South Australia

Automated External Defibrillators (Public Access) Act 2022

An Act to require the installation and registration of Automated External Defibrillators in certain buildings, facilities and vehicles and for other purposes.

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1 Transitional provision

Legislative history

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Automated External Defibrillators (Public Access) Act 2022*.

2—Commencement

(1) Subject to subsection (2), this Act comes into operation on the day on which it is assented to by the Governor.

(2) Sections 3 to 17 (inclusive) come into operation on 1 January 2025.

3—Interpretation

(1) In this Act—

Australian Register of Therapeutic Goods *means the register maintained under section 9A of the Therapeutic Goods Act 1989 of the Commonwealth;*

Automated External Defibrillator *means a portable device able to treat cardiac arrest by applying an electric shock to restore normal heart rhythm that is—*

(a) included on the Australian Register of Therapeutic Goods; or

(b) if there is no Automated External Defibrillator included on the Australian Register of Therapeutic Goods—approved by the Minister for the purposes of this Act;

designated building or facility*—see section 4;*

emergency services organisation *means—*

(a) the South Australian Country Fire Service; or

(b) the South Australian Metropolitan Fire Service; or

(c) the South Australian State Emergency Service; or

(d) an organisation prescribed by the regulations;

major works *means improvements, repairs or other physical changes to a building the cost of which exceeds $100 000;*

prescribed building*—see section 5;*

prescribed vehicle*—see section 8(4);*

public building or facility *means a place to which the public has access (whether or not admission is obtained by payment of money) and includes—*

(a) a swimming pool; and

(b) a library; and

(c) a local government office; and

(d) a town hall; and

(e) a building or facility prescribed by the regulations,

but does not include a building or facility excluded from the ambit of this definition by the regulations;

***relevant authority**, for an emergency services organisation, means—*

*(a) in the case of the South Australian Country Fire Service (**SACFS**)—the Chief Officer of SACFS; or*

*(b) in the case of the South Australian Metropolitan Fire Service (**SAMFS**)—the Chief Officer of SAMFS; or*

*(c) in the case of the South Australian State Emergency Service (**SASES**)—the Chief Officer of SASES; or*

(d) in the case of an organisation prescribed by the regulations—the person prescribed by the regulations as the relevant authority for the organisation;

***relevant day** means the day on which section 4 comes into operation;*

***school** has the same meaning as in the Education and Early Childhood Services (Registration and Standards) Act 2011;*

***smartphone** means mobile telephone with an operating system capable of running software applications;*

***tertiary institution** includes a university and TAFE SA;*

***vehicle** includes aircraft and a boat but does not include a motorbike, horse or a vehicle excluded from the ambit of this definition by the regulations.*

(2) A reference in this Act, other than in section 10, to an Automated External Defibrillator installed in a building or facility includes a reference to an Automated External Defibrillator installed in an external area on or around the building or facility.

4—Meaning of designated building or facility

*For the purposes of this Act, the following buildings or facilities are **designated buildings or facilities** (whether constructed before or after the relevant day):*

(a) a public building or facility;

(b) a prescribed sporting facility;

(c) a school, tertiary institution or education facility that provides skills training;

(d) a correctional institution (within the meaning of the Correctional Services Act 1982) or custodial police station (within the meaning of section 78 of the Summary Offences Act 1953);

(e) a retirement village (within the meaning of the Retirement Villages Act 2016);

(f) a facility that provides residential care within the meaning of the Aged Care Act 1997 of the Commonwealth;

(g) a caravan park;

(h) a residential park (within the meaning of the Residential Parks Act 2007) occupied (or that allows for occupation) by more than 12 residents;

(i) a casino or other venue where gambling is authorised, other than a venue where the only gambling authorised is the selling and buying of lottery tickets;

(j) a theatre or other venue where artistic or cultural performances are provided;

(k) a building or facility, or class of building or facility, prescribed by the regulations.

5—Meaning of prescribed building

For the purposes of this Act, the following buildings are ***prescribed buildings****:*

(a) a building on land used for commercial purposes if—

(i) construction of the building commences after the relevant day; or

(ii) major works to the building commence after the relevant day,

and if, after completion of the construction or major works, the floor area of the building will be more than 600 m^2;

(b) a building with a floor area of more than 600 m^2 (whether constructed before or after the relevant day) on land in respect of which there is, after the relevant day, a change in the use of the land to use for commercial purposes;

(c) a building, or class of buildings, prescribed by the regulations.

6—Application of Act—Crown

This Act binds the Crown in right of the State and also, so far as the legislative power of the State extends, the Crown in all its other capacities, but not so as to impose any criminal liability on the Crown.

