

Version No. 045
ANZAC Day Act 1958
No. 6198 of 1958

Version incorporating amendments as at
4 May 2012

TABLE OF PROVISIONS

<i>Section</i>	<i>Page</i>
PART 1—PRELIMINARY	1
1 Short title and commencement	1
2 Repeal	1
3 Commemoration of ANZAC Day	2
PART 2—GENERAL CONTROL OF ACTIVITIES ON ANZAC DAY	2
4 Sports on ANZAC Day	3
4A ANZAC Day Proceeds Fund	5
5 Use of cinemas etc. on ANZAC Day	6
5A Other entertainment on ANZAC Day	7
PART 3—CLOSURE OF FACTORIES AND WAREHOUSES ON ANZAC DAY	10
5B Definitions	10
5C Factories and warehouses to be closed on ANZAC Day	13
5D Exemption of factories and warehouses	14
PART 4—GENERAL	15
6 Regulations	15
7 Transitional provision—ANZAC Day Proceeds Fund	15
—————	
SCHEDULE 1—Repeal	16
SCHEDULE 2—Exempt Factories and Warehouses	17
=====	

<i>Section</i>	<i>Page</i>
ENDNOTES	18
1. General Information	18
2. Table of Amendments	19
3. Explanatory Details	21

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ANZAC Day Act 1958

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An Act to consolidate the Law relating to Anzac Day.

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

PART 1—PRELIMINARY

Pt 1 (Heading)
inserted by
No. 62/2008
s. 4(1).

1 Short title and commencement

S. 1
amended by
No. 96/2003
s. 4.

This Act may be cited as the **ANZAC Day Act 1958**, and shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the Government Gazette.

2 Repeal

- (1) The Act mentioned in the Schedule to the extent thereby expressed to be repealed is hereby repealed accordingly.
- (2) Except as in this Act expressly or by necessary implication provided—
 - (a) all persons things and circumstances appointed or created by or under the repealed Act or existing or continuing under such Act immediately before the commencement of this Act shall under and subject to this Act continue to have the same status operation

s. 3

and effect as they respectively would have had if such Act had not been so repealed;

- (b) in particular and without affecting the generality of the foregoing paragraph such repeal shall not disturb the continuity of status operation or effect of any licence permit condition liability or right made issued granted given accrued incurred or acquired or existing or continuing by or under such Act before the commencement of this Act.

No. 3635 s. 3.

S. 3 (Heading) inserted by No. 96/2003 s. 5(1).

S. 3 amended by Nos 21/2002 s. 4(a), 96/2003 s. 5(2)(a)(b).

3 Commemoration of ANZAC Day

In commemoration of the part taken by Victorian troops in the Great War and in memory of those who gave their lives for the Empire, and in commemoration of the service of Australians for their country in subsequent conflicts and peace-keeping activities, the twenty-fifth day of April in each year (being the anniversary of the first landing on Gallipoli of troops from the United Kingdom Australia and New Zealand) shall be known as *ANZAC Day*.

S. 3(a) repealed by No. 21/2002 s. 4(b).

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S. 3(b) amended by No. 9427 s. 3(Sch. 2 item 1), repealed by No. 119/1993 s.16(1).

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PART 2—GENERAL CONTROL OF ACTIVITIES ON ANZAC DAY

Pt 2 (Heading)
inserted by
No. 62/2008
s. 4(2).

4 Sports on ANZAC Day

S. 4 (Heading)
inserted by
No. 96/2003
s. 6(1).

S. 4
substituted by
No. 6607
s. 4(a).

- (1) Notwithstanding anything in any Act regulation or by-law no sports shall be held on ANZAC Day in any year except with the written approval of the Minister and where any sports are held with such approval the provisions of this section shall be complied with.
- (2) No race match game exercise or other event at any sports so held shall commence before one o'clock in the afternoon.
- (3) Such portion of the net profit from any such sports as the Minister before the sports are held directs or approves shall be paid within two months after the holding of the sports into the ANZAC Day Proceeds Fund established under this Act:
Provided that where such sports are held more than thirty miles from the post office at the corner of Bourke and Elizabeth streets, Melbourne, the Minister may before the sports are held authorize such payment to be made to any institution or organization in the district in which the sports are held if he is satisfied, after consultation with the president for the time being of the Victorian branch of the Returned Sailors' Soldiers' and Airmen's Imperial League of Australia, that such institution or organization is one whose objects

S. 4(1)
amended by
Nos 8344
s. 26(1)(a)(i),
96/2003
s. 6(2).

S. 4(2)
amended by
No. 2/1987
s. 3(a).

S. 4(3)
amended by
Nos 8344
s. 26(1)(a)(ii),
21/2002
s. 5(a),
96/2003
s. 6(2).

ANZAC Day Act 1958

No. 6198 of 1958

Part 2—General Control of Activities on ANZAC Day

s. 4

would permit it to be recommended to share in the distribution of the said Fund under section 4A(3).

