

South Australia

**Controlled Substances (Simple Possession
Offences) Amendment Bill 2009**

A BILL FOR

An Act to amend the *Controlled Substances Act 1984*.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

Part 2—Amendment of *Controlled Substances Act 1984*

- 4 Amendment of section 36—Referral for assessment
 - 5 Amendment of section 38—Undertakings
 - 6 Insertion of section 39A
39A Offence not to comply with referral and undertaking in certain circumstances
 - 7 Amendment of section 40—Prosecution of simple possession offences
 - 8 Amendment of section 45A—Expiation of prescribed offences
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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Controlled Substances (Simple Possession Offences) Amendment Act 2009*.

5 2—Commencement

This Act will come into operation 2 months after the date of assent.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

10 Part 2—Amendment of *Controlled Substances Act 1984*

4—Amendment of section 36—Referral for assessment

Section 36(3)—delete subsection (3)

5—Amendment of section 38—Undertakings

- (1) Section 38(3)—delete "If" and substitute:

15 When

- (2) Section 38(3)(b)—delete paragraph (b)
- (3) Section 38(6)—delete subsection (6)

6—Insertion of section 39A

After section 39 insert:

39A—Offence not to comply with referral and undertaking in certain circumstances

5 If a person expiates a simple possession offence, the person must not, without reasonable excuse—

- 5 (a) hinder, or fail to cooperate with, an assessment service in carrying out an assessment required under this Division; or
- 10 (b) refuse or fail to comply with a requirement under this Division to—
 - (i) give written consent to the release of records; or
 - (ii) attend an assessment service in accordance with the referral notice; or
 - 15 (iii) comply with any other notice requiring the person to attend or to submit to an examination; or
- (c) if the person is then required to enter into an undertaking under this Division—
 - 20 (i) refuse or fail, within 7 days of being notified of the requirement (or such longer period as may be allowed by the assessment service), to enter into the undertaking; or
 - (ii) contravene or fail to comply with the terms of the undertaking, as varied from time to time.

Maximum penalty: \$2 000 or imprisonment for 2 years, or both.

7—Amendment of section 40—Prosecution of simple possession offences

- 25 (1) Section 40(1)—delete subsection (1)
- (2) Section 40—delete subsections (3) and (4) and substitute:
 - (3) Evidence—
 - 30 (a) of anything said or done by a person in the course of being assessed or carrying out an undertaking under this Division; or
 - (b) if the referral of a person is terminated under this Division—of the reasons for the termination,

35 is not admissible in any proceedings against the person for the alleged offence.

8—Amendment of section 45A—Expiation of prescribed offences

- (1) Section 45A(1) and (2)—delete "simple cannabis offence" wherever occurring and substitute in each case:

prescribed offence

(2) Section 45A(8)—before the definition of *simple cannabis offence* insert:

prescribed offence means a simple cannabis offence or a simple possession offence;