall be deemed to be such book.

Regulations, Rules and By-laws.

Implication in power to make regulations.
Amended by No. 28 of 1938, s. 2; No. 8 of 1948, s. 3; No. 34 of 1957, s. 2.
S.A., No. 1215, s. 38.
See 62 Vict., No. 30, s. 11.

36. (1) When by any Act it is provided that regulations may or shall be made, and

- (i) it is provided that such regulations may or shall be made by the Governor; or
- (ii) it is not provided by whom such regulations may or shall be made,

any regulation made under, or by virtue of, such provision—

- (a) shall be made by the Governor;
- (b) shall be published in the *Gazette*;

- (c) shall, subject to subsection (2) hereof, take effect and have the force of law from the date of such publication, or from a later date fixed by the order making such regulation;
- (d) shall be laid before each House of Parliament within the six sitting days of such House next following such publication.

(2) Notwithstanding any provision in any Act to the contrary, if either House of Parliament passes a resolution disallowing any such regulation, of which resolution notice has been given at any time within fourteen sitting days of such House after such regulation has been laid before it, or if any such regulation is not laid before both Houses of Parliament in accordance with the requirements of subdivision (d) of subsection (1) of this section, such regulation shall thereupon cease to have effect, but without affecting the validity, or curing the invalidity, of anything done, or of the omission of anything, in the meantime.

Disallowance
by Parlia-
ment.

This subsection shall apply notwithstanding that the said fourteen sitting days, or some of them, do not occur in the same session of Parliament or during the same Parliament as that in which the regulation is laid before such House.

(2A) Notwithstanding any provision in any Act to the contrary, if both Houses of Parliament at any time pass a resolution originating in either House amending or varying any such regulation or substituting another regulation or part of a regulation for that which has been disallowed by either House under subsection (2) of this section, then on the passing of any such resolution—

- (i) amending or varying a regulation or part of a regulation the regulation or part of a regulation so amended or varied shall, after the expiration of seven days from the publication in the *Gazette* of the notice provided for in the next subsection of this section, take effect as so amended or varied;

- (ii) substituting a regulation or part of a regulation in place of a regulation disallowed the regulation or part of a regulation so substituted shall, after the expiration of seven days from the publication in the *Gazette* of the notice provided for in the next subsection of this section, take effect in place of that for which it is so substituted.

Resolution
to be notified
in *Gazette*.

(3) When a resolution has been passed as mentioned in subsection (2) or (2A) hereof, notice of such resolution shall be published in the *Gazette* within twenty-one days of the passing of the resolution. Provided that no regulation published in the *Gazette* prior to the first day of January, one thousand nine hundred and forty-nine shall be amended or varied or another regulation substituted for it pursuant to the provisions of subsection (2A) of this section.

When made
by an
authority
other than
the
Governor.

(4) When by any Act it is provided that regulations may or shall be made by any authority other than the Governor, the provisions of subdivisions (b), (c), and (d) of subsection (1), and the provisions of subsections (2) and (3) hereof shall apply to any regulation so made:

Provided that if the Act which gives power to make, or directs the making of, such regulation requires that the same shall be confirmed by the Governor or any other authority before it shall have the force of law, the provisions of subdivision (c) of subsection (1) hereof shall not apply to such regulation unless it has been confirmed as so required.

(5) In this section the term "regulation" includes rule and by-law.

Validation of
regulations
made and
gazetted but
not tabled
as required
by law.

37. (1) In every case where before the commencement of this Act regulations have been made and published in the *Gazette*, but have not been laid before Parliament pursuant to the requirements of the law enacted in that behalf, such regulations shall be deemed to have taken effect and to have

had the force of law from the date of the publication thereof in the *Gazette*, or from such date (if any) as may have been therein specified:

Provided that this section shall not—

- (a) be deemed to make *intra vires* any regulations which are *ultra vires*; or
- (b) make operative any regulations which by any law having reference thereto must be approved, confirmed, or allowed by the Governor or any other authority, in order to become operative unless they have been so approved, confirmed, or allowed.

