



ANNO DECIMO OCTAVO

ELIZABETHAE II REGINAE

A.D. 1969

No. 71 of 1969

An Act to amend the Criminal Law Consolidation Act, 1935-1966, as amended; to repeal section 14 of the Criminal Law Consolidation Act Amendment Act, 1956, and for other purposes.

[Assented to 11th December, 1969.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

Short titles.

1. (1) This Act may be cited as the "Criminal Law Consolidation Act Amendment Act (No. 2), 1969".

(2) The Criminal Law Consolidation Act, 1935-1966, as amended by this Act and by any other Act, if any, passed before the commencement of this Act, may be cited as the "Criminal Law Consolidation Act, 1935-1969".

(3) The Criminal Law Consolidation Act, 1935-1966, as amended by any other Act, if any, passed before the commencement of this Act, is hereinafter referred to as "the principal Act".

Commencement.

2. This Act shall come into operation on a day to be fixed by proclamation.

Amendment of long title of principal Act.

3. The long title of the principal Act is amended by inserting therein after the passage "Criminal Law" the passage "and for other purposes".

4. Section 3 of the principal Act is amended—

Amendment of
principal Act,
s. 3—
Arrangement
of Act.

- (a) by striking out the passage "*Sending Letters Threatening to Harm or Destroy*" and inserting in lieu thereof the passage "*Sending Letters Threatening to Burn or Destroy*";
- (b) by striking out the passage "*Larceny of written Instruments, things attached to or Growing on Land*" and inserting in lieu thereof the passage "*Larceny of written Instruments*";
- (c) by striking out the passage "(Sections 270-328)" and inserting in lieu thereof the passage "(Sections 270-328a)";

and

- (d) by inserting immediately below the passage "*Habitual Criminals (Sections 319-328)*" the passage "*Abolition of presumption of marital coercion (Section 328a)*".

5. Section 14a of the principal Act is amended by striking out from subsection (2) the passage "section 38a of the Road Traffic Act, 1934-1951," and inserting in lieu thereof the passage "section 168 or section 169 of the Road Traffic Act, 1961-1967, as amended,".

Amendment of
principal Act,
s. 14a—
Power to
convict for
careless
driving on
trial for
manslaughter,
etc.

6. Section 38a of the principal Act is amended by striking out from subsection (2) the passage "section 38a of the Road Traffic Act, 1934-1951," and inserting in lieu thereof the passage "section 168 or section 169 of the Road Traffic Act, 1961-1967, as amended,".

Amendment of
principal Act,
s. 38a—
Power to
convict of
careless
driving on
charge of
causing bodily
harm.

7. Section 77 of the principal Act is amended by inserting in subsection (6) after the passage "Supreme Court" the passage ", a District Criminal Court".

Amendment of
principal Act,
s. 77—
Indeterminate
sentence where
prisoner
suffers from
venereal
disease.

Amendment of
principal Act,
s. 77a—
Detention of
persons
incapable of
controlling
sexual
instincts.

8. Section 77a of the principal Act is amended by inserting in subsection (8) after the passage "Supreme Court" the passage ", a District Criminal Court".

Amendment of
principal Act,
s. 198—
Conviction of
receivers in
absence of
principal.

9. Section 198 of the principal Act is amended by striking out from subsection (1) the passage "either of the last two preceding sections" and inserting in lieu thereof the passage "section 196, 197 or 197a of this Act".

Amendment of
principal Act,
s. 200—
Previous
convictions
may be proved
in receiving
charges.

10. Section 200 of the principal Act is amended—

(a) by striking out from paragraph (b) of subsection (2) the passage "section 90 or section 93 of the Police Act, 1936-1938," and inserting in lieu thereof the passage "section 39 or section 41 of the Police Offences Act, 1953-1967, as amended,";

and

(b) by striking out from subsection (2) the passage ", whether committed or tried before or after the passing of the Criminal Law Consolidation Act Amendment Act, 1940".

Amendment of
principal Act,
s. 266—
Interpretation.

11. Section 266 of the principal Act is amended by striking out from paragraph II the passage "Industrial Code, 1920" and inserting in lieu thereof the passage "Industrial Code, 1967, as amended".

Amendment of
principal Act,
s. 283—
Rules of
Court.

12. Section 283 of the principal Act is amended by striking out from subsection (2) the passage "Supreme Court Act, 1878" and inserting in lieu thereof the passage "Supreme Court Act, 1935-1969, as amended, or any corresponding previous enactment".

Amendment of
principal Act,
s. 286—
Inspection and
copies of
depositions.

13. Section 286 of the principal Act is amended by striking out from paragraph (b) the passage "a reasonable sum not exceeding fourpence per folio, or by order of a judge, without fee" and inserting in lieu thereof the passage "such fee as the court or a judge may direct".

Amendment of
principal Act,
s. 300d—
Recovery and
payment of
fines and
forfeitures.