S. 4(4)
amended by
No. 8344
s. 26(1)(a)(iii).

- (4) The club association body corporate or person by or on behalf of which or whom any such sports are held shall within two months after the holding of the sports supply to the Minister a detailed statement correctly setting out all receipts and expenditure in connexion with such sports verified by statutory declaration made by such person or by the chairman or president and the secretary or treasurer of such club or association or by the chairman and secretary of such body corporate.

S. 4(5)
amended by
Nos 8344
s. 26(1)(a)(iii),
21/2002
s. 5(b),
96/2003
s. 6(2).

- (5) If any sports are held on ANZAC Day in any year without the written approval of the Minister or in contravention of subsection (2) the club association body corporate or person by or on behalf of which or whom such sports were so held and each member of the managing body or committee of such club or association and each director of such body corporate shall be liable to a penalty of not more than \$1000. But no person shall be liable if it is shown that he did not act wilfully in contravention of this section.

S. 4(6)
amended by
No. 21/2002
s. 5(c),
96/2003
s. 6(2).

- (6) If any club association body corporate or person by or on behalf of which or whom any sports were held on ANZAC Day in any year fails to comply with any provision of subsection (3) or subsection (4) such club association body corporate or person and each director or member of the managing body or committee of such club association or body corporate shall be liable to a penalty of not more than \$1000. But no person shall be liable if it is shown that such failure occurred without his knowledge or approval.
- (7) In this section *sports* means bicycle races or foot races or cricket matches or football matches or any other game exercise pastime or contest of a

kind usually conducted carried on contested or decided on a ground which are held on any ground or in any building to which persons are admitted on payment of an admission fee or charge or after any donation has been sought from them for the purpose of witnessing the same, but does not include horse races trotting races or dog races.

- (8) Nothing in this section shall affect the operation of any Act or law relating to Sunday but otherwise this section shall have effect notwithstanding anything in any Act regulation or by-law.

4A ANZAC Day Proceeds Fund

S. 4A
inserted by
No. 6607
s. 4(a).
S. 4A
(Heading)
inserted by
No. 96/2003
s. 7(1).

- (1) There shall be established and kept in the Treasury a fund to be called the ANZAC Day Proceeds Fund.
- (2) There shall be paid into the said Fund all moneys which are required to be so paid by this Act or by the **Racing Act 1958**.
- (3) All of the money standing to the credit of the Fund on 31 August each year, including any interest accrued, is to be distributed to organisations whose principal object is to provide welfare to the ex-service community before the end of the current financial year.
- (4) The money is to be paid to those organisations in accordance with the recommendations of the Victorian Veterans Council.
- (5) In this section *ex-service community* has the same meaning as in the **Veterans Act 2005**.

S. 4A(1)
amended by
No. 96/2003
s. 7(2).

S. 4A(3)
substituted by
No. 98/2005
s. 87.

S. 4A(4)
inserted by
No. 98/2005
s. 87.

S. 4A(5)
inserted by
No. 98/2005
s. 87.

5 Use of cinemas etc. on ANZAC Day

No. 3635 s. 6.

S. 5

amended by
Nos 6607 s. 6,
8344

s. 26(1)(b)(i)(ii),
2/1987 s. 3(b),
substituted by

No. 21/2002

s. 6.

S. 5 (Heading)

amended by

No. 96/2003

s. 8(1).

S. 5(1)

amended by

No. 96/2003

s. 8(2)(a)(b).

- (1) Despite anything in any other Act or a statutory rule (within the meaning of the **Subordinate Legislation Act 1994**), a person must not, without a written permit from the Minister, show any film or allow any film to be shown before 1.00 pm on ANZAC Day at a cinema or other place (whether indoors or outdoors) to which persons are admitted—

(a) on payment of a fee or charge; or

(b) after a donation is sought from them—

for the showing of the film or to enter or remain at the cinema or place.

