

House of Assembly—No 147

As laid on the table and read a first time, 20 October 2011

South Australia

**Statutes Amendment (Public Assemblies and
Addresses) Bill 2011**

A BILL FOR

An Act to amend the *Public Assemblies Act 1972* and the *Summary Offences Act 1953*.

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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 (Public Assemblies and Addresses) Act 2011*.

5 2—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 *Public Assemblies Act 1972*

3—Amendment of section 3—Interpretation

- 10 Section 3—after the definition of *council* insert:

designated public place means a public place designated by a notice in the Gazette under section 5A;

4—Insertion of section 5A

After section 5 insert:

5A—Public assemblies in designated areas

- 5
- (1) Subject to subsection (2), a council may, by notice in the Gazette, designate a public place within the area of the council as a place within which assemblies may be held or through which assemblies may proceed.
- (2) A public place may not be designated under subsection (1) unless it is within a prescribed area.
- 10
- (3) Before a regulation is made prescribing an area that is within a council, the Minister must consult with the council in such manner as the Minister thinks fit.
- (4) A notice under subsection (1) may make the conduct of assemblies within a designated public place subject to conditions specified in the notice.
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- (5) A notice under subsection (1) may be varied or revoked by subsequent notice in the Gazette.

5—Amendment of section 6—Exemption for participants acting in accordance with approved proposals or in designated public place

20 Section 6—after subsection (1) insert:

- (1a) If an assembly is taking place in a designated public place, a person participating in the assembly—
- 25
- (a) may, subject to any conditions specified in a notice under section 5A in relation to the conduct of assemblies within the designated public place, position himself or herself, or proceed over, any portion of the public place; and
- (b) in acting in conformity with the conditions specified in a notice under section 5A in relation to the conduct of assemblies within the designated public place, does not
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- incur any civil or criminal liability by reason of the obstruction of the public place.

6—Insertion of sections 7 and 8

After section 6 insert:

7—Obstruction or disruption of public assembly

- 35
- (1) A person who, without lawful excuse, intentionally obstructs or disrupts, or attempts to obstruct or disrupt, an assembly—
- (a) that conforms with approved proposals; or
- (b) that is taking place in a designated public place in conformity with any conditions specified in a notice under
- 40
- section 5A in relation to the conduct of assemblies within the designated public place,

is guilty of an offence.

Maximum penalty: \$10 000 or imprisonment for 2 years.

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- (2) Without limiting the ways in which a person can obstruct or disrupt an assembly, a person will be taken to obstruct or disrupt an assembly if he or she—
- (a) obstructs, or attempts to obstruct, a person proceeding to or from the assembly; or
- (b) promotes, or assists in the promotion of, the obstruction or disruption of the assembly in any way; or
- 10 (c) engages in any other conduct that assists, or is intended to assist, in the obstruction or disruption of the assembly.
- (3) Nothing in this section prevents a police officer, or any other person carrying out a function authorised by or under an Act, from carrying out his or her official duties and functions.

15 **8—Regulations**

The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.

Part 3—Amendment of *Summary Offences Act 1953*

7—Insertion of section 55

20 After section 54 insert:

55—Use of public address system

- 25 (1) If a person uses a public address system in a prescribed area without the relevant authorisation, a police officer may—
- (a) require the person to state his or her full name and address; and
- (b) issue, in writing, a direction to the person to immediately stop using the system in the prescribed area.
- 30 (2) Before a regulation is made prescribing an area that is within a council, the Minister must consult with the council in such manner as the Minister thinks fit.
- (3) A police officer who issues a direction to a person under subsection (1), must advise the person that—
- 35 (a) during the period of 6 months after the issue of the direction, it is an offence for the person to use a public address system in the area identified in the direction without the relevant authorisation; and
- 40 (b) if the person refuses or fails to comply with the direction or is found using a public address system in the area identified in the direction without the relevant authorisation, the system may be seized in accordance with this section.

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- (4) If a police officer suspects on reasonable grounds that a name or address as stated in response to a requirement under subsection (1)(a) is false, he or she may require the person making the statement to produce evidence of the correctness of the name or address as stated.
- (5) A person who—
- (a) refuses or fails to comply with a requirement under subsection (1)(a) or (4); or
- (b) in response to a requirement under subsection (1)(a) or (4)—
- 10 (i) states a name or address that is false; or
- (ii) produces false evidence of his or her name or address,
- is guilty of an offence.
Maximum penalty: \$1 250 or imprisonment for 3 months.
- 15 (6) A person who refuses or fails to comply with a direction under subsection (1)(b) is guilty of an offence.
Maximum penalty: \$1 250.
- (7) A person who has been issued with a direction under subsection (1)(b) must not, during the period of 6 months after the issue of the direction, use a public address system in the area identified in the direction without the relevant authorisation.
Maximum penalty: \$1 250.
- (8) A police officer may seize and retain any public address system which is reasonably suspected of being used in the commission of an offence against subsection (6) or (7).
- 25 (9) If a person claiming to be the owner of a public address system seized under subsection (8)—
- (a) applies to the Commissioner, in the manner determined by the Commissioner, during ordinary business hours on a day no sooner than the next business day following the day on which the seizure occurred; and
- 30 (b) pays to the Commissioner the fee prescribed by the regulations,
- the Commissioner must make the system available for collection by the person at a time and from a place determined by the
35 Commissioner.
- (10) If no application is made in accordance with subsection (9) within 30 days after the day on which the seizure occurred, the public address system is forfeited to the Crown and may be sold, destroyed or otherwise disposed of as the Minister or the Commissioner directs.

(11) For the purposes of this section, a person has the ***relevant authorisation*** to use a public address system in an area if the public address system is used—

(a) with the consent of—

- (i) the owner or occupier of the area; or
- (ii) the Commissioner; or
- (iii) the relevant council; or

(b) in the course of participating in an assembly—

- (i) that conforms with approved proposals within the meaning of the *Public Assemblies Act 1972*; or
- (ii) that is taking place in a designated public place, within the meaning of the *Public Assemblies Act 1972*, in conformity with any conditions specified in a notice under section 5A of that Act in relation to the conduct of assemblies within that designated public place.

(12) In this section—

council means a council within the meaning of the *Local Government Act 1999*.