

Queensland



ANZAC DAY ACT 1995

Act No. 4 of 1995

Queensland



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Queensland



Anzac Day Act 1995

Act No. 4 of 1995

An Act to continue Anzac Day as a day of commemoration, and for other purposes

[Assented to 3 March 1995]

Parliament's reasons for enacting this Act are—

1. On 25 April 1915, troops of the Australian and New Zealand Army Corps landed on the shores of Gallipoli and, although confronted by overwhelming circumstances, fought courageously and defiantly.

2. This Act commemorates the bravery shown by those troops and of all members of the Australian Defence Force who have been involved in wars and armed conflicts for their country.

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Anzac Day Act 1995*.

Definitions

2. In this Act—

“**Board**” means the Board of Trustees.¹

“**Fund**” means the Anzac Day Trust Fund.²

“**home**” means a place where accommodation, daily meals or nursing care are provided (including associated maintenance and administration facilities and services).

“**Trust**” means the Anzac Day Trust.³

¹ See section 16.

² See section 8.

³ See section 4.

PART 2—COMMEMORATION OF ANZAC DAY

Anzac Day to be commemorated etc.

3. Anzac Day is to be commemorated on 25 April each year and is a holiday throughout Queensland.⁴

PART 3—ANZAC DAY TRUST

Division 1—Continuation, functions and powers of Trust

Continuation of Trust

4. The trust established under the *Anzac Day Act 1921* is continued in existence under the name the Anzac Day Trust.

Trust is a body corporate etc.

5.(1) The Trust—

- (a) is a body corporate; and
- (b) has a seal; and
- (c) may sue and be sued in its corporate name.

(2) The Trust is a statutory body under the following Acts—

- *Financial Administration and Audit Act 1977*
- *Statutory Bodies Financial Arrangements Act 1982*.

⁴ Part 6 of the *Trading (Allowable Hours) Act 1990* requires the closing of factories and most shops, prohibits the selling of real estate, and generally requires places of public amusement not to open before 1.30 p.m. on Anzac Day.

Status of Trust

- 6.(1) The Trust does not represent the State.
- (2) The Trust is an exempt public authority under the Corporations Law.

Trust's functions

7. The Trust's function is to administer the Fund, and perform any other functions given to it under this or another Act.

The Fund

8. There is a fund called the Anzac Day Trust Fund.

Payments by Trust

9.(1) The Trust must consider applications made to the Trust for payments out of the Fund under subsection (2).

- (2) The Trust may make payments for the following purposes—
- (a) for aged persons who served Australia in its defence forces—
 - (i) to maintain, alter and improve homes; or
 - (ii) to acquire land on which to erect or build homes; or
 - (iii) to erect and build homes on land acquired for the purpose or otherwise held by the Trust; or
 - (iv) to acquire homes; or
 - (v) to maintain and care for them in homes;
 - (b) the welfare of spouses and children of deceased persons who served Australia in its defence forces;
 - (c) to institutions, organisations or associations that have as their sole or main object or activity the giving of help or support to, or whose membership consists of or includes—
 - (i) persons who served Australia in its defence forces in time of war or armed conflict; or
 - (ii) anyone now a Queensland resident who served in the

defence forces of a country or power allied or associated with Australia—

(A) in a war in which Australia was involved; or

(B) in a conflict, which the Trust considers to have the attributes of a war in which Australia was or is involved; or

(iii) a dependant of a person mentioned in paragraph (i) or (ii).

(3) However, payments out of the Fund under subsection (2) may only be made after the costs incurred by the Trust in administering the Fund are paid out of the Fund.

Trust's powers

10.(1) The Trust may do all things necessary or convenient to be done for, or in connection with, performing its functions.

(2) Without limiting subsection (1), the Trust has the powers conferred on it under this or another Act.

Investments by Trust

11.(1) The Trust may invest amounts in the Fund that are not immediately needed for the Trust's purposes—

(a) in securities issued or guaranteed by the Commonwealth or a State; or

(b) with a financial institution or in securities issued or guaranteed by a financial institution; or

(c) in other securities, investments or other financial arrangements approved by the Governor in Council.

(2) However, an investment may be made for more than 1 year only if the Treasurer has approved the investment.

Gifts to Trust

12.(1) The Trust may accept a gift of property regardless of how it is held.

(2) The Trust may sell property not in the form of money.

(3) A payment under this Act, a gift of money, or the proceeds of the sale of property, received by the Trust must be paid into the Fund.

Division 2—Anzac Day Trust Fund

Definition

13. In this Division—

“**Anzac Day**” means 25 April or, for a year in which another day is substituted under the *Holidays Act 1983* as a public holiday instead of 25 April, the substituted day.

Words and expressions used in Racing and Betting Act 1980 and this Division

14. Words and expressions used in the *Racing and Betting Act 1980* have the same respective meanings in this Division.

Payments to Fund

15.(1) There must be paid to the Trust for each Anzac Day—

- (a) 0.0034% of the total amount of annual fees paid for general licences under the *Liquor Act 1992* in the previous financial year; and
- (b) the total totalisator tax payable on amounts paid into a totalisator on Anzac Day; and
- (c) the total bookmaker’s turnover tax payable on bets made at meetings held on Anzac Day; and
- (d) 0.7% of the total of all bets made by bookmakers at racing venues on Anzac Day.

