

South Australia



ANNO QUINQUAGESIMO PRIMO
ELIZABETHAE II REGINAE
A.D. 2002

STATUTES AMENDMENT (BUSHFIRES) ACT 2002

No. 24 of 2002

[Assented to 31 October 2002]

An Act to amend the Criminal Law Consolidation Act 1935 and the Criminal Law (Sentencing) Act 1988.

SUMMARY OF PROVISIONS

PART 1 PRELIMINARY

1. Short title
2. Commencement
3. Interpretation

PART 2 AMENDMENT OF THE CRIMINAL LAW CONSOLIDATION ACT 1935

4. Insertion of s. 85B
85B. Special provision for causing a bushfire

PART 3 AMENDMENT OF THE CRIMINAL LAW (SENTENCING) ACT 1988

5. Amendment of s. 10—Matters to which a sentencing court should have regard

The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *Statutes Amendment (Bushfires) Act 2002*.

Commencement

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

Interpretation

3. A reference in this Act to the principal Act is a reference to the Act referred to in the heading to the Part in which the reference occurs.

**PART 2
AMENDMENT OF THE CRIMINAL LAW CONSOLIDATION ACT 1935**

Insertion of s. 85B

4. The following section is inserted in the principal Act after section 85A:

Special provision for causing a bushfire

85B. (1) A person who causes a bushfire—

- (a) intending to cause a bushfire; or
- (b) being recklessly indifferent as to whether his or her conduct causes a bushfire,

is guilty of an offence.

Maximum penalty: Imprisonment for 20 years.

(2) A bushfire is a fire that burns, or threatens to burn, out of control causing damage to vegetation (whether or not other property is also damaged or threatened).

(3) An offence is not committed against this section if—

- (a) the bushfire only damages vegetation (or other property) on either or both of the following:
 - (i) the land of the person who causes the fire;
 - (ii) the land of a person who authorised, or consented, to the act of the person who caused the fire; or
- (b) the bushfire results from operations genuinely directed at preventing, extinguishing or controlling a fire.

PART 3
AMENDMENT OF THE CRIMINAL LAW (SENTENCING) ACT 1988

Amendment of s. 10—Matters to which a sentencing court should have regard

5. Section 10 of the principal Act is amended—

(a) by inserting after paragraph *(ea)* of subsection (1) the following paragraph:

(eb) in the case of arson or causing a bushfire—the need to give proper effect to the policy stated in subsection (3);;

(b) by inserting after subsection (2) the following subsection:

(3) A primary policy of the criminal law in relation to arson or causing a bushfire is—

(a) to bring home to the offender the extreme gravity of the offence; and

(b) to exact reparation from the offender, to the maximum extent possible under the criminal justice system, for harm done to the community.

Examples—

1. The court may, with the consent of victims of the offence or victims of the kind of harm that the offence could have caused, require the offender (under appropriate supervision) to meet with the victims.
2. The court may direct that the offender (whether in prison, on parole or undertaking community service) participate (under appropriate supervision) in programs to rehabilitate fire damaged land or other property.