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Robyn Webb  
Chief Parliamentary Counsel  
Dated 15 May 2019



TASMANIA

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## **ANZAC DAY OBSERVANCE ACT 1929**

**No. 70 of 1929**

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## **ANZAC DAY OBSERVANCE ACT 1929**

**No. 70 of 1929**

**An Act to provide for the fitting observance of Anzac Day as a national holiday and for the Anzac Day Trust and Anzac Day Trust Fund**

**[Royal Assent 18 January 1930]**

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

### **PART I – GENERAL**

#### **1. Short title**

This Act may be cited as the *Anzac Day Observance Act 1929*.

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Part I – General

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**2. Anzac Day to be observed as a national holiday**

The 25th April in each year shall be observed as a national holiday, and shall be known as “Anzac Day”.

## **PART II – OBSERVANCE OF ANZAC DAY**

### **3. Interpretation of Part II**

In this Part, unless the contrary intention appears

–

*bookmaking* has the same meaning as in the  
*Racing Regulation Act 2004*;

*children’s sports* means sports at which all of  
the participants (other than those engaged  
therein as judges, umpires, or referees, or  
in any similar capacity) are either –

- (a) persons who have not attained the  
age of 17 years; or
- (b) persons who are receiving full-  
time primary or secondary  
education at a school;

*event*, in relation to any sports, means any  
race, match, game, or other contest that  
constitutes or takes place at those sports;

*foreign game* has the same meaning as in the  
*Gaming Control Act 1993*;

*gaming* has the same meaning as in the  
*Gaming Control Act 1993*;

*gaming activity* has the same meaning as in  
the *Gaming Control Act 1993*;

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***place of public entertainment*** means any assembly ground, assembly room, open-air theatre, or theatre within the meaning of Part V of the *Public Health Act 1962* as in force immediately before the repeal of that Part by a proclamation made under section 197 of the *Public Health Act 1997*;

***racecourse*** has the same meaning as in the *Racing Regulation Act 2004*;

***race meeting*** has the same meaning as it has for the purposes of the *Racing Regulation Act 2004*;

***shop*** has the same meaning as in the *Shop Trading Hours Act 1984*;

***sports*** means any races, matches, games, or other contests;

***year*** means a period of 12 months ending on 31st December.

**4. Sport and entertainment on Anzac Day**

- (1) Racing at a race meeting held on Anzac Day must not commence before 12.30 p.m.
- (2) Any theatrical exhibition or entertainment, or cinematographic exhibition, held in a place of public entertainment on Anzac Day must not commence before 12.30 p.m.

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- (3) Any event at sports to which this section applies and that are held on Anzac Day must not commence before 12.30 p.m.
- (4) Subsection (3) applies to sports (other than children's sports) held at any place –
- (a) where a fee or charge is made for admission to the place in which the sports are held or to any place for the purpose of viewing the sports; or
  - (b) where, before, during, or after the sports, donations are sought from persons attending those sports by, or on behalf of, the person or body by, or on whose behalf, those sports are held.
- (5) Any person who –
- (a) holds, or causes or permits to be held, any meeting, exhibition, entertainment, or sports contrary to the provisions of this section; or
  - (b) is a member of the committee or other managing body of, or the secretary of, any association, club, or other body, by or on whose behalf any meeting, exhibition, entertainment, or sports, is or are so held –

is guilty of an offence and liable to a fine not exceeding 10 penalty units.

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**4A. Further restrictions on events on Anzac Day**

- (1) On Anzac Day at any time before 12.30 p.m., a person must not hold, or cause or permit to be held, an agricultural, pastoral or horticultural society's show, bazaar, fete, fair, market or trade exhibition in or at which persons occupy or have the use of barrows, stalls, tables or other similar apparatus from or at which goods are sold, or exposed or offered for sale, by retail.

Penalty: Fine not exceeding 10 penalty units.

- (2) Between the hours of 4 a.m. and 12.30 p.m. on Anzac Day, a person must not cause or permit the conduct of –
- (a) gaming or a gaming activity, other than a foreign game; or
  - (b) bookmaking at a racecourse.

Penalty: Fine not exceeding 10 penalty units.