(2) Amounts mentioned in subsection (1)(a) to (c) are to be paid out of amounts appropriated by Parliament.

(3) The amount mentioned in subsection (1)(d) is to be paid by the Commissioner of Stamp Duties from the unpaid fractions account kept by the Commissioner.

Division 3—Board of trustees**The Board**

16. There is a board of trustees of the Trust.

Role of Board

17. It is the role of the Board—

- (a) to decide the objectives, strategies and policies to be followed by the Trust; and
- (b) to ensure the Trust performs its functions in a proper, effective and efficient way.

Composition of Board

18. The Board consists of a chairperson and 3 other trustees.

Secretary to the Trust

19. The Minister may appoint an officer of the department to be the secretary to the Trust, and the officer may hold the appointment as well as the position the officer holds in the department.

Division 4—Provisions about trustees**Appointment**

20.(1) The trustees are to be appointed by the Governor in Council.

(2) The trustees (other than the chairperson) are to be chosen in the following ways—

- (a) 1 must be a person chosen, after consultation by the Minister with the President of the Returned & Services League of Australia (Queensland Branch), from a panel of 3 names given to the Minister by the League;

- (b) 1 must be a person chosen from a panel of 3 names given to the Minister by the representatives of Legacy Clubs in Queensland;
- (c) 1 must be a person chosen from a panel of 3 names given to the Minister by the organisations or associations of ex-servicemen or ex-servicewomen registered as charities under the *Collections Act 1966* or that are incorporated under the *Associations Incorporation Act 1981*.

(3) If the League, representatives or organisations and associations mentioned in subsection (2)(a), (b) or (c) fail to nominate a panel of 3 names for the appointment of a trustee within 30 days after being asked by the Minister, the Governor in Council may appoint a person as trustee.

Term of appointment

21. A trustee must be appointed for a term of not longer than 3 years.

Terms of appointment

22.(1) A trustee holds office on the terms decided by the Governor in Council.

(2) However, a trustee is not entitled to fees, allowances or expenses.

Resignation

23. A trustee may resign by signed notice of resignation given to the Minister.

Termination of appointment

24. The Governor in Council may terminate the appointment of a trustee if—

- (a) the trustee is convicted of an indictable offence; or
- (b) the trustee cannot perform the functions of office because of physical or mental incapacity; or
- (c) the trustee engages in misconduct or is incompetent; or

- (d) the trustee is absent from 3 consecutive ordinary meetings of the Trust without the Trust's leave and without reasonable excuse; or
- (e) the trustee contravenes this Act without reasonable excuse.

Division 5—Business of Board

Quorum

25. At a meeting of the Board, 3 trustees form a quorum.

Conduct of business

26. The Board may conduct its business (including its meetings) in the way it considers appropriate.

Disclosure of interests by trustees

27.(1) If—

- (a) a trustee has a direct or indirect financial interest in an issue being considered, or about to be considered, by the Board; and
- (b) the interest could conflict with the proper performance of the trustee's duties in considering the issue;

the trustee must disclose the nature of the interest at a meeting of the Board as soon as practicable after the trustee becomes aware of the possible conflict of interest.

(2) The disclosure must be recorded in the Board's minutes and, unless the Board otherwise decides, the trustee must not—

- (a) be present when the Board considers the issue; or
- (b) take part in a decision of the Board on the issue.

(3) A trustee who makes a disclosure must not—

- (a) be present when the Board is considering whether or not the trustee should be present when the Board considers the issue; or
- (b) take part in a decision by the Board under subsection (2).

(4) For this section, a person is not taken to have a direct or indirect financial interest in an issue merely because the issue involves a home in which the person lives.

Division 6—General

The Trust's seal

28.(1) The Trust's seal must be kept in the custody of the person the Board directs.

(2) The seal may be used only as authorised by the Board.

(3) Judicial notice must be taken of the imprint of the Trust's seal appearing on a document and the document must be presumed to have been properly sealed until the contrary is proved.

Judicial notice of certain signatures

29. Judicial notice must be taken of—

- (a) the official signature of a person who is or has been the chairperson; and
- (b) the fact the person holds or has held the office of chairperson.

Authentication of documents

30.(1) A document made by the Trust (other than a document required to be sealed) is sufficiently made if it is signed by the chairperson, or a person authorised by the Trust.

(2) A document made by the Trust under seal is sufficiently made under seal if it is sealed and signed by the chairperson or a person authorised by the Trust.

PART 4—MISCELLANEOUS

Regulations

- 31.** The Governor in Council may make regulations under this Act.

PART 5—REPEAL OF ANZAC DAY ACT 1921

Repeal of Anzac Day Act

- 32.** The Anzac Day Act 1921 12 Geo 5 No. 13 is repealed.

PART 6—MINOR AMENDMENTS

Minor amendments

- 33.** The Schedule amends the Acts mentioned in it.

