

South Australia



ANNO QUINQUAGESIMO PRIMO
ELIZABETHAE II REGINAE
A.D. 2002

**HOLIDAYS (ADELAIDE CUP AND VOLUNTEERS DAY) AMENDMENT
ACT 2002**

No. 41 of 2002

[Assented to 5 December 2002]

An Act to amend the Holidays Act 1910.

SUMMARY OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of s. 3—Days fixed as holidays
4. Substitution of ss. 3A and 3B
 - 3A. Anzac Day
5. Amendment of s. 4—Special holidays may be proclaimed
6. Amendment of s. 4A—Bank half-holidays
7. Insertion of s. 5A
 - 5A. Governor may substitute third Monday in May holiday within an area

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Holidays (Adelaide Cup and Volunteers Day) Amendment Act 2002*.

(2) The *Holidays Act 1910* is referred to in this Act as "the principal Act".

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 3—Days fixed as holidays

3. Section 3 of the principal Act is amended—

(a) by striking out subsection (1) and substituting the following subsection:

(1) The days mentioned in Schedule 2 will be public holidays and bank holidays but—

(a) when a day mentioned in Part 2 of Schedule 2 falls on a Saturday, the following Monday will be a public holiday instead of that day and that day and the following Monday will be bank holidays; and

(b) when a day mentioned in Part 2 of Schedule 2 falls on a Sunday, that day and the following Monday will be public holidays and bank holidays.;

(b) by striking out paragraphs (a) and (b) of subsection (2) and substituting the following paragraphs:

(a) when 26 December falls on a Saturday, the following Monday will be a public holiday instead of that day and that day and the following Monday will be bank holidays; and

(b) when 26 December falls on a Sunday or a Monday, that day and the following Tuesday will be public holidays.

Substitution of ss. 3A and 3B

4. Sections 3A and 3B of the principal Act are repealed and the following section is substituted:

Anzac Day

3A. In addition to the days mentioned in Schedule 2, 25 April will be a public holiday and bank holiday but when that day falls on a Sunday, that day and the following Monday will be public holidays and bank holidays.

Amendment of s. 4—Special holidays may be proclaimed

5. Section 4 of the principal Act is amended—

(a) by striking out from subsection (1) "and such day shall in such year be a public holiday or bank holiday accordingly";

(b) by striking out subsection (2) and substituting the following subsection:

(2) The Governor may, by subsequent proclamation, vary or revoke a proclamation made under this section.

Amendment of s. 4A—Bank half-holidays

6. Section 4A of the principal Act is amended by inserting after subsection (2) the following subsection:

(3) The Governor may, by subsequent proclamation, vary or revoke a proclamation made under this section.

Insertion of s. 5A

7. The following section is inserted after section 5 of the principal Act:

Governor may substitute third Monday in May holiday within an area

5A. (1) The Governor may, by proclamation, substitute another day as a public holiday and bank holiday for the third Monday in May in a year within an area if—

- (a) an application for substitution of the day has been made to the Minister not later than four months before the relevant day by the council for the area; and
- (b) the Minister is satisfied that—
 - (i) adequate community consultation has occurred about the proposed substitution in the area; and
 - (ii) there appears to be substantial community support for the proposed substitution in the area; and
 - (iii) the area is sufficiently remote from the Adelaide metropolitan area.

(2) The Governor may only make a substitution under this section within—

- (a) the areas of the District Council of Grant and the City of Mount Gambier; and
- (b) if a substitution has been made or is to be made in the areas of the District Council of Grant and the City of Mount Gambier, an area adjacent to the area of the District Council of Grant; and
- (c) the area of the City of Port Lincoln; and
- (d) if a substitution has been made or is to be made in the area of the City of Port Lincoln, the area of—
 - (i) the District Council of Ceduna; and
 - (ii) the District Council of Cleve; and
 - (iii) the District Council of Elliston; and
 - (iv) the District Council of Franklin Harbour; and

- (v) the District Council of Kimba; and
- (vi) the District Council of Le Hunte; and
- (vii) the District Council of Lower Eyre Peninsula; and
- (viii) the District Council of Streaky Bay; and
- (ix) the District Council of Tumby Bay.

