

Legislative Council—No 65

As received from the House of Assembly and read a first time, 10 November 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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74BGA Criminal intelligence
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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.