

House of Assembly—No 31

As laid on the table and read a first time, 7 June 2007

South Australia

**Statutes Amendment (Proceeds of Terrorism)
Bill 2007**

A BILL FOR

An Act to amend the *Criminal Assets Confiscation Act 2005*.

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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 (Proceeds of Terrorism) Act 2007*.

2—Amendment provisions

- 5 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 Assets Confiscation Act 2005*

3—Amendment of section 3—Interpretation

- (1) Section 3(1)—after the definition of *charged* insert:

10 *Commonwealth Criminal Code* means the Criminal Code set out in the Schedule to the *Criminal Code Act 1995* of the Commonwealth, or a law of the Commonwealth that replaces that Code;

- (2) Section 3(1), definition of *serious offence*—after paragraph (c) insert:

or

- 15 (d) a prescribed terrorism offence;

- (3) Section 3(1)—after the definition of *premises* insert:

prescribed terrorism offence means—

- (a) an offence against Part 5.3 of the Commonwealth Criminal Code; or

- 5
- (b) an offence against a law of another jurisdiction (including a jurisdiction outside Australia) that would, if committed in Australia after the commencement of Schedule 1 of the *Security Legislation Amendment (Terrorism) Act 2002* of the Commonwealth, constitute an offence against Part 5.3 of the Commonwealth Criminal Code; or
 - (c) an offence against international law that is an offence arising out of, or related to, terrorism;

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

4—Insertion of Part 6D

10 After Part 6C insert:

Part 6D—Offences relating to proceeds derived from terrorism

175—Interpretation

In this Part—

15 ***Commonwealth Criminal Code*** means the Criminal Code set out in the Schedule to the *Criminal Code Act 1995* of the Commonwealth, or a law of the Commonwealth that replaces that Code;

derive—a person derives literary proceeds if—

- 20
- (a) the person; or
 - (b) another person at the request or direction of the first person, derives the literary proceeds, whether directly or indirectly;

literary proceeds has the same meaning as in the *Criminal Assets Confiscation Act 2005*;

prescribed terrorism offence means—

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- (a) an offence against Part 5.3 of the Commonwealth Criminal Code; or
 - (b) an offence against a law of another jurisdiction (including a jurisdiction outside Australia) that would, if committed in Australia after the commencement of the Schedule 1 of the *Security Legislation Amendment (Terrorism) Act 2002* of the Commonwealth, constitute an offence against Part 5.3 of the Commonwealth Criminal Code; or
 - (c) an offence against international law that is an offence arising out of, or related to, terrorism.
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176—Deriving literary proceeds from terrorism

- (1) A person—
- (a) who is charged with, or who has been convicted of, a prescribed terrorism offence (whether in the State or elsewhere) and who derives literary proceeds in relation to the commission of the offence; or
 - (b) who, on behalf of a person who is charged with, or who has been convicted of, a prescribed terrorism offence (whether in the State or elsewhere), derives literary proceeds in relation to the commission of the offence,
- is guilty of an offence.

Maximum penalty: Imprisonment for 4 years.

- (2) Subject to this section, a person who provides or offers to provide (whether directly or indirectly) literary proceeds to a person who is charged with, or who has been convicted, of a prescribed terrorism offence (whether in the State or elsewhere) is guilty of an offence.

Maximum penalty:

- (a) in the case of a natural person—imprisonment for 4 years;
 - (b) in the case of a body corporate—\$120 000.
- (3) It is a defence to a charge of an offence under subsection (2) if it is proved that the literary proceeds (and any interest derived from the literary proceeds) were provided by the defendant directly to, or were offered on the condition that the literary proceeds would be provided by the defendant directly to—
- (a) the Victims of Crime Fund; or
 - (b) a charitable organisation approved by the Attorney-General by notice in the Gazette providing for the relief of distress occasioned by terrorism.

177—Liability of officers of body corporate

- (1) If a body corporate contravenes section 176, a person who is an officer of the body corporate is—
- (a) subject to subsection (6), guilty of a contravention of this section; and
 - (b) subject to subsection (2), liable to the same penalty as may be imposed for the principal contravention when committed by a natural person.
- (2) If an officer of a body corporate is convicted of an offence under subsection (1), the officer is not liable to be punished by imprisonment for the offence.
- (3) If a body corporate contravenes section 176, an officer of the body corporate who knowingly promoted or acquiesced in the contravention is also guilty of contravening that provision.

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- (4) An officer of a body corporate may be prosecuted and convicted of an offence under subsection (1) or (3) whether or not there has been a finding by a court that the body corporate committed the contravention.
 - (5) In proceedings for an offence against section 176 by a body corporate, a statement made by an officer of the body corporate is admissible as evidence against the body corporate.
 - (6) It will be a defence in any criminal proceedings against an officer of a body corporate under subsection (1) if it is proved that the alleged contravention did not result from any failure on the defendant's part to take all reasonable and practicable measures to prevent the contravention or contraventions of the same or a similar nature.