**5. Work in connection with race meetings and sports on Anzac Day**

- (1) This section applies to work necessary for, or habitually associated with, the holding of any race meeting, specified event or sports, being work carried out at the place where the meeting, specified event or sports are held, or at a place where persons assemble, or are accommodated, for the purpose of viewing the racing or events taking place at the meeting, specified event or sports.

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- (2) Nothing in the contract of employment of any person shall be construed as requiring that person to engage on Anzac Day in work to which this section applies, and notwithstanding anything in that contract of service, his refusal or failure to engage in any such work on Anzac Day shall not be regarded as a breach of that contract.
- (3) Where an employee is ordered or asked by his employer to engage on Anzac Day in work to which this section applies and the employee refuses to engage in that work, the employer shall not penalize him or prejudice him in his employment by reason of his refusal, whether by reduction of his remuneration, termination of his employment, or in any other way.

Penalty: Fine not exceeding 10 penalty units.

- (4) Nothing in this section shall be construed as entitling a person to any remuneration in respect of his absence from work to which he would not be entitled if this section had not been enacted.
- (5) In this section –

*specified event* means an event or activity referred to in section 4(2) or section 4A.

**5A. Shops, &c., not to open on Anzac Day**

- (1) A person must not cause or allow a shop to be kept open on Anzac Day before 12.30 p.m.

Penalty: Fine not exceeding 200 penalty units.

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- (2) For the purposes of subsection (1), a shop is kept open if –
- (a) the shop is not locked, or otherwise closed, against admission to the public; or
  - (b) any person in the shop is engaged in the sale of goods, canvassing for orders or delivering goods to customers.
- (3) Despite subsection (2), if a shop has a common entrance with a factory or warehouse, the shop is not taken to be kept open if that entrance is closed but not locked.
- (4) Notwithstanding subsection (1), a shop may be kept open before 12.30 p.m. on Anzac Day if the shop –
- (a) is a shop, or belongs to a class or group of shops, that the Minister, by notice in accordance with subsections (5) and (6), has declared may be kept open before 12.30 p.m. on Anzac Day; or
  - (b) is a pharmacy; or
  - (c) is a newsagency; or
  - (d) is not part of a shopping centre, plaza or mall and the number of persons engaged at the shop as employees or otherwise in the conduct of the business of the shop on any day in the immediately preceding March did not exceed 10; or

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- (e) is a shop –
  - (i) at which an auction is conducted by a real estate agent, or a general auctioneer, within the meaning of the *Property Agents and Land Transactions Act 2016*; and
  - (ii) which is used principally for the conduct of such an auction; or
- (f) is specified in a liquor licence or liquor permit granted under the *Liquor Licensing Act 1990* and is a shop at which liquor is the only or principal class of goods sold; or
- (g) is a shop in, or at which, the only or principal business carried on is that of providing meals or cooked food, with or without the accompaniment of any beverage, being either meals or cooked food that are ready for immediate consumption either at the shop or elsewhere; or
- (h) is a service station which is used principally for the sale of petroleum products and motor vehicle accessories; or
- (i) is a shop in, or at which, the sale of motor vehicles, or the offering or exposing for sale of motor vehicles, occurs or the sale of replacement parts required for essential repairs to motor vehicles occurs.

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- (5) In deciding whether or not to make a notice under subsection (4)(a), the Minister may have regard to such matters as the Minister considers relevant including, but not limited to –
- (a) the needs of the relevant community including, but not limited to, organisations that support veterans, and their families, such as the RSL; and
  - (b) the effect on the relevant community if the shop, or class or group of shops, is not kept open; and
  - (c) the policy that a notice under this section should not undermine, to any significant degree, the controls on shop trading hours set out in the *Shop Trading Hours Act 1984*.
- (6) A notice under subsection (4)(a) –
- (a) is to be published, before the notice is to have effect –
    - (i) in the *Gazette*; and
    - (ii) in at least one daily newspaper circulating generally in each municipal area where a shop, to which the notice relates, operates; and
    - (iii) on a website that is accessible by the public; and

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- (b) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

**5B. Person not to be required to work in certain circumstances**

- (1) This section applies to a shop specified in section 5A(4) which is not a shop to which section 5 of the *Shop Trading Hours Act 1984* applies.
- (2) A person, whether an employer or not, must not require a person to work before 12.30 p.m. on Anzac Day as an employee in a shop to which this section applies unless the employee agrees, in writing, to that work on that day.

