

Legislative Council—No 106

As received from the House of Assembly and read a first time, 23 July 2019

South Australia

**Statutes Amendment (Attorney-General's
Portfolio) (No 2) Bill 2019**

A BILL FOR

An Act to amend various Acts the administration of which is committed to the
Attorney-General.

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The Parliament of South Australia enacts as follows:**Part 1—Preliminary****1—Short title**

5 This Act may be cited as the *Statutes Amendment (Attorney-General's Portfolio) (No 2) Act 2019*.

2—Commencement

- (1) Subject to this section, this Act will come into operation on the day on which it is assented to by the Governor.
- (2) Part 3 will come into operation on a day to be fixed by proclamation.
- 10 (3) Part 9 will come into operation—
- (a) on the day on which section 12 of the *Public Interest Disclosure Act 2018* comes into operation; or
- (b) on the day on which this Act is assented to by the Governor,
- whichever is the later.
- 15 (4) Part 13 will come into operation immediately after Part 12 of the *Statutes Amendment (Attorney-General's Portfolio No 3) Act 2017* comes into operation.
- (5) Part 14 will come into operation—
- (a) immediately after section 4 of the *Summary Offences (Liquor Offences) Amendment Act 2018* comes into operation; or
- 20 (b) on the day on which this Act is assented to by the Governor,
- whichever is the later.
- (6) Part 16 will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

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

Part 2—Amendment of *Coroners Act 2003*

4—Amendment of section 33—Immunities

Section 33—delete subsection (1) and substitute:

- (1) A coroner has the same protections, privileges and immunities from liability as a Judge of the Supreme Court.
- (2) A member of the administrative and ancillary staff of the Coroner's Court, an investigator or a person assisting an investigator incurs no civil or criminal liability for an honest act or omission in carrying out or purportedly carrying out official functions.

Part 3—Amendment of *Criminal Procedure Act 1921*

5—Amendment of section 180—Orders as to firearms and offensive weapons

(1) Section 180—after subsection (1) insert:

- (1a) If a court makes an order under subsection (1)(g)(i) that a person is subject to a firearms prohibition order—
 - (a) the order operates as a firearms prohibition order in force against the person under Part 8 of the *Firearms Act 2015*; and
 - (b) the court may exercise the powers of the Registrar under section 45(17) of the *Firearms Act 2015* to grant an exemption from specified provisions of that section; and
 - (c) the Registrar of the court must notify the Registrar of Firearms of the details of the order.

(2) Section 180(4)—after "under this section" insert:

(other than an order under subsection (1)(g)(i) that a specified person is subject to a firearms prohibition order)

(3) Section 180(4), penalty provision—delete the penalty provision and substitute:

Maximum penalty:

- (a) in the case of a breach of an order relating to a firearm—\$50 000 or imprisonment for 10 years;
- (b) in the case of a breach of an order relating to an offensive weapon—\$10 000 or imprisonment for 2 years.

Part 4—Amendment of *District Court Act 1991*

6—Amendment of section 46—Immunities

Section 46(1)—delete "civil"

Part 5—Amendment of *Environment, Resources and Development Court Act 1993*

7—Amendment of section 36—Immunities

Section 36(1)—delete "civil"

5 **Part 6—Amendment of *Evidence Act 1929***

8—Amendment of section 29A—Victim or alleged victim who is a witness entitled to be present in court unless court orders otherwise

Section 29A—after "victim" wherever occurring insert in each case:

, or alleged victim,

10 **9—Amendment of section 67H—Meaning of sensitive material**

Section 67H(3)(b)—after "victim" insert:

, or alleged victim,

Part 7—Amendment of *Liquor Licensing Act 1997*

10—Amendment of section 15—Judges

15 Section 15(7)—delete "civil"

Part 8—Amendment of *Magistrates Court Act 1991*

11—Amendment of section 44—Immunities

Section 44(1)—delete "civil"

Part 9—Amendment of *Public Interest Disclosure Act 2018*

20 **12—Amendment of section 12—Duties of principal officers**

(1) Section 12(4)—after "agency" insert:

or council

(2) Section 12(4)(a)—after "agency" insert:

or council

25 (3) Section 12(4)(b)—after "agency" insert:

or council

(4) Section 12(5)(a)(i)—after "agency" insert:

or council

(5) Section 12(5)(b)—delete paragraph (b) and substitute:

30 (b) be made available free of charge on the Internet, and—

- (i) in the case of a public sector agency— at premises determined by the responsible Minister; or
- (ii) in the case of a council—at the principal office of the council,

5 for inspection by members of the public.