Penalty: 100 penalty units.

- (2) The Minister may give a person a permit under subsection (1) subject to specified conditions.
- (3) A person who holds a permit under subsection (1) that is subject to specified conditions must comply with each of those conditions.

Penalty: 100 penalty units.

- (4) If a body corporate is guilty of an offence against subsection (1), any person who is concerned, or takes part, in the management of that body corporate is also guilty of the offence and liable to the penalty for the offence.

S. 5(3)

amended by

No. 96/2003

s. 8(3).

- (5) It is a defence to a charge against a person brought pursuant to subsection (4) if the person proves that—
- (a) the offence was committed by the body corporate without his or her consent or knowledge; and
 - (b) he or she exercised due diligence to prevent the commission of the offence.

5A Other entertainment on ANZAC Day

S. 5A
inserted by
No. 21/2002
s. 7.

S. 5A
(Heading)
amended by
No. 96/2003
s. 9(1).

- (1) Despite anything in any other Act or a statutory rule (within the meaning of the **Subordinate Legislation Act 1994**), a person must not, without a written permit from the Minister, provide any entertainment or allow any entertainment to be provided before 1.00 pm on ANZAC Day at a place (whether indoors or outdoors)—
- (a) to which persons are admitted—
 - (i) on payment of a fee or charge; or
 - (ii) after a donation is sought from them—
for the provision of the entertainment or to enter or remain at the place; or
 - (b) at which a commercial business is carried on for the supply of goods or services or both.

S. 5A(1)
amended by
No. 96/2003
s. 9(2)(a)(b).

Penalty: 100 penalty units.

Note

For *entertainment*, see subsection (8).

s. 5A

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- (2) However, subsection (1) does not apply to entertainment provided at licensed premises (within the meaning of the **Liquor Control Reform Act 1998**) at a time when alcohol may be consumed on the premises in accordance with the particular licence.
- (3) The Minister may only give a permit under subsection (1) if—
- (a) the applicant for the permit has paid the prescribed fee (if any); and
 - (b) the Minister is satisfied that the provision of the entertainment—
 - (i) is a genuine commemoration of ANZAC Day; or
 - (ii) if it is not a genuine commemoration of ANZAC Day, would not detract from, or adversely affect, the commemorative nature of ANZAC Day.
- (4) The Minister may give a person a permit under subsection (1) subject to specified conditions.
- (5) A person who holds a permit under subsection (1) that is subject to specified conditions must comply with each of those conditions.
- Penalty: 100 penalty units.
- (6) If a body corporate is guilty of an offence against subsection (1), any person who is concerned, or takes part, in the management of that body corporate is also guilty of the offence and liable to the penalty for the offence.

S. 5A(3)(b)(i)
amended by
No. 96/2003
s. 9(3).

S. 5A(3)(b)(ii)
amended by
No. 96/2003
s. 9(3).

S. 5A(5)
amended by
No. 96/2003
s. 9(4).

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- (7) It is a defence to a charge against a person brought pursuant to subsection (6) if the person proves that—
- (a) the offence was committed by the body corporate without his or her consent or knowledge; and
 - (b) he or she exercised due diligence to prevent the commission of the offence.
- (8) In this section, *entertainment*—
- (a) includes, but is not limited to—
 - (i) a dance or similar event at which one or more persons play music (whether live or pre-recorded); and
 - (ii) a concert, play, drama, recital or other performance at which there are one or more performers; and
 - (b) does not include sports or the showing of a film.

Note

Section 4 deals with sports and section 5 deals with the showing of films.

Pt 3 (Heading
and ss 5B–5D)
inserted by
No. 62/2008
s. 5.

