

South Australia

**Statutes Amendment (Minimum Sentences)
Bill 2008**

A BILL FOR

An Act to amend the *Controlled Substances Act 1984* and the *Criminal Law Consolidation Act 1935*.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

Part 2—Amendment of *Controlled Substances Act 1984*

- 4 Amendment of section 32—Trafficking
- 5 Amendment of section 33—Manufacture of controlled drugs for sale
- 6 Amendment of section 33A—Sale, manufacture etc of controlled precursor
- 7 Amendment of section 33B—Cultivation of controlled plants for sale
- 8 Amendment of section 33C—Sale of controlled plants
- 9 Amendment of section 33F—Sale, supply or administration of controlled drug to child
- 10 Amendment of section 33G—Sale, supply or administration of controlled drug in school zone
- 11 Amendment of section 33H—Procuring child to commit offence
- 12 Amendment of section 33I—Supply or administration of controlled drug
- 13 Amendment of section 33J—Manufacture of controlled drugs

Part 3—Amendment of *Criminal Law Consolidation Act 1935*

- 14 Amendment of section 19A—Causing death or harm by dangerous use of vehicle or vessel
 - 15 Amendment of section 19AB—Leaving accident scene etc after causing death or harm by careless use of vehicle or vessel
-

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Statutes Amendment (Minimum Sentences) Act 2008*.

2—Commencement

- 5 This Act will come into operation on the day on which it is assented to by the Governor.

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 *Controlled Substances Act 1984*

4—Amendment of section 32—Trafficking

- (1) Section 32(1), penalty provision—delete the penalty provision and substitute:

Penalty: not less than imprisonment for 5 years and not more than imprisonment for life and \$500 000.

- (2) Section 32(2), penalty provision—delete the penalty provision and substitute:

Penalty: not less than imprisonment for 2 years and not more than imprisonment for 25 years and \$200 000.

- (3) Section 32(3), penalty provision—delete the penalty provision and substitute:

Penalty: not less than imprisonment for 6 months and not more than imprisonment for 10 years and \$50 000.

- (4) Section 32—after subsection (5) insert:

(6) Subject to section 38 of the *Criminal Law (Sentencing) Act 1988*, a court may not reduce or mitigate in any way a minimum penalty fixed by this section.

5—Amendment of section 33—Manufacture of controlled drugs for sale

- (1) Section 33(1), penalty provision—delete the penalty provision and substitute:

Penalty: not less than imprisonment for 5 years and not more than imprisonment for life and \$500 000.

- (2) Section 33(2), penalty provision—delete the penalty provision and substitute:

Penalty: not less than imprisonment for 2 years and not more than imprisonment for 25 years and \$200 000.

- (3) Section 33(3), penalty provision—delete the penalty provision and substitute:

Penalty: not less than imprisonment for 6 months and not more than imprisonment for 10 years and \$50 000.

- (4) Section 33—after subsection (4) insert:

(5) Subject to section 38 of the *Criminal Law (Sentencing) Act 1988*, a court may not reduce or mitigate in any way a minimum penalty fixed by this section.

6—Amendment of section 33A—Sale, manufacture etc of controlled precursor

- (1) Section 33A(1), penalty provision—delete the penalty provision and substitute:

Penalty: not less than imprisonment for 2 years and not more than imprisonment for 25 years and \$200 000.

- (2) Section 33A(2), penalty provision—delete the penalty provision and substitute:

Penalty: not less than imprisonment for 9 months and not more than imprisonment for 15 years and \$75 000.

(3) Section 33A(3), penalty provision—delete the penalty provision and substitute:

Penalty: not less than imprisonment for 6 months and not more than imprisonment for 10 years and \$50 000.

(4) Section 33A(4), penalty provision—delete the penalty provision and substitute:

Penalty: not less than imprisonment for 6 months and not more than imprisonment for 10 years and \$50 000.

(5) Section 33A(5), penalty provision—delete the penalty provision and substitute:

Penalty: not less than imprisonment for 6 months and not more than imprisonment for 10 years and \$50 000.

(6) Section 33A—after subsection (5) insert:

(6) Subject to section 38 of the *Criminal Law (Sentencing) Act 1988*, a court may not reduce or mitigate in any way a minimum penalty fixed by this section.

7—Amendment of section 33B—Cultivation of controlled plants for sale

(1) Section 33B(1), penalty provision—delete the penalty provision and substitute:

Penalty: not less than imprisonment for 5 years and not more than imprisonment for life and \$500 000.

(2) Section 33B(2), penalty provision—delete the penalty provision and substitute:

Penalty: not less than imprisonment for 2 years and not more than imprisonment for 25 years and \$200 000.

