

**Legislative Council—No 116**

As received from the House of Assembly and read a first time, 15 July 2009

South Australia

**Statutes Amendment (Property Offences) Bill 2009**

A BILL FOR

An Act to amend the *Criminal Law Consolidation Act 1935* and the *Summary Procedure Act 1921*.

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## Contents

### Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

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

- 4 Amendment of section 19—Unlawful threats
- 5 Amendment of section 84—Preliminary
- 6 Substitution of section 85
  - 85 Arson and other property damage

### Part 3—Amendment of *Summary Procedure Act 1921*

- 7 Amendment of section 5—Classification of offences
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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 (Property Offences) Act 2009*.

#### 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 *Criminal Law Consolidation Act 1935*

#### 10 4—Amendment of section 19—Unlawful threats

Section 19(2)(a)—delete "the person or property of"

#### 5—Amendment of section 84—Preliminary

Section 84(1)—before the definition of *to damage* insert:

- 15 *building* means any building (whether used for non-residential or residential purposes), and includes—

- (a) a part of a building; and
- (b) a structure, vehicle or vessel, or part of a structure, vehicle or vessel, used for residential purposes;

## 6—Substitution of section 85

Section 85—delete the section and substitute:

### 85—Arson and other property damage

- 5 (1) A person who, without lawful excuse, by fire or explosives, damages property that is a building or motor vehicle (whether the property belongs to the person or to another)—
- (a) intending to damage property; or
  - (b) being recklessly indifferent as to whether his or her conduct damages property,
- 10 is guilty of arson.  
Maximum penalty: Imprisonment for life.
- (2) A person who, without lawful excuse, damages (other than by fire or explosives) another's property that is a building or motor vehicle—
- (a) intending to damage property; or
  - 15 (b) being recklessly indifferent as to whether his or her conduct damages property,
- is guilty of an offence.  
Maximum penalty: Imprisonment for 10 years.
- 20 (3) A person who, without lawful excuse, damages another's property (other than a building or motor vehicle)—
- (a) intending to damage property; or
  - (b) being recklessly indifferent as to whether his or her conduct damages property,
- is guilty of an offence.  
Maximum penalty: Imprisonment for 10 years.
- 25 (4) A person who, without lawful excuse, threatens to damage another's property—
- (a) intending to arouse a fear that the threat will be, or is likely to be, carried out; or
  - 30 (b) being recklessly indifferent as to whether such a fear is aroused,
- is guilty of an offence.  
Maximum penalty:
- (a) for a basic offence—imprisonment for 5 years;
  - 35 (b) for an aggravated offence (other than an offence to which paragraph (c) applies)—imprisonment for 7 years;
  - (c) for an offence aggravated by a threat to commit arson—imprisonment for 15 years.

- (5) Subsection (4) applies to a threat directly or indirectly communicated by words (written or spoken) or by conduct, or partially by words and partially by conduct.

### **Part 3—Amendment of *Summary Procedure Act 1921***

#### **7—Amendment of section 5—Classification of offences**

- (1) Section 5(2)—after paragraph (b) insert:

(ba) an offence against Part 4 of the *Criminal Law Consolidation Act 1935* involving \$2 500 or less not being—

- (a) an offence of arson or causing a bushfire; or

**Note—**

See sections 85 and 85B of the *Criminal Law Consolidation Act 1935*.

- (b) an offence of violence; or

- (c) an offence that is 1 of a series of offences of the same or a similar character involving more than \$2 500 in aggregate;

- (2) Section 5(3)(a)(iii)—after subparagraph (A) insert:

(AB) an offence involving a threat to interfere with, damage or destroy another person's property where, if the threat had been carried out, the loss would not have exceeded \$30 000;

- (3) Section 5(3a)—before "Part 5" insert:

section 85 or