- (6) Section 12(6)(b)—after "public sector agency" insert:
or council

Part 10—Amendment of *Sentencing Act 2017*

13—Amendment of section 124—Compensation

10 Section 124(6)(c)—delete paragraph (c)

Part 11—Amendment of *Serious and Organised Crime (Unexplained Wealth) Act 2009*

14—Amendment of section 36—Expiry of Act

Section 36—delete "10" and substitute:

15 20

Part 12—Amendment of *Sheriff's Act 1978*

15—Amendment of section 4—Interpretation

Section 4(1), definition of *premises of a participating body*—delete the definition and substitute:

20 *premises of a participating body* means—

- (a) any premises or place occupied in connection with the operation of a participating body (whether on a permanent or temporary basis), including—
 - (i) the precincts and immediate environs of the premises or place and adjacent carparks and footpaths; and
 - (ii) laneways between or abutting the premises or place; and
 - (iii) any premises or place at which the body is conducting a view or inspection for the purposes of proceedings;
- (b) court buildings and the exit and entry points and steps to those buildings;

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Part 13—Amendment of *Spent Convictions Act 2009*

16—Amendment of section 13A—Exclusions may not apply

- (1) Section 13A(1a)—delete subsection (1a)

(2) Section 13A(6)—delete "subsection (1)" and substitute:
this section

(3) Section 13A(6a)—delete subsection (6a)

(4) Section 13A(9)—delete subsection (9)

5 **17—Amendment of Schedule 1—Exclusions**

(1) Schedule 1, clause a1(1)—delete subclause (1) and substitute:

(1) An exclusion set out in a clause of this Schedule—

(a) does not apply in relation to an offence if the conviction has
been quashed and the person has been granted a pardon for
the offence, except—

(i) in relation to the operation of clause 9A; or

(ii) as may be prescribed by the regulations;

(b) does not apply in relation to a designated sex-related offence
in relation to which an order has been made under
section 8A, except as may be prescribed by the regulations.

(2) Schedule 1, clause a1(2)—delete "6,"

(3) Schedule 1, clause a1(2)—delete "section 13A(1)" and substitute:
section 13A

(4) Schedule 1, clause a1(3)—delete subclause (3)

20 **Part 14—Amendment of *Summary Offences Act 1953***

18—Amendment of section 21OD—Designated areas

Section 21OD(3)—delete "cannot include within a designated area land that is more
than 20km from the boundary of a prescribed area" and substitute:

can only include within a designated area land that is within 20 km of a
boundary of a relevant prescribed area

Part 15—Amendment of *Supreme Court Act 1935*

19—Amendment of section 110C—Immunities

Section 110C(1)—delete "civil"

Part 16—Amendment of *Surveillance Devices Act 2016*

20—Amendment of section 12—Prohibition on communication or publication derived from use of surveillance device

Section 12—after subsection (1) insert:

5 (1a) A person must not knowingly communicate or publish information or material derived from the use (whether by that person or another person) of a listening device in contravention of section 4 of the *Listening and Surveillance Devices Act 1972* (as in force immediately prior to the commencement of this Act).

10 Maximum penalty: \$10 000 or imprisonment for 2 years.

Part 17—Amendment of *Trustee Act 1936*

21—Amendment of section 69B—Alteration of purposes of charitable trust

(1) Section 69B—before subsection (1) insert:

15 (aa1) Subject to subsection (1), the purposes for which property is required or permitted to be applied in pursuance of a charitable trust may be altered by a scheme approved under this section.

20 (a1) The powers of the trustees of a charitable trust in respect of which a trust variation scheme under this section may be approved by the Attorney-General (on account of the operation of subsection (3)(b)) to manage or administer the trust may be altered by a scheme approved under this section.

(2) Section 69B(1)—delete "scheme (a *trust variation scheme*) approved under this section" and substitute:

trust variation scheme

25 (3) Section 69B—after subsection (9) insert:

(10) In this section—

trust variation scheme means a scheme approved under this section for the alteration of a charitable trust.

22—Transitional provision

30 The amendments to the *Trustee Act 1936* made by section 21 of this Act apply to a charitable trust whether the trust was constituted before or after the commencement of section 21.

Part 18—Amendment of *Youth Court Act 1993*

23—Amendment of section 26—Immunities

35 Section 26(1)—delete "civil"