Penalty: Fine not exceeding 200 penalty units.

- (3) If a body corporate contravenes this section –
- (a) each person who is a director of the body corporate or who is concerned in the management of the body corporate is taken to have contravened this section if the person knowingly authorised or permitted the contravention; and
- (b) a person may be proceeded against and convicted under this section in accordance with paragraph (a) whether or not the body corporate has been proceeded against or convicted under this section.

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- (4) In any proceedings, for an offence against this section, against the occupier of a shop, it is sufficient in the complaint in respect of the offence to allege that a building, a part of a building, or place, or other premises is a shop and to state the name of its ostensible occupier or the style or title under which the occupier is usually known or carries on business, and the complaint may from time to time be amended as to the name of the actual occupier.
- (5) In this section –
- occupier*, in relation to a shop, has the same meaning as in the *Shop Trading Hours Act 1984*.

**5C. Application of *Shop Trading Hours Act 1984***

- (1) Section 7 of the *Shop Trading Hours Act 1984* applies to a shop, or purported shop, referred to in sections 5A and 5B as if a reference to *this Act* in section 7 of the *Shop Trading Hours Act 1984* were a reference to the *Anzac Day Observance Act 1929*.
- (2) A copy of a record or document, or part of a record or document, made under section 7 of the *Shop Trading Hours Act 1984*, as applied under subsection (1), is admissible in proceedings for an offence against section 5A or 5B as evidence of the matters specified in the record or document, or part of the record or document.

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**PART III – THE ANZAC DAY TRUST FUND**

**6. Interpretation of Part III**

In this Part, unless the contrary intention appears

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*Fund* means the Anzac Day Trust Fund established under this Part;

*Trust* means the Anzac Day Trust established under this Part.

**7. The Anzac Day Trust**

- (1) For the purposes of the maintenance and administration of the Anzac Day Trust Fund established under this Part, there shall be established an Anzac Day Trust which shall be a body corporate with perpetual succession and a common seal.
- (2) The Trust shall consist of 4 persons appointed by the Governor on the recommendation of the Minister.
- (2A) A member of the Trust is to be appointed for a term of 3 years.
- (2B) Unless it is sooner terminated, the term of appointment of a member of the Trust who is appointed after the commencement of the *Anzac Day Observance Amendment Act 2011* expires 3 years after the day of the appointment.

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- (2C) At the expiration of his or her term of appointment, a member may be reappointed for a further 3-year term.
- (3) The chairman of the Trust shall be such member thereof as the Governor may appoint in that behalf.
- (4 - 5) . . . . .
- (6) At any meeting of the Trust the chairman of the Trust, or if he is absent or if there is no chairman, such one of the other members present, as they may choose, shall preside at the meeting.
- (7) The chairman or other person presiding at a meeting of the Trust has a deliberative vote only and, in the event of an equality of votes on any question before a meeting of the Trust, the question shall be determined in the negative.
- (8) 3 members of the Trust constitute a quorum at any meeting of the Trust.
- (9) Subject to this Act, the Trust may regulate its own proceedings.
- (10) The Trust may pay to the members of the Trust reimbursement of the expenses reasonably incurred by them in the exercise of their functions as members of the Trust.

**8. Staff, &c., of the Trust**

- (1) The Trust may, with the approval of the Head of a State Service Agency, appoint a State Service

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officer or State Service employee employed in that Agency to be Secretary of the Trust, and that officer or employee may hold that office in conjunction with State Service employment.

- (2) The Trust may make arrangements with the Head of a State Service Agency, for such State Service officers and State Service employees employed in that Agency as may be considered necessary to be made available to the Trust to enable it to perform its functions under this Act, and any such officers and employees may, in conjunction with State Service employment, serve the trust in any capacity.
- (3) The Minister may make arrangements to render available to the Trust such accommodation as the Trust may require.