(2) All such regulations shall be laid before both Houses of Parliament within the next thirty sitting days of each House occurring after the commencement of this Act in the same or any subsequent session of Parliament.

(3) If either House of Parliament passes a resolution disallowing any such regulation, of which resolution notice has been given at any time within fourteen sitting days of such House after such regulation has been laid before it, such regulation shall thereupon cease to have effect, but without affecting the validity of anything previously done thereunder.

This subsection shall apply notwithstanding that the said fourteen sitting days, or some of them, do not occur in the same session of Parliament or during the same Parliament as that in which the regulation is laid before such House.

(4) In this section the term “regulation” includes rule and by-law.

38. Power given by any Act to make regulations, rules, or by-laws shall be deemed to include (beside the power provided by section thirty-five) power from time to time—

- (a) to revoke the same absolutely, in whole or in part; or

Power to make regulations includes power to revoke or vary.
S.A., No. 1215, s. 39.

- (b) to revoke the same in whole or in part, and substitute other regulations, rules, or by-laws respectively for those which have been so revoked; or
- (c) to vary the same, or any of them,

unless the terms used in conferring the power, or the nature of the subject matter or the objects of the power, indicate that it is intended to be exercised, either finally in the first instance, or only subject to certain restrictions.

Expressions in regulations to have same meanings as in the Act.
S.A., No. 1215, s. 40.

39. Expressions used in any regulation, rule, or by-law, made under or by virtue of any Act shall, unless the contrary intention appears, have the same respective meanings as in such Act.

Legal Procedure.

Rules of Court.
62 Vict., No. 30, s. 17.
C. No. 2 of 1901, s. 28.

40. (1) In any Act unless the contrary intention appears, the expression "Rules of Court" when used in relation to any court, shall mean rules made by the authority having for the time being power to make rules or orders regulating the practice and procedure of such court.

(2) The power of such authority to make Rules of Court shall, unless the contrary intention appears, include a power to make Rules of Court for the purpose of any Act which directs or authorizes anything to be done by Rules of Court.

Who may proceed for recovery of penalties.
S.A., No. 1215, s. 42.

41. Subject to the provisions of the Fines and Penalties Appropriation Act 1909, any person may sue for, or take proceedings to recover, and may recover any fine, penalty, or forfeiture imposed by, or which is authorized to be imposed or awarded under, any Act, unless by such Act the right to so sue or take proceedings is vested in an officer or person thereby indicated.

42. When any fine or penalty is recoverable under any Act, and no means is provided in such Act for the recovery thereof, such Act shall be deemed to provide that such fine or penalty may be recovered summarily under the provisions of the Justices Act 1902, or any Act for the time being in force relating to summary proceedings of justices.

Recovery of fines and penalties. S.A., No. 1215, s. 43.

Miscellaneous.

43. For the purpose of determining the applicability or otherwise within the State of any Act of the Parliament of the United Kingdom, the State shall be deemed to have been established on the first day of June, One thousand eight hundred and twenty-nine.

For application of Imperial Acts State deemed to have been established on 1 June, 1829.

44. Any Act may be altered, amended, or repealed in the session of Parliament in which it was passed.

Act may be altered or repealed in same session.

45. Where any act or omission constitutes an offence under two or more Acts, the offender shall, unless the contrary intention appears, be liable to be prosecuted and punished under either or any of those Acts, but shall not be liable to be punished twice for the same offence.

Offences punishable under more than one law. 62 Vict., No. 30, s. 13.

46. (1) In the construction of every enactment relating to an offence punishable on indictment or on summary conviction, including the criminal code the expression "person" shall, unless the contrary intention appears, include a body corporate, provided that the act or omission constituting the offence is capable of being done or made by a body corporate, and that the offence is punishable (either absolutely or in the alternative) by a penalty which a body corporate is capable of suffering.

Application of penal Acts to bodies corporate. See 62 Vict., No. 30, s. 3.

