

Legislative Council—No 106A

As reported with amendments, report adopted, Standing Orders suspended and passed remaining stages, 10 September 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.
- 10 (1a) Part 2A (other than section 4C) will come into operation immediately after section 4 of the *Criminal Law Consolidation (Assaults on Prescribed Emergency Workers) Amendment Act 2019* comes into operation.
- (1b) Section 4C will come into operation immediately after section 7 of the *Criminal Law Consolidation (Assaults on Prescribed Emergency Workers) Amendment Act 2019* comes into operation.
- 15 (2) Part 3 will come into operation on a day to be fixed by proclamation.

- (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,
5 whichever is the later.

- (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

(b) on the day on which this Act is assented to by the Governor,
10 whichever is the later.

- (6) Part 16 will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

15 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:

20 (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
25 or purportedly carrying out official functions.

Part 2A—Amendment of *Criminal Law Consolidation Act 1935*

4A—Amendment of section 19—Unlawful threats

Section 19(2), penalty provision, (c)—after "section 5AA(1)(c)" insert:

, (ca)

4B—Amendment of section 20—Assault

(1) Section 20(3), penalty provision, (d)—after "section 5AA(1)(c)" insert:

, (ca)

(2) Section 20(4), penalty provision, (d)—after "section 5AA(1)(c)" insert:

, (ca)

4C—Amendment of section 20AA—Causing harm to, or assaulting, certain emergency workers etc

Section 20AA(9)—after the definition of *prescribed emergency worker* insert:

retrieval medicine means the assessment, stabilisation and transportation to hospital of patients with severe injury or critical illness (other than by a member of SA Ambulance Service Inc);

rural area means an area outside of Metropolitan Adelaide as defined by GRO Plan 639/93.

4D—Amendment of section 24—Causing harm

Section 24(2), penalty provision, (c)—after "section 5AA(1)(c)" insert:

, (ca)

4E—Amendment of section 29—Acts endangering life or creating risk of serious harm

Section 29(3), penalty provision, (c)—after "section 5AA(1)(c)" insert:

, (ca)

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"

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,

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

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*

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

(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:

(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,

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

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:

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:

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;

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:

5 this section

- (3) Section 13A(6a)—delete subsection (6a)
- (4) Section 13A(9)—delete subsection (9)

17—Amendment of Schedule 1—Exclusions

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

10 (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—

15 (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,"

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

 section 13A

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

Part 14—Amendment of *Summary Offences Act 1953*

18—Amendment of section 21OD—Designated areas

25 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*

30 **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.

(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

(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"