**PART 3—CLOSURE OF FACTORIES AND WAREHOUSES
ON ANZAC DAY**

S. 5B
inserted by
No. 62/2008
s. 5.

5B Definitions

In this Part—

bread means the product obtained by baking a yeast-leavened dough—

- (a) whether with or without the addition of any other substances of any kind, and
- (b) whether sold as bread or under a trade or descriptive name—

and includes bread rolls but does not include buns, scones or crumpets;

factory means—

- (a) any premises or place where any manufacturing process is carried on and 2 or more persons are directly employed in that process (whether on their own account or for hire or reward); or
- (b) any premises or place where any special manufacturing process is carried on and one or more persons are directly employed in that process (whether on their own account or for hire or reward); or
- (c) any premises or place where—
 - (i) electricity is generated or mechanically transformed for the supply of heat, light or power; or
 - (ii) coal gas is made; or

- (d) any clay pit or quarry worked in connection with and occupied by the occupier of a pottery or brickyard—

but does not include any part of a poultry farm where poultry are not dressed for trade or sale by wholesale;

laundry does not include any institution or place in which the only persons employed are—

- (a) inmates of a prison (or other institution) for the time being subject to inspection under any Act; or
(b) inmates of an institution conducted in good faith for religious or charitable purposes;

manufacturing process includes—

- (a) any handicraft or work done in any laundry or dye-works, whether or not done in preparing or manufacturing articles for trade or sale; and
(b) any process in or incidental to—
(i) the making, assembling, altering, repairing, renovating, preparing, ornamenting, finishing, cleaning, washing or adapting of any goods or articles or part of any goods or articles for trade, sale or gain, or
(ii) any purpose ancillary to trade, sale or gain;

occupier of premises includes any person who is the employer of persons working within the premises;

special manufacturing process means any manufacturing process in which—

- (a) steam, water, gas, oil or electric power (exceeding 0.4 kilowatts) is used; or
- (b) any process involving mixing, pasting or smelting in connection with the manufacture or repair of electrical accumulators is used; or
- (c) any process involving mixing, pasting or smelting involving the use of a compound of lead is used; or
- (d) any bread or pastry is made or baked for trade or sale; or
- (e) any confectionery or cereal food for human consumption is prepared or manufactured for trade or sale; or
- (f) fish or poultry are prepared for trade or sale by wholesale;

trade includes process, business and occupation;

warehouse means any building or place, or part of a building or place, in which goods are sold or offered for sale by wholesale;

yeast-leavened dough means yeast-leavened dough prepared—

- (a) from flour or meal (whether as milled or with any added substances or with any of its component substances removed, reduced or added to) and water; or
- (b) from any mixture of those flours or meals and water.

5C Factories and warehouses to be closed on ANZAC Day

S. 5C
inserted by
No. 62/2008
s. 5.

- (1) An occupier of a factory or warehouse must ensure—
- (a) that the factory or warehouse is closed and kept closed on ANZAC Day; and
 - (b) that each employee in that factory or warehouse is given a whole holiday on ANZAC day.
- Penalty: 100 penalty units.
- (2) Subsection (1) does not apply to a factory of a class or kind—
- (a) set out in Schedule 2; or
 - (b) exempted by Order under section 5D.
- (3) Subsection (1)(b) does not apply in relation to employees solely employed for the purpose of safeguarding the premises.
- (4) If a body corporate is guilty of an offence against subsection (1), any person who is concerned, or takes part, in the management of that body corporate is also guilty of the offence and liable to the penalty for the offence.
- (5) It is a defence to a charge against a person brought pursuant to subsection (1) if the person proves that—
- (a) the offence was committed by the body corporate without that person's consent or knowledge; and
 - (b) that person exercised due diligence to prevent the commission of the offence.

s. 5D

S. 5D
inserted by
No. 62/2008
s. 5.

5D Exemption of factories and warehouses

- (1) The Governor in Council, by Order published in the Government Gazette, may exempt a class or kind of factory or warehouse from the requirements of section 5C(1).
 - (2) An Order under this section must be laid before each House of Parliament as soon as practicable after it is made.
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PART 4—GENERAL

Pt 4 (Heading)
inserted by
No. 62/2008
s. 4(3).

6 Regulations

S. 6
inserted by
No. 6607
s. 4(b).

- (1) The Governor in Council may make regulations for or with respect to forms to be used for the purposes of this Act.
- (2) The Governor in Council may make regulations for or with respect to any other matter or thing—
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary to be prescribed to give effect to this Act.

S. 6(2)
repealed by
No. 6886 s. 3,
new s. 6(2)
inserted by
No. 21/2002
s. 8.

7 Transitional provision—ANZAC Day Proceeds Fund

S. 7
inserted by
No. 96/2003
s. 10.

The ANZAC Day Proceeds Fund is deemed to be the same Fund as it was before the commencement of the **ANZAC Day (Amendment) Act 2003** despite the change in its name by that Act.