(2) Where under any Act, any forfeiture or penalty is payable to a party aggrieved, it shall be payable to a body corporate in every case where that body is the party aggrieved.

Sections in
Second
Schedule
may be
incorporated
in Act by
reference.
62 Vict., No.
30, s. 8.

47. (1) Any of the provisions contained in the sections of the Second Schedule hereto, and distinguished respectively by the letters A, B, C, D, E, F, G, and H, may be incorporated as enactments in any Act by reference to the said Schedule and to the letters distinguishing the said sections respectively.

(2) Where in any Act passed before the commencement of this Act reference is made to the sections (distinguished by letters as aforesaid) of the Second Schedule to the Interpretation Act 1898¹ or of the Schedule to the Shortening Ordinance 1853,² such reference shall be deemed to be made to the corresponding sections of the Second Schedule to this Act.

Section 2.

The FIRST SCHEDULE.

Date of Act.	Short Title.
62 Vict., No. 30 No. 55 of 1909 No. 72 of 1912	The Interpretation Act 1898. The Interpretation Act Amendment Act 1909. The Interpretation Act Amendment Act 1912.

Section 47.
Amended by
No. 73 of
1954, s. 5;
No. 13 of
1962, s. 2.

The SECOND SCHEDULE.

A.

All informations, complaints, and proceedings in respect of offences against this Act hereby made summarily punishable upon conviction before a Justice or Justices of the Peace in Petty Sessions shall be heard and determined, and the penalties and forfeitures in respect of the same be enforced and appropriated (if not hereinbefore otherwise appropriated) according to the provisions of the Justices Act 1902.

B.

The complaint in respect of an offence against this Act shall be made and the proceedings commenced within one month after the offence thereby charged shall have been committed.

¹ Act 62 Vict. No. 30.

² Ordinance 16 Vict. No. 11.

C.

The complaint in respect of an offence against this Act shall be made and the proceedings commenced within three months after the offence thereby charged shall have been committed.

D.

The complaint in respect of an offence against this Act shall be made and the proceedings commenced within six months after the offence thereby charged shall have been committed.

E.

The complaint in respect of an offence against this Act shall be made and the proceedings commenced within twelve months after the offence thereby charged shall have been committed.

F.

No order, judgment, warrant, or other proceeding made, or purporting to be made under or concerning the conviction of any offender against this Act shall be quashed or vacated for want of form only, or be removed or removable by *certiorari*, or by any writ or process whatsoever into any superior Court of the State.

G.

And, for the protection of persons acting in execution of this Act, where an action is commenced against any one of such persons for anything done under this Act, in every such action the defendant may plead the general issue and give this Act and the special matter in evidence at any trial to be had hereupon, and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court, after such action brought, by, or on behalf of the defendant, together with costs incurred up to that time; and if a verdict shall pass for the defendant or the plaintiff become non-suited or discontinue such action after issue joined, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between solicitor and client, and have the like remedy for the same as any defendant hath by law in other cases; and, though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the Judge before whom the trial is held shall certify his approbation of the action and of the verdict obtained thereon.

No action shall lie against any Justice of the Peace, Officer of Police, Policeman, Constable, Peace Officer, or any other person in the employ of the Government authorized to carry the provisions of this Act, or any of them, into effect, or any person acting for, or under such persons, or any of them, on account of any act, matter, or thing done, or to be done, or commanded by them, or any of them, in carrying the provisions of this Act into effect against any parties offending or suspected of offending against the same, unless there is direct proof of corruption or malice; and if any such person shall be sued for any act, matter, or thing which he shall have so done, or shall so do, in carrying the provisions of this Act into effect, he may plead the general issue and give the special matter in evidence; and in case of judgment after verdict, or by a Judge sitting as a jury, or on demurrer being given for the defendant, or of the plaintiff discontinuing, or becoming non-suit in any such action, the Court before which the action was brought may award treble costs to the defendant or such portion of those costs as the Court thinks fit.