

## **Legislative Council—No 49**

As received from the House of Assembly and read a first time, 12 November 2014

South Australia

# **Statutes Amendment (Attorney-General's Portfolio) Bill 2014**

A BILL FOR

An Act to amend the *Burial and Cremation Act 2013*; the *Child Sex Offenders Registration Act 2006*; the *Criminal Law Consolidation Act 1935*; the *Criminal Law (Sentencing) Act 1988*; the *Legal Practitioners Act 1981*; the *Magistrates Act 1983*; and the *Summary Offences Act 1953*.

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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 *Statutes Amendment (Attorney-General's Portfolio) Act 2014*.

#### 5 2—Commencement

This Act 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 *Burial and Cremation Act 2013*

### 4—Amendment of section 10—Cremation permits

Section 10(5)(b)(i)—delete subparagraph (i) and substitute:

(i) 2 certificates under section 36 of the *Births, Deaths and Marriages Registration Act 1996* certifying that the deceased died from natural causes, 1 certificate being signed by—

(A) a medical practitioner who was responsible for the deceased's medical care immediately before death; or

(B) a medical practitioner who examined the body of the deceased after death,

and the other certificate being signed by another medical practitioner; or

## Part 3—Amendment of *Child Sex Offenders Registration Act 2006*

### 5—Amendment of Schedule 1—Class 1 and 2 offences

Schedule 1, Part 3, clause 3—delete "child pornography" wherever occurring and substitute in each case:

child exploitation material

## Part 4—Amendment of *Criminal Law Consolidation Act 1935*

### 6—Amendment of heading to Part 3 Division 11A

Part 3, Division 11A, heading—delete "**pornography**" and substitute:

**exploitation material**

### 7—Amendment of section 62—Interpretation

(1) Section 62, definition of *child pornography*—delete "pornography" and substitute:  
exploitation material

(2) Section 62, definition of *child pornography*, (b)—delete paragraph (b) and substitute:  
(b) that is of a pornographic nature;

(3) Section 62, definition of *disseminate*—delete "pornography" and substitute:  
exploitation material

(4) Section 62, definition of *pornographic nature*—delete the definition and substitute:

*pornographic nature*—material is of a pornographic nature for the purposes of this Division if the material is intended or apparently intended—

(a) to excite or gratify sexual interest; or

(b) to excite or gratify a sadistic or other perverted interest in violence or cruelty;

**Note—**

See also section 63C(1)

## **8—Amendment of section 63—Production or dissemination of child exploitation material**

Section 63—delete "pornography" wherever occurring and substitute in each case:  
exploitation material

## **9—Amendment of section 63A—Possession of child exploitation material**

(1) Section 63A(1)—delete "pornography" wherever occurring and substitute in each case:

exploitation material

(2) Section 63A(3)—after "offence involving" insert:

child exploitation material or

## **10—Amendment of section 63C—Material to which Division relates**

Section 63C(3)—delete "pornographic" and substitute:  
to be of a pornographic nature

## **Part 5—Amendment of *Criminal Law (Sentencing) Act 1988***

### **11—Amendment of section 29E—Re-sentencing for subsequent cooperation with law enforcement agency**

Section 29E—after subsection (5) insert:

(5a) Except as provided in this section, in determining a new sentence on an application under this section the court must apply the law that was applicable in relation to the relevant sentence at the time that sentence was imposed (and this subsection applies to an application under this section, whether made or determined before or after the commencement of this subsection).

## **Part 6—Amendment of *Legal Practitioners Act 1981***

### **12—Amendment of section 52AA—Professional indemnity insurance required by interstate practitioners etc**

Section 52AA(4)—delete "subsection (3)" and substitute:  
this section

## Part 7—Amendment of *Magistrates Act 1983*

### 13—Insertion of section 6B

After section 6A insert:

#### 6B—Acting Chief Magistrate

- 5 (1) If—
- (a) the Chief Magistrate is absent or, for any reason, is unable for the time being to carry out the duties of the office; or
  - (b) the office of the Chief Magistrate becomes vacant,  
10 the Governor may appoint a Magistrate to be Acting Chief Magistrate until—
  - (c) the Chief Magistrate returns to official duties; or
  - (d) a person is appointed to the office of the Chief Magistrate,  
as the case requires.
- 15 (2) Any power or duty attached to the office of the Chief Magistrate by or under this or any other Act—
- (a) on the appointment of a Magistrate to be Acting Chief Magistrate—devolves on the Magistrate so appointed; or
  - (b) if no such appointment is made—devolves (during the  
20 absence or inability of the Chief Magistrate, or until the vacancy is filled) on the most senior of the other Magistrates available to undertake those responsibilities.

### 14—Amendment of section 7—Administration of magistracy

Section 7(2)—delete subsection (2)

## Part 8—Amendment of *Summary Offences Act 1953*

### 15—Amendment of section 21F—Prohibited weapons

- 25 (1) Section 21F(3)(a)—after "person" insert:  
or a class of persons
- (2) Section 21F(3)(b)—delete "(provided that such variation or revocation is of no effect unless the person has been given notice of the variation or revocation)"
- 30 (3) Section 21F—after subsection (4) insert:
- (4a) A declaration made by the Minister under subsection (3) in respect of a class of persons—
- (a) must be notified in the Gazette; and
  - (b) has effect for the period specified in the declaration (being a  
35 period not exceeding 1 month); and

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- (c) has effect despite any provision of Schedule 2.
- (4b) A variation or revocation of a declaration under subsection (3) is of no effect unless—
  - (a) in the case of a variation or revocation of a declaration in respect of a person—the person has been given notice of the variation or revocation; or
  - (b) in the case of a variation or revocation of a declaration in respect of a class of persons—the variation or revocation is notified in the Gazette.