



# What is the impact of the new Automated External Defibrillators Legislation on building owners?

On 30 November 2022, the [\*\*Automated External Defibrillators \(Public Access\) Act 2022 \(SA\) \(AED Act\)\*\*](#) passed through both houses in the South Australian Parliament. Further, the AED Act received royal assent on 8 December 2022 making South Australia the first jurisdiction in the country to mandate the installation of Automatic External Defibrillators (AED).

The act comes into force on 1 January 2025 for government agencies and rolls out a year later for other relevant buildings, facilities and vehicles.

## What is the AED Act?

The primary purpose of the AED Act is to protect the South Australian community by ensuring fast access to potentially life-saving equipment in the event of a cardiac arrest. The Act requires the installation and registration of AEDs in certain buildings, facilities and vehicles; and the burden falls wholly upon the owners of these facilities and buildings to install and maintain the AED.

This is a somewhat onerous obligation as the owners will be held responsible for general repairs and maintenance, the display of conspicuous signage, reporting obligations and ensuring the AEDs are fit for purpose and are located at a suitable access point.

Importantly, the occupants and tenants of the facilities or buildings have no obligation to install or maintain an AED within their licensed premises.

## Does the AED Act apply to my property?

The Act applies to designated buildings or facilities which is defined under section 4 to include a:

- public building or facility;
- sporting facility;
- school, university or other education facility;
- correctional institution;
- retirement village;
- facility that provides residential care;
- caravan park;
- residential park where there are more than 12 residents;
- casino/ gambling casino;
- theatre or other artistic or cultural performance venue;

- a building or facility, or class of building or facility, prescribed by the regulations.

The Act also applies to prescribed buildings which is defined under section 5 to include:

- A building on land used for commercial purposes if –
  - i. Construction of the building commences after the relevant day\*; or
  - ii. Major works of the building commences 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<sup>2</sup>;
- A building with a floor area of more than 600m<sup>2</sup> on land in respect of which there is after the relevant day\*, a change in the use of land to use for commercial purposes;
- A building, or class of buildings, prescribed by the regulations.

Therefore, if your property falls within one of the above categories, you will be bound by the AED Act and must install an AED on your premises. Importantly, this includes privately owned buildings. Failing to install an AED can result in a \$20,000 fine.

It is important to be aware that commercial purposes are not defined under the AED Act. The implication of this is that the term may be interpreted broadly by the Minister responsible for administering the Act. In doing so, they may read the term to include businesses which have varying purposes, only one of which may be commercial.

## What are the obligations of the owner?

If you are an owner of one of the buildings or facilities for which the act applies, you must ensure that the AED is properly maintained and tested every 12 months. Further, you must ensure that there is one AED installed for every 1,200m<sup>2</sup> of the floor area in the business. Failure to comply with either of these obligations may result in a \$20,000 fine.

The Act also stipulates a number of signage requirements such as the installation of signage near the AED, and signage at the outside entrance of a building that states there is an AED nearby. Failing to comply with the signage requirements listed in the AED Act will result in a \$2,500 fine.

Additionally, you must provide information to the Register on where the AED is located, times that it is accessible to the public, and any other information prescribed by the regulations.

## How can Andersons' help?

If you have any questions about your obligations as a building or facility owner under the new AED Act, please contact the author of this article, Nick Black or any of Andersons' experienced commercial law team.

*\*Relevant day refers to the date on which section 5 comes into operation for the relevant entity.*