(3) Where a proclamation is made under this section in respect of an area, the council for the area must cause a notice of the substitution to be published in a newspaper circulating throughout the State and in a newspaper circulating in the area.

(4) A notice under subsection (3) must be published—

- (a) not less than one month before the relevant day; or
- (b) within a shorter period before the relevant day approved by the Minister, on the application of the council for the area.

(5) To the extent of any inconsistency, a proclamation made under this section prevails over a provision of an award, determination, or enterprise or industrial agreement made under the *Industrial and Employee Relations Act 1994*.

(6) The Governor may, by subsequent proclamation, vary or revoke a proclamation made under this section.

(7) This section will expire 2 years after the day on which it comes into operation.

(8) In this section—

"area" has the same meaning as in the *Local Government Act 1999*;

"council" has the same meaning as in the *Local Government Act 1999*;

"relevant day" means the third Monday in May that is to be substituted or the proposed public holiday, whichever occurs first.

SCHEDULE
Statute Law Revision

Provision Amended	How Amended
Section 2	Repeal this section.
Section 4(1)	Strike out "from time to time, as he may think fit, by proclamation published in the <i>Government Gazette</i> " and substitute "by proclamation". Strike out "any" and substitute "a". Strike out "said". Strike out "such" (first occurring) and substitute "a". Strike out "as is". Strike out "such" (second occurring) and substitute "the".
Section 4A(1)	Strike out "from time to time, as he may think fit, by proclamation published in the <i>Government Gazette</i> " and substitute ", by proclamation". Strike out "any" and substitute "a". Strike out "such" and substitute "a". Strike out "as is".
Section 4A(2)	Strike out "of this Act shall apply" and substitute "applies".
Section 5(1)	Strike out "from time to time, as he may see fit, by proclamation published in the <i>Government Gazette</i> " and substitute "by proclamation". Strike out "any" and substitute "a". Strike out "in lieu" and substitute "instead". Strike out "such" (twice occurring) and substitute, in each case, "that". Strike out "shall" and substitute "will". Strike out "said".
Section 5(2)	Insert comma after "may" and after "proclamation" (first occurring).
Section 6(1)	Strike out "of the said State shall" and substitute "will". Strike out "shall" (second occurring) and substitute "will". Strike out "holidays: Provided that" and substitute "holidays, but". Strike out "shall" (third occurring).

Section 6(1)(a)	<p>Strike out "authorise" and substitute "authorises".</p> <p>Strike out "any" (first occurring) and substitute "a".</p> <p>Strike out "any" (second occurring) and substitute "an".</p> <p>Strike out "said" and substitute "Public".</p> <p>Strike out "which" and substitute "that".</p> <p>Strike out "such" and substitute "the".</p>
Section 6(1)(b)	<p>Strike out "a Government department" and substitute "an administrative unit".</p> <p>Strike out "such department" and substitute "the unit".</p> <p>Strike out "any" (second occurring) and substitute "a".</p>
Section 6(3)	<p>Strike out "any" and substitute "a".</p>
Section 7(1)	<p>Strike out "shall be" and substitute "is".</p> <p>Strike out "any" (first occurring) and substitute "a".</p> <p>Strike out "any" (second occurring) and substitute "an".</p> <p>Strike out "upon any" and substitute "on a".</p> <p>Strike out "which he" and substitute "that the person".</p>
Section 7(2)	<p>Strike out "any" (first, second, fourth, fifth and seventh occurring) and substitute, in each case, "a".</p> <p>Strike out "any" (third and sixth occurring) and substitute, in each case, "an".</p> <p>Strike out "upon" and substitute "on".</p> <p>Strike out "shall apply" and substitute "applies".</p> <p>Strike out "which" (first occurring) and substitute "that".</p> <p>Strike out "such following day shall" and substitute "that day will".</p> <p>Strike out "act: Provided that" and substitute "act, but".</p> <p>Strike out "shall exempt" and substitute "exempts".</p> <p>Strike out "which he" and substitute "that the person".</p> <p>Strike out "such" (second occurring) and substitute "that".</p>
Schedule 1	<p>Repeal this Schedule.</p>