

# House of Assembly—No 64

As laid on the table and read a first time, 27 October 2010

South Australia

## **Statutes Amendment (Criminal Intelligence) Bill 2010**

A BILL FOR

An Act to amend the *Casino Act 1997*; the *Firearms Act 1977*; the *Gaming Machines Act 1992*; the *Liquor Licensing Act 1997*; the *Security and Investigation Agents Act 1995*; 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 (Criminal Intelligence) Act 2010*.

#### 2—Commencement

- 5 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 *Casino Act 1997*

### 4—Substitution of section 66A

Section 66A—delete the section and substitute:

#### 66A—Procedure in relation to criminal intelligence

5 In any proceedings under this Part, the Authority or the  
Supreme Court—

- 10 (a) must, on the application of the Commissioner of Police, take  
steps to maintain the confidentiality of information  
classified by the Commissioner of Police as criminal  
intelligence, including steps to receive evidence and hear  
argument about the information in private in the absence of  
the parties to the proceedings and their representatives; and
- 15 (b) may take evidence consisting of or relating to information  
that is so classified by the Commissioner of Police by way  
of affidavit of a police officer of or above the rank of  
superintendent.

### 5—Amendment of section 69—Confidentiality of criminal intelligence and other information provided by Commissioner of Police

Section 69(4)—delete subsection (4)

## Part 3—Amendment of *Firearms Act 1977*

### 6—Amendment of section 5—Interpretation

Section 5(1), definition of *criminal intelligence*—delete "or to enable the discovery of  
the existence or identity of a confidential source of information relevant to law  
enforcement" and substitute:

25 to enable the discovery of the existence or identity of a confidential source of  
information relevant to law enforcement or to endanger a person's life or  
physical safety

### 7—Amendment of section 26C—Right of appeal to District Court

Section 26C(5) to (10)—delete subsections (5) to (10) (inclusive) and substitute:

30 (5) On an appeal under this section, the Court—

- 35 (a) must, on the application of the Registrar, take steps to  
maintain the confidentiality of information classified by the  
Registrar as criminal intelligence, including steps to receive  
evidence and hear argument about the information in private  
in the absence of the parties to the proceedings and their  
representatives; and
- (b) may take evidence consisting of or relating to information so  
classified by the Registrar by way of affidavit of a police  
officer of or above the rank of superintendent.

## Part 4—Amendment of *Gaming Machines Act 1992*

### 8—Amendment of section 3—Interpretation

Section 3(1), definition of *criminal intelligence*—delete "or to enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement" and substitute:

to enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement or to endanger a person's life or physical safety

## Part 5—Amendment of *Liquor Licensing Act 1997*

### 9—Amendment of section 28A—Criminal intelligence

(1) Section 28A(5a) to (5h)—delete subsections (5a) to (5h) (inclusive) and substitute:

(5a) In any proceedings under this Act, the Commissioner, the Court or the Supreme Court—

- (a) must, on the application of the Commissioner of Police, take steps to maintain the confidentiality of information classified by the Commissioner of Police as criminal intelligence, including steps to receive evidence and hear argument about the information in private in the absence of the parties to the proceedings and their representatives; and
- (b) may take evidence consisting of or relating to information so classified by the Commissioner of Police by way of affidavit of a police officer of or above the rank of superintendent.

(2) Section 28A(7)—delete subsection (7)

## Part 6—Amendment of *Security and Investigation Agents Act 1995*

### 10—Amendment of section 3—Interpretation

Section 3, definition of *criminal intelligence*—delete "or to enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement" and substitute:

to enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement or to endanger a person's life or physical safety

## Part 7—Amendment of *Summary Offences Act 1953*

### 11—Amendment of section 74BA—Interpretation

Section 74BA—after the definition of *Court* insert:

5                    *criminal intelligence* means information relating to actual or suspected  
criminal activity (whether in this State or elsewhere) the disclosure of which  
could reasonably be expected to prejudice criminal investigations, to enable  
the discovery of the existence or identity of a confidential source of  
information relevant to law enforcement or to endanger a person's life or  
physical safety;

### 10    12—Amendment of section 74BB—Fortification removal order

Section 74BB(5), (6), (7) and (8)—delete subsections (5), (6), (7) and (8)

### 13—Amendment of section 74BC—Content of fortification removal order

- (1) Section 74BC(2)—delete "in respect of which an order has been made by the Court under section 74BB(5)" and substitute:

15                    the disclosure of which would be inconsistent with a decision of the Court  
under section 74BGA

- (2) Section 74BC(3)—delete "in breach of an order of the Court under section 74BB(5)" and substitute:

inconsistent with a decision of the Court under section 74BGA

- 20    (3) Section 74BC(4)—delete subsection (4) and substitute:

- (4) If disclosure of information included in the affidavit would be  
inconsistent with a decision of the Court under section 74BGA, an  
edited copy of the affidavit, from which the information that cannot  
be disclosed has been removed or erased, may be attached to the  
25                    fortification removal order.

### 14—Insertion of section 74BGA

After section 74BG insert:

#### 74BGA—Criminal intelligence

30                    In any proceedings under this Part, the court determining the  
proceedings—

- (a) must, on the application of the Commissioner, take steps to  
maintain the confidentiality of information classified by the  
Commissioner as criminal intelligence, including steps to  
receive evidence and hear argument about the information in  
private in the absence of the parties to the proceedings and  
their representatives; and  
35                    (b) may take evidence consisting of, or relating to, information  
that is so classified by the Commissioner by way of affidavit  
of a police officer of or above the rank of superintendent.