**9. The Anzac Day Trust Fund**

- (1) There shall be established and administered by the Trust a fund to be called the Anzac Day Trust Fund.
- (2) There shall be credited to the Fund –
  - (a - b) . . . . .
  - (c) any assets received by the Trust under section 11; and
  - (d) any other sums received by the Trust in the exercise of its functions.
- (3) There shall be defrayed out of the Fund –

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- (a) such sums as the Trust may direct to be paid thereout for the purposes of section 12; and
  - (b) the other expenses incurred by the Trust in the exercise of its functions.
- (4) Moneys standing to the credit of the Fund may be invested by the Trust in any manner in which trustees are authorized to invest trust funds or in such other manner as may be prescribed.

**10. Grant to Trust**

The Treasurer is to give an annual grant to the Trust of any amount the Treasurer determines.

**11. Acceptance of gifts by Trust**

- (1) The Trust may accept a devise, bequest, or gift of any property.
- (2) Any property accepted under this section may be accepted subject to a trust for any purpose to which the moneys standing to the credit of the Fund may be applied, and, in the application of so much of the Fund as represents that property, the Trust shall comply with the terms of that trust.
- (3) The Trust may realize any property accepted by it under this section that is not in the form of money, and shall do so if the property is not in the form of an investment in which moneys standing to the credit of the Fund may be invested.

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**12. Application of Fund**

- (1) Subject to this Part the moneys standing to the credit of the Fund may be applied by the Trust, in such manner as it may determine, in the making of grants to service organizations.
- (2) No grant shall be made to a service organization otherwise than on an application made by that organization and on its furnishing to the Trust such information as it may require with respect to the organization and the purposes for which it is intended that the grant is to be used.
- (3) The Trust may require any information furnished to it for the purposes of subsection (2) to be verified by a statutory declaration.
- (4) For the purposes of this section a service organization is an institution, association, or other organization having as its object, or one of its objects, the promotion of the welfare of, or the doing of any other thing for the benefit of –
  - (a) persons who have been members of any of the defence forces of the Commonwealth;
  - (b) persons resident in the State who during any operations in which any part of Her Majesty's Dominions were engaged were members of the defence forces of that part of Her Majesty's dominions or of any foreign power allied or associated therewith in those operations; or

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(c) the wives or dependants of any of the persons referred to in the foregoing paragraphs of this subsection, or the widows of, or persons who were dependent on, any of those persons now deceased.

(5) In subsection (4) –

*defence forces* means any military, naval, or air forces; and

*operations*, in relation to any part of Her Majesty's Dominions, means any war or warlike operations or any assignment carried out outside that part of Her Majesty's Dominions.

(6) In granting any sum to a service organization pursuant to this section the Trust may, if it thinks fit, specify the purposes for which it is to be applied, and any part of that sum that is applied otherwise than for those purposes may be recovered by the Trust as a debt due to it from that organization.

(7) . . . . .

13. . . . .

**14. Reports to the Minister**

(1) The Trust shall submit annually to the Minister a report on the exercise of its functions under this

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Act specifying the amounts paid into or disbursed from the Fund.

- (2) The Minister is to arrange for the publication on the internet of a report under this section as soon as practicable after receiving the report.

**15. Offences**

(1 - 2) . . . . .

- (3) Any person who for the purposes of obtaining a grant under this Part makes any representation that he knows to be false or does not believe to be true is guilty of an offence.
- (4) A person guilty of an offence under this section is liable to a fine not exceeding 20 penalty units.

**16. Minister may issue guidelines**

- (1) The Minister may issue guidelines in relation to the exercise by the Trust of its functions under this Part in respect of –
- (a) the proceedings of the Trust; and
  - (b) the keeping of the accounts of the Fund and prescribe the manner in which payments are to be made out of the Fund; and
  - (c) the process and criteria for considering applications for grants out of the Fund; and

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- (d) the manner in which, and the times at which, the Trust requires those applications to be made.
- (2) The Minister must afford the Trust a reasonable opportunity to make representations in respect of the guidelines before they are issued.
- (3) The Minister is to publish from time to time any guidelines issued under this section in a newspaper that is published and circulated generally in Tasmania or in the *Gazette* or on the internet.

