No. 65 of 1988

An Act to amend the Unauthorized Documents Act, 1916.

[Assented to 27 October 1988]

The Parliament of South Australia enacts as follows:

Short title
1. (1) This Act may be cited as the Unauthorized Documents Act Amendment Act, 1988.

(2) The Unauthorized Documents Act, 1916, is in this Act referred to as “the principal Act”.

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

Insertion of new section 3b
3. The following section is inserted after section 3a of the principal Act:

Use of State commercial emblems
3b. (1) A person who, except in accordance with the permission of the Minister—
(a) prints or publishes, or causes to be printed or published, a State commercial emblem;

(b) manufactures or supplies, or causes to be manufactured or supplied, material or an object incorporating or depicting, or in the form of, a State commercial emblem;

or

(c) in any other way uses, or causes to be used, a State commercial emblem, for any commercial purpose, or in a manner suggesting that official approval has been granted for use of the emblem or that official significance attaches to its use, is guilty of an offence.

(2) Permission under subsection (1) may be granted unconditionally or on conditions, including a condition requiring payment of a fee, of such amount as the Minister thinks fit, for use of a State commercial emblem.

(3) The Minister may, by notice in writing, vary or revoke a permission under subsection (1).
(4) The Minister is entitled to either or both of the following remedies in the event of a person contravening this section:

(a) compensation for any loss arising out of the contravention;

(b) an injunction restraining the person from committing any further such contravention.

(5) The Minister may recover compensation from a person under subsection (4) (a) on application to the court that convicts the person, or by action in a court of competent jurisdiction.

(6) A member of the police force may seize and retain goods that the member suspects on reasonable grounds have been, are being or are intended to be supplied in contravention of this section.

(7) Where—

(a) goods are seized from a person under subsection (6);

but

(b) (i) proceedings for an offence against this section in relation to the goods are not instituted within three months after their seizure;

or

(ii) proceedings for such an offence are instituted within that period but the defendant is not convicted of the offence,

the person from whom the goods were seized may, by action in a court of competent jurisdiction, recover from the Minister—

(c) the goods, or if they have been destroyed or deteriorated, compensation equal to the market value of the goods at the time of their seizure;

and

(d) compensation for any loss suffered by reason of the seizure of the goods.

(8) Where—

(a) goods are seized from a person under subsection (6);

and

(b) proceedings for an offence against this section in relation to the goods are instituted within three months after their seizure,

the court may, if it convicts the defendant of the offence, order that the goods be forfeited to the Crown and, in that event, the goods may be disposed of in such manner as the Minister directs.

(9) Where goods are sold by the Minister, the proceeds must be paid into the Consolidated Account of the State.

(10) In this section—

"State commercial emblem" means an emblem declared by regulation to be a State commercial emblem, and includes any other emblem that is so similar to an emblem so declared that it could readily be mistaken for such an emblem.

(11) The Governor may, by regulation, declare any emblem described, depicted or referred to in the regulation, being an emblem the copyright of which is vested in the Crown in right of the State, to be a State commercial emblem.
(12) This section does not derogate from any right or power to institute civil or criminal proceedings in respect of an act or omission referred to in this section.

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

D. B. DUNSTAN, Governor