SCHEDULE

MINOR AMENDMENTS

section 33

HOLIDAYS ACT 1983

1. Section 3—

omit.

2. Section 5—

omit, insert—

‘Minister may change public holidays

‘5. The Minister may, by Gazette notice, substitute another day for a public holiday under section 4.’.

3. Section 6(4)(c)—

omit, insert—

‘(c) a holiday for a district prescribed by regulation.’.

4. Section 6(5)—

omit, insert—

‘(5) A regulation may appoint a day, or the morning or afternoon of a day, to be a holiday in a district prescribed under subsection (4)(c).’.

5. Sections 7 and 8—

omit.

SCHEDULE (continued)

6. Section 10(3)—*omit, insert—*

‘(3) A regulation may declare that, from a specified day, Saturday ceases to be a bank holiday.’.

7. Section 11—*omit, insert—***‘Regulation making power**

‘11. The Governor in Council may make regulations under this Act.’.

8. After section 11—*insert—***‘Reference to Holidays Act 1912**

‘12. A reference in an Act or document to the *Holidays Act 1912* is a reference to this Act.

‘Numbering and renumbering of Act

‘13. Section 43 (Numbering and renumbering of provisions) of the *Reprints Act 1992* must be used in the first reprint of the Act produced under the *Reprints Act 1992*.’.

RACING AND BETTING ACT 1980**1. Section 203(2A), ‘section 8(2)(d) of the *Anzac Day Act 1921*’—***omit, insert—*

‘section 15 of the *Anzac Day Act 1995*’.

SCHEDULE (continued)

TRADING (ALLOWABLE HOURS) ACT 1990**1. Section 3(b)—**

omit, insert—

‘(b) to require employees be given a holiday for, and to regulate when certain places must close on, Anzac Day.’.

2. Section 20(1)—

omit, insert—

‘**20.(1)** The occupier of a banking or insurance office must close the office on the bank holidays prescribed under the *Holidays Act 1983*.⁵’.

3. Section 20(3) and (4)—

omit, insert—

‘**(3)** Subsections (1) and (2) do not apply to—

(a) a bank in relation to a Saturday unless the Saturday—

(i) is a public holiday; or

⁵ Note—

1. Section 98 of the *Bills of Exchange Act 1909* (Cwlth) regulates the times within which certain dealings with a bill of exchange, cheque or promissory note may be conducted (e.g. payment and presentment).

2. Under section 98, if a dealing mentioned in the section falls due on Christmas Day, Good Friday, a Sunday, or a day prescribed by either Commonwealth or State legislation to be a bank holiday, the dealing may be conducted on the next business day.

3. Section 10 of the *Holidays Act 1983* declares every Saturday a bank holiday in Queensland.

4. The effect of section 20 of this Act is to allow a bank to open for business on most Saturdays but, because Saturday remains a bank holiday, a bank is able to choose whether or not it will conduct the dealings mentioned in section 98 of the *Bills of Exchange Act 1909* (Cwlth) on a Saturday.

SCHEDULE (continued)

(ii) falls on 1 January, 26 January, 25 December or 26 December, regardless of whether another day has been substituted as a public holiday for the public holiday that ordinarily falls on the particular day; or

(b) a bank operating at an annual agricultural, horticultural or industrial show if a bank holiday occurs during the show.

‘(4) If a bank holiday is declared for a particular district, subsection (1) only applies to a banking or insurance office in the district on the bank holiday.’.

4. Section 33—

omit, insert—

‘Anzac day a holiday for all employees

‘**33.(1)** An employee in a factory and shop must be given a holiday for the whole of Anzac Day.

‘(2) However, subsection (1) does not apply to employment—

- (a) in a factory or shop of a person employed solely in guarding the factory or shop; or
- (b) at a racing venue where a meeting is held under the *Racing and Betting Act 1980*; or
- (c) at an office or agency of the Totalisator Board under the *Racing and Betting Act 1980*; or
- (d) on licensed premises under the *Liquor Act 1992*; or
- (e) in or on a place of public amusement, that is lawfully used for public amusement or entertainment, of a person employed solely for the purpose of the use; or
- (f) in an independent retail shop; or
- (g) in an exempt shop; or
- (h) in an office where—

SCHEDULE (continued)

- (i) the usual activities conducted include renting or leasing accommodation; and
- (ii) the only activities being conducted are renting or leasing accommodation and related activities; or
- (i) in a factory or shop in employment solely for 1 or more of the following activities—
 - (i) printing, publishing or distributing newspapers;
 - (ii) manufacturing, distributing or supplying electricity, gas or water;
 - (iii) a necessarily continuous process of manufacturing or mining;
 - (iv) essential services;
 - (v) milk supply;
 - (vi) bread manufacturing;
 - (vii) preparing food in restaurants, cafes, pastry-cook and hot takeaway food kitchens;
 - (viii) an activity prescribed by regulation.’.

5. Section 36—

omit, insert—

‘Closure of other places

‘**36.(1)** Factories and shops must be closed for the whole of Anzac Day.

‘**(2)** Subsection (1) does not apply to a place mentioned in section 33(2)(b) to (i).’.