14. Section 300d of the principal Act is amended—

(a) by striking out the word "to" firstly occurring in subsection (2);

and

(b) by inserting as the first word in paragraph (a) of subsection (2) the word "to".

15. Section 319 of the principal Act is amended by striking out from subsection (3) the passage—

“Class IV. Sections 80 and 81—Abortion.”

and inserting in lieu thereof the passage—

“Class IV. Sections 81 and 82—Attempts to procure Abortion.”.

Amendment of
principal Act,
s. 319—
Judge may
declare
convicted
person an
habitual
criminal.

16. Section 348 of the principal Act is amended—

(a) by inserting after the definition of “appellant” the following definition :—

“District Criminal Court” means a court constituted of a person appointed to and holding judicial office under the Local and District Criminal Courts Act, 1926-1969, when sitting as a Recorder in exercise of the jurisdiction conferred on him by the district criminal court provisions as defined in that Act ; ;

(b) by striking out the definition of “information” and inserting in lieu thereof the following definition :—

“information” means information whereby a person is put upon his trial for any crime or offence at any Criminal Session of the Supreme Court or before any court of oyer and terminer and general gaol delivery or at any sitting of a District Criminal Court, as the case may be ; ;

(c) by striking out the word “and” immediately following the definition of “Master” ;

(d) by inserting after the definition of “Master” the following definition :—

“Recorder” means a person appointed to and holding judicial office under the Local and District Criminal Courts Act, 1926-1969, when sitting as a Recorder in exercise of the jurisdiction conferred on him by the district criminal court provisions as defined in that Act ; ;

and

(e) by inserting after the passage “or of the judge” in the definition of “sentence” the passage “or Recorder”.

Amendment of
principal Act,
s. 348—
Interpretation.

Amendment of
principal Act
s. 350—
Questions of
law may be
reserved.

17. Section 350 of the principal Act is amended—

(a) by inserting after the word “trial” in subsection (1) the passage “or sentencing”;

(b) by inserting after the passage “point of law” in subsection (1) the passage “or concerning the sentencing”;

and

(c) by inserting after the word “judge” wherever it occurs in subsection (1) and subsection (3) the passage “or Recorder”.

Amendment of
principal Act,
s. 351—
Case to be
stated by
trial judge
or Recorder.

18. Section 351 of the principal Act is amended by inserting after the word “judge” in subsection (1) the passage “or Recorder”.

Amendment of
principal Act,
s. 352—
Right of appeal
in criminal
cases.

19. Section 352 of the principal Act is amended by inserting after the passage “judge of the Supreme Court” in paragraph (b) the passage “or Recorder”.

Amendment of
principal Act,
s. 356—
Jurisdiction of
Full Court.

20. Section 356 of the principal Act is amended by striking out the passage “Supreme Court Act, 1878” and inserting in lieu thereof the passage “Supreme Court Act, 1935-1969, as amended”.

Amendment of
principal Act,
s. 358—
Judge’s or
Recorder’s
notes and
report to be
furnished on
appeal.

21. Section 358 of the principal Act is amended by inserting after the passage “judge of the Supreme Court” the passage “or Recorder”.

Amendment of
principal Act,
s. 360—
Legal
assistance to
appellant.

22. Section 360 of the principal Act is amended by inserting after the word “judge” wherever it occurs therein the passage “or Recorder”.

Amendment of
principal Act,
s. 366—
Notes of
evidence on
trial.

23. Section 366 of the principal Act is amended by inserting after the word “judge” wherever it occurs in subsection (1) the passage “or Recorder”.

Amendment of
principal Act,
s. 368—
Rules of
court.

24. Section 368 of the principal Act is amended—

(a) by striking out from subsection (3) the passage “before which an appellant has been convicted on information,”;

and

(b) by inserting after subsection (4) the following subsection :—

(5) All rules of court, and all regulations and rules made, before or after the commencement of the Criminal Law Consolidation Act Amendment Act (No. 2), 1969, under this Act or any other Act, for the purposes of this Act or of any provision of this Act, that apply to or in relation to the Supreme Court, or a judge of the Supreme Court, in the exercise of its criminal jurisdiction shall, until other provision is duly made, have effect and be construed, with such adaptations and modifications as may be necessary, so as to extend and apply to and in relation to District Criminal Courts and Recorders, respectively, in the exercise of the criminal jurisdiction conferred by the district criminal court provisions within the meaning of the Local and District Criminal Courts Act, 1926-1969, and to and in relation to appeals from and cases stated by, District Criminal Courts or Recorders to the Full Court.

25. Section 14 of the Criminal Law Consolidation Act Amendment Act, 1956, is hereby repealed.

Repeal of s. 14
of Criminal
Law Consoli-
dation Act
Amendment
Act, 1956.

In the name and on behalf of Her Majesty, I hereby
assent to this Bill.

J. W. HARRISON, Governor.