(3) Section 33B(3), penalty provision—delete the penalty provision and substitute:

Penalty: not less than imprisonment for 6 months and not more than imprisonment for 10 years and \$50 000.

(4) Section 33B—after subsection (5) insert:

(6) Subject to section 38 of the *Criminal Law (Sentencing) Act 1988*, a court may not reduce or mitigate in any way a minimum penalty fixed by this section.

8—Amendment of section 33C—Sale of controlled plants

(1) Section 33C(1), penalty provision—delete the penalty provision and substitute:

Penalty: not less than imprisonment for 5 years and not more than imprisonment for life and \$500 000.

(2) Section 33C(2), penalty provision—delete the penalty provision and substitute:

Penalty: not less than imprisonment for 2 years and not more than imprisonment for 25 years and \$200 000.

(3) Section 33C(3), penalty provision—delete the penalty provision and substitute:

Penalty: not less than imprisonment for 6 months and not more than imprisonment for 10 years and \$50 000.

(4) Section 33C—after subsection (5) insert:

(6) Subject to section 38 of the *Criminal Law (Sentencing) Act 1988*, a court may not reduce or mitigate in any way a minimum penalty fixed by this section.

5 **9—Amendment of section 33F—Sale, supply or administration of controlled drug to child**

(1) Section 33F, penalty provision—delete the penalty provision and substitute:

Penalty: not less than imprisonment for 10 years and not more than imprisonment for life and \$1 000 000.

10 (2) Section 33F—after its present contents (now to be designated as subsection (1)) insert:

(2) Subject to section 38 of the *Criminal Law (Sentencing) Act 1988*, a court may not reduce or mitigate in any way a minimum penalty fixed by this section.

15 **10—Amendment of section 33G—Sale, supply or administration of controlled drug in school zone**

(1) Section 33G(1), penalty provision—delete the penalty provision and substitute:

Penalty: not less than imprisonment for 10 years and not more than imprisonment for life and \$1 000 000.

(2) Section 33G—after subsection (2) insert:

20 (3) Subject to section 38 of the *Criminal Law (Sentencing) Act 1988*, a court may not reduce or mitigate in any way a minimum penalty fixed by this section.

11—Amendment of section 33H—Procuring child to commit offence

(1) Section 33H, penalty provision—delete the penalty provision and substitute:

25 Penalty: not less than imprisonment for 10 years and not more than imprisonment for life and \$1 000 000.

(2) Section 33H—after its present contents (now to be designated as subsection (1)) insert:

30 (2) Subject to section 38 of the *Criminal Law (Sentencing) Act 1988*, a court may not reduce or mitigate in any way a minimum penalty fixed by this section.

12—Amendment of section 33I—Supply or administration of controlled drug

(1) Section 33I(1), penalty provision—delete the penalty provision and substitute:

35 Penalty: not less than imprisonment for 6 months and not more than imprisonment for 10 years and \$50 000.

(2) Section 33I—after subsection (2) insert:

(3) Subject to section 38 of the *Criminal Law (Sentencing) Act 1988*, a court may not reduce or mitigate in any way a minimum penalty fixed by this section.

13—Amendment of section 33J—Manufacture of controlled drugs

(1) Section 33J, penalty provision—delete the penalty provision and substitute:

Penalty: not less than imprisonment for 4 months and not more than imprisonment for 7 years and \$35 000.

(2) Section 33J—after its present contents (now to be designated as subsection (1)) insert:

(2) Subject to section 38 of the *Criminal Law (Sentencing) Act 1988*, a court may not reduce or mitigate in any way a minimum penalty fixed by this section.

Part 3—Amendment of *Criminal Law Consolidation Act 1935*

14—Amendment of section 19A—Causing death or harm by dangerous use of vehicle or vessel

Section 19A—after subsection (3) insert:

(4) The penalty imposed—

(a) for an offence against subsection (1) where the circumstance of the offence are those referred to in paragraph (a)(ii) of the penalty provision for that offence; or

(b) for an offence against subsection (3) where the circumstances of the offence are those referred to in paragraph (a)(ii) of the penalty provision for that offence,

must not be less than imprisonment for 10 years (and a court may not reduce or mitigate in any way the minimum penalty fixed by this subsection).

15—Amendment of section 19AB—Leaving accident scene etc after causing death or harm by careless use of vehicle or vessel

Section 19AB—after subsection (2) insert:

(2a) The penalty imposed—

(a) for an offence against subsection (1) where the circumstance of the offence are those referred to in paragraph (a)(ii) of the penalty provision for that offence; or

(b) for an offence against subsection (2) where the circumstances of the offence are those referred to in paragraph (a)(ii) of the penalty provision for that offence,

must not be less than imprisonment for 10 years (and a court may not reduce or mitigate in any way the minimum penalty fixed by this subsection).