Part 2—Automated External Defibrillators—general requirements

7—Installation of Automated External Defibrillators—buildings and facilities

(1) The owner of—

(a) a designated building or facility; or

(b) a prescribed building,

must—

(c) in the case of a relevant designated building or facility or prescribed building—ensure that 1 Automated External Defibrillator is installed in the building or facility for every 1 200 m^2 of floor area of the building or facility; or

(d) in any other case—ensure that an Automated External Defibrillator is installed in the building or facility.

(2) A person who contravenes or fails to comply with a requirement under this section is guilty of an offence.

Maximum penalty: $20 000.

(3) In this section—

***relevant designated building or facility or prescribed building** means a designated building or facility or prescribed building that—*

(a) is on land used for commercial purposes; and

(b) has a floor area of more than 1 200 m^2.

8—Installation of Automated External Defibrillators—vehicles

(1) The relevant authority for an emergency services organisation must ensure that an Automated External Defibrillator is installed in each vehicle used in the provision of emergency services by the organisation.

(2) The owner of a prescribed vehicle must ensure that an Automated External Defibrillator is installed in the vehicle.

(3) A person who contravenes or fails to comply with a requirement under subsection (2) is guilty of an offence.

Maximum penalty: $20 000.

(4) In this section—

***bus** means a motor vehicle built mainly to carry people that seats over 14 adults (including the driver);*

***prescribed vehicle** means a train, tram, public bus or any other vehicle prescribed by the regulations for the purposes of this section;*

***public bus** means a bus engaged in regular passenger services under the Passenger Transport Act 1994.*

9—Maintenance and testing

(1) A designated entity in respect of a building, facility or vehicle in which an Automated External Defibrillator is installed in accordance with this Act must ensure that the Automated External Defibrillator is—

(a) properly maintained; and

(b) tested at least once every 12 months.

(2) A person who contravenes or fails to comply with a requirement under this section is guilty of an offence.

Maximum penalty: $20 000.

(3) In this section—

***designated entity**, in respect of a building, facility or vehicle in which an Automated External Defibrillator is installed, means—*

(a) in the case of a building or facility—the owner of the building or facility; or

(b) in the case of a vehicle used in the provision of emergency services—the relevant authority for the emergency services organisation responsible for installation of the Automated External Defibrillator in the vehicle under section 8(1); or

(c) in the case of a prescribed vehicle—the owner of the prescribed vehicle.

10—Signs

(1) If an Automated External Defibrillator is installed inside a building or facility, the owner of the building or facility must—

(a) near to the Automated External Defibrillator; and

(b) outside, and near to an entrance of, the building or facility,

install a sign indicating that an Automated External Defibrillator is nearby.

(2) If an Automated External Defibrillator is installed outside a building or facility, the owner of the building or facility must, near to the Automated External Defibrillator, install a sign indicating that an Automated External Defibrillator is nearby.

(3) If an Automated External Defibrillator is installed in a vehicle—

(a) in the case of a vehicle used in the provision of emergency services—the relevant authority for the emergency services organisation responsible for installation of the Automated External Defibrillator in the vehicle under section 8(1); or

(b) in the case of a prescribed vehicle—the owner of the prescribed vehicle,

must, on the outside of the vehicle, install a sign indicating that an Automated External Defibrillator is in the vehicle.

(4) A person who contravenes or fails to comply with a requirement under this section is guilty of an offence.

Maximum penalty: $2 500.

(5) The regulations may prescribe additional requirements in relation to signs.

Part 3—Register and other matters

11—Preliminary

In this Part—

***Minister** means the Minister responsible for the administration of the Health Care Act 2008.*

12—Register

(1) The Minister must establish and maintain a register of Automated External Defibrillators installed in accordance with this Act.

(2) The register must contain the following information in respect of each Automated External Defibrillator:

(a) its location;

(b) the times during which it is accessible by the public;

(c) information prescribed by the regulations.

(3) The register must be published on a website determined by the Minister and accessible by the public without charge.

(4) A designated entity in respect of a building, facility or vehicle in which an Automated External Defibrillator is installed must—

(a) provide the information set out in subsection (2) to the Minister in the manner and form determined by the Minister—

(i) in the case of an Automated External Defibrillator installed before the relevant day—within 2 weeks after the relevant day; or

(ii) in any other case—within 2 weeks after the installation; and

(b) notify the Minister in the manner and form determined by the Minister of any change to the information provided in accordance with paragraph (a) within 2 weeks after the change.

(5) A person who contravenes or fails to comply with a requirement under subsection (4) is guilty of an offence.

Maximum penalty: $2 500.

