

Legislative Council—No 72

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South Australia

Statutes Amendment (Firearms Offences) Bill 2015

A BILL FOR

An Act to amend the *Criminal Law Consolidation Act 1935* and the *Criminal Law (Sentencing) Act 1988*.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

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

- 4 Insertion of Part 7C
 - Part 7C—Derivative liability for certain offences
 - 267AA Offence where unlawfully supplied firearm used in subsequent offence

Part 3—Amendment of *Criminal Law (Sentencing) Act 1988*

- 5 Amendment of section 20AA—Interpretation
-

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Statutes Amendment (Firearms Offences) Act 2015*.

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 *Criminal Law Consolidation Act 1935*

4—Insertion of Part 7C

After section 267 insert:

Part 7C—Derivative liability for certain offences

267AA—Offence where unlawfully supplied firearm used in subsequent offence

- (1) A person (the *accused*) commits an offence against this section if—
 - (a) he or she is found guilty of a prescribed firearm offence in which he or she supplied a firearm to another person; and
 - (b) that firearm is used in the commission of—
 - (i) an offence against this Act; or

- (ii) an offence under the law of another jurisdiction consisting of conduct that would, if engaged in this State, be an offence against this Act,

(the *subsequent offence*); and

- (c) a person (the *subsequent offender*) has been found guilty of the subsequent offence.

Maximum penalty: Imprisonment for a term not exceeding the maximum term that may be imposed for the subsequent offence.

- (2) For the purposes of subsection (1)—

- (a) the subsequent offence may be committed before or after the accused is found guilty of the prescribed firearm offence; and

- (b) the subsequent offender need not be the person to whom the accused supplied the firearm in respect of the prescribed firearm offence.

- (3) For the purposes of subsection (1)(c), a reference to a person being found guilty of a subsequent offence will be taken to include a reference to a finding of a court under Part 8A that the objective elements of the offence are established (whether or not the person was found not guilty of the offence, or was found to be mentally unfit to stand trial, pursuant to Division 2 or 3 of that Part).

- (4) At the trial of an accused for an offence against this section, the prosecution need not prove the accused knew or suspected, or ought to have known or suspected, that—

- (a) the firearm referred to in subsection (1)(a) would be, or was, used in the commission of an offence against this Act; or

- (b) the subsequent offender would commit, or be found guilty of, an offence against this Act.

- (5) A person may be charged with an offence against this section and the prescribed firearm offence in the same instrument of charge.

- (6) In this section—

prescribed firearm offence means an offence against section 10C(10) or 14(1)(b) of the *Firearms Act 1977*.

Part 3—Amendment of *Criminal Law (Sentencing) Act 1988*

5—Amendment of section 20AA—Interpretation

Section 20AA(1), definition of *serious firearm offence*—after paragraph (e) insert:

; or

- (f) an offence against section 10C(10) of the *Firearms Act 1977*; or
- (g) an offence against section 14 of the *Firearms Act 1977*.