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**NOTES**

The foregoing text of the *Anzac Day Observance Act 1929* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 15 October 2018 are not specifically referred to in the following table of amendments.

Act	Number and year	Date of commencement
<i>Anzac Day Observance Act 1929</i>	No. 70 of 1929	18.1.1930
<i>Licensing Act 1932</i>	No. 55 of 1932	18.1.1933
<i>Decimal Currency Act 1965</i>	No. 55 of 1965	14.2.1966
<i>Anzac Day Observance Act 1970</i>	No. 2 of 1970	15.4.1970
<i>Anzac Day Observance Act 1974</i>	No. 7 of 1974	19.4.1974
<i>Statute Law Revision Order (No. 6) 1977</i>	S.R. 1977, No. 320	30.11.1977
<i>Tasmanian State Service (Miscellaneous Amendments) Act 1984</i>	No. 29 of 1984	1.12.1985
<i>Penalty Units and Other Penalties Amendment Act 1991</i>	No. 43 of 1991	18.12.1991
<i>Anzac Day Observance Amendment Act 1994</i>	No. 51 of 1994	25.8.1994
<i>Statute Law Revision Act 1994</i>	No. 68 of 1994	25.11.1994
<i>Racing Amendment Act 1997</i>	No. 58 of 1997	1.5.1998
<i>State Service (Consequential and Miscellaneous Amendments) Act 2000</i>	No. 86 of 2000	1.5.2001
<i>Statute Law Revision Act 2003</i>	No. 9 of 2003	16.4.2003
<i>Racing Regulation (Transitional and Consequential Provisions) Act 2004</i>	No. 64 of 2004	1.1.2005
<i>Audit (Consequential Amendments) Act 2008</i>	No. 50 of 2008	1.3.2009 rest of Act 1.7.2010 s. 4 & Sched. 2
<i>Anzac Day Observance Amendment Act 2011</i>	No. 45 of 2011	7.12.2011
<i>Anzac Day Observance Amendment Act 2018</i>	No. 21 of 2018	15.10.2018

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**TABLE OF AMENDMENTS**

Provision affected	How affected
Part I	Heading inserted by No. 2 of 1970, s. 2
Part II, formerly s. 3,	Substituted by No. 2 of 1970, s. 3
Section 3	Amended by No. 9 of 2003, Sched. 1, No. 64 of 2004, Sched. 1, No. 45 of 2011, s. 5 and No. 21 of 2018, s. 5
Section 4	Amended by No. 7 of 1974, s. 2, No. 43 of 1991, s. 5 and Sched. 1, No. 64 of 2004, Sched. 1 and No. 45 of 2011, s. 6
Section 4A	Inserted by No. 45 of 2011, s. 7
Section 5	Amended by No. 43 of 1991, s. 5 and Sched. 1, No. 64 of 2004, Sched. 1 and No. 45 of 2011, s. 8
Section 5A	Inserted by No. 21 of 2018, s. 6
Section 5B	Inserted by No. 21 of 2018, s. 6
Section 5C	Inserted by No. 21 of 2018, s. 6
Part III, formerly s. 3,	Substituted by No. 2 of 1970, s. 3
Section 6	Amended by No. 68 of 1994, s. 3 and Sched. 1, No. 58 of 1997, s. 53, No. 64 of 2004, Sched. 1 and No. 45 of 2011, s. 9
Section 7	Amended by No. 45 of 2011, s. 10
Section 8	Substituted by No. 29 of 1984, s. 3 and Sched. 1 Amended by No. 86 of 2000, Sched. 1
Section 9	Amended by No. 64 of 2004, Sched. 1 and No. 45 of 2011, s. 11
Section 10	Substituted by No. 51 of 1994, s. 4
Section 12	Amended by No. 45 of 2011, s. 12
Section 13	Amended by No. 68 of 1994, s. 3 and Sched. 1, No. 50 of 2008, Sched. 1 Repealed by No. 50 of 2008, Sched. 2
Section 14	Amended by No. 45 of 2011, s. 13
Section 15	Amended by No. 43 of 1991, s. 5 and Sched. 1 and No. 45 of 2011, s. 14
Section 16	Substituted by No. 45 of 2011, s. 15