ANZAC Day Act 1958
No. 6198 of 1958

Sch. 1

Sch.
(Heading)
substituted as
Sch. 1
(Heading) by
No. 62/2008
s. 6(a).

SCHEDULE 1

Section 2

<i>Number of Act</i>	<i>Title of Act</i>	<i>Extent of Repeal</i>
3635	Anzac Day Act 1928	So much as is not already repealed.

Note to Sch. 1
inserted by
No. 96/2003
s. 11,
amended by
Nos 45/2004
s. 42, 62/2008
s. 6(b).

Note: The following Acts contain references to "ANZAC Day"—

Gambling Regulation Act 2003

Liquor Control Reform Act 1998

Public Holidays Act 1993

Racing Act 1958

Shop Trading Reform Act 1996

SCHEDULE 2

Sch. 2
inserted by
No. 62/2008
s. 7.

EXEMPT FACTORIES AND WAREHOUSES

- (1) Every factory or warehouse in which any of the following is carried on—
- (a) the printing, publishing or distributing of newspapers;
 - (b) the manufacture, distribution or supply of gas or electric light or power;
 - (c) any necessarily continuous process of manufacture;
 - (d) the supply of milk;
 - (e) the trade of a pastry cook.
- (2) Every bread factory—
- (a) while dough only is being prepared in the factory; or
 - (b) after 8 p.m. when ANZAC Day falls on a Friday.
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ENDNOTES

1. General Information

The **Anzac Day Act 1958** was assented to on 30 September 1958 and came into operation on 1 April 1959: Government Gazette 18 March 1959 page 892.

The name of this Act was changed from the **Anzac Day Act 1958** to the **ANZAC Day Act 1958** by section 4 of the **ANZAC Day (Amendment) Act 2003**, No. 96/2003.

2. Table of Amendments

This Version incorporates amendments made to the **ANZAC Day Act 1958** by Acts and subordinate instruments.

Anzac Day Act 1960, No. 6607/1960

Assent Date: 7.4.60
Commencement Date: 7.4.60
Current State: All of Act in operation

Subordinate Legislation Act 1962, No. 6886/1962

Assent Date: 8.5.62
Commencement Date: 1.8.62: Government Gazette 4.7.62 p. 2314
Current State: All of Act in operation

Youth, Sport and Recreation Act 1972, No. 8344/1972

Assent Date: 12.12.72
Commencement Date: 19.12.72: Government Gazette 13.12.72 p. 3978
Current State: All of Act in operation

Statute Law Revision Act 1980, No. 9427/1980

Assent Date: 27.5.80
Commencement Date: 27.5.80: subject to s. 6(2)
Current State: All of Act in operation

Anzac Day (Amendment) Act 1987, No. 2/1987

Assent Date: 31.3.87
Commencement Date: 31.3.87
Current State: All of Act in operation

Public Holidays Act 1993, No. 119/1993

Assent Date: 7.12.93
Commencement Date: 7.12.93
Current State: All of Act in operation

Theatres (Repeal) Act 2002, No. 21/2002

Assent Date: 21.5.02
Commencement Date: 22.5.02: s. 2
Current State: All of Act in operation

ANZAC Day (Amendment) Act 2003, No. 96/2003

Assent Date: 2.12.03
Commencement Date: 3.12.03: s. 2
Current State: All of Act in operation

Racing and Gaming Acts (Amendment) Act 2004, No. 45/2004

Assent Date: 16.6.04
Commencement Date: S. 42 on 1.7.04: s. 2(4)
Current State: This information relates only to the provision/s amending the **ANZAC Day Act 1958**

ANZAC Day Act 1958
No. 6198 of 1958

Endnotes

Veterans Act 2005, No. 98/2005

Assent Date: 7.12.05
Commencement Date: S. 87 on 21.8.06: Government Gazette 17.8.06 p. 1716
Current State: This information relates only to the provision/s amending the **ANZAC Day Act 1958**

Labour and Industry (Repeal) Act 2008, No. 62/2008

Assent Date: 5.11.08
Commencement Date: Ss 4-7 on 6.11.08: s. 2
Current State: This information relates only to the provision/s amending the **ANZAC Day Act 1958**

3. Explanatory Details

No entries at date of publication.