(6) In this section—

***designated entity**, in respect of a building, facility or vehicle in which an Automated External Defibrillator is installed, means—*

(a) in the case of a building or facility—the owner of the building or facility; or

(b) in the case of a vehicle used in the provision of emergency services—the relevant authority for the emergency services organisation responsible for installation of the Automated External Defibrillator in the vehicle under section 8(1); or

(c) in the case of a prescribed vehicle—the owner of the prescribed vehicle.

13—Software application

(1) The Minister must ensure that the information contained in the register of Automated External Defibrillators under section 12 is also available on a software application compatible with smartphones.

(2) The software application must be able to provide directions from the location of the operator of the software application to the Automated External Defibrillators.

14—Awareness strategy

(1) The Minister must develop and implement a strategy for the purposes of informing the public about Automated External Defibrillators, and the strategy must include information about the following:

(a) locating and registering existing Automated External Defibrillators;

(b) installing signs indicating that an Automated External Defibrillator is nearby;

(c) the fact that a person does not need to be trained to use an Automated External Defibrillator.

(2) The strategy must be implemented as soon as practicable after the relevant day and the Minister must ensure that it is promoted for at least 5 years.

15—Training

(1) The Minister must establish a scheme for the provision of training in the use of Automated External Defibrillators to the following persons:

(a) a person who must complete first aid training in accordance with the Education and Care Services National Law (South Australia);

(b) a person who must complete first aid training in accordance with the Work Health and Safety Act 2012;

(c) any other person, or class of persons, prescribed by the regulations.

(2) The scheme must ensure that the persons referred to in subsection (1) are provided with training within 3 years of the relevant day and within each 3 year period thereafter.

Part 4—Miscellaneous

16—Damage, destruction or removal of Automated External Defibrillator

(1) A person who intentionally and without lawful authority—

(a) damages or destroys an Automated External Defibrillator installed in accordance with this Act; or

(b) removes an Automated External Defibrillator installed in accordance with this Act from the location at which it is installed,

is guilty of an offence.

Maximum penalty: $10 000 or imprisonment for 1 year.

(2) It is a defence to a charge of an offence against this section if the defendant proves that—

(a) the damage, destruction or removal of the Automated External Defibrillator occurred in the course of using the Automated External Defibrillator to treat a person who the defendant reasonably believed to be suffering from cardiac arrest; or

(b) in the case of an offence against subsection (1)(b)—the removal of the Automated External Defibrillator was by, or at the direction of, the designated entity in respect of the building, facility or vehicle in which the Automated External Defibrillator is installed.

(3) In this section—

***designated entity** has the same meaning as in section 9.*

17—Regulations and fee notices

(1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.

(2) Without limiting the generality of subsection (1), the regulations may—

(a) exempt a person, or a class of persons, from the application of this Act or a specified provision or provisions of this Act; and

(b) provide for the payment, recovery or waiver of fees prescribed by fee notice; and

(c) provide for fines, not exceeding $10 000, for offences against the regulations; and

(d) provide for expiation fees, not exceeding $315, for offences against the regulations; and

(e) provide for the facilitation of proof of the commission of offences against the regulations.

(3) The regulations may—

(a) be of general or limited application; and

(b) make different provision according to the matters or circumstances to which they are expressed to apply; and

(c) make provisions of a saving or transitional nature consequent on the enactment of this Act or on the making of regulations under this Act; and

(d) provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Minister or a specified person or body; and

(e) apply or incorporate, wholly or partially and with or without modification, a code, standard, policy or other document prepared or published by the Minister or a specified person or body.

(4) If a code, standard or other document is referred to or incorporated in the regulations—

(a) a copy of the code, standard or other document must be kept available for public inspection, without charge and during ordinary office hours, at an office or offices specified in the regulations; and

(b) evidence of the contents of the code, standard or other document may be given in any legal proceedings by production of a document apparently certified by the Minister to be a true copy of the code, standard or other document.

(5) The Minister may prescribe fees for the purposes of this Act by fee notice under the Legislation (Fees) Act 2019.

18—Report

(1) The Minister must prepare a report on how the Government will provide support to persons who are required by this Act to install an Automated External Defibrillator.

(2) The Minister must, within 6 months of the commencement of this section, have copies of the report laid before both Houses of Parliament.

(3) In this section—

Minister means the Minister responsible for the administration of the *Health Care Act 2008*.

Schedule 1—Transitional provision

1—Transitional provision

This Act does not apply in respect of any building, facility or vehicle owned by a person that is not the Crown (or an agency or instrumentality of the Crown) until 1 January 2026.

Legislative history

Notes

- In this version provisions that are uncommenced appear in italics.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal Act

Year	No	Title	Assent	Commencement
2022	27	*Automated External Defibrillators (Public Access) Act 2022*	8.12.2022	8.12.2022: s 2(1) except ss 3 to 17—1.1.2025: s 2(2)