

South Australia

Summary Offences (Gatecrashers at Parties) Amendment Act 2007

An Act to amend the *Summary Offences Act 1953*; and to make a related amendment to the *Criminal Law Consolidation Act 1935*.

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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 *Summary Offences (Gatecrashers at Parties) Amendment Act 2007*.

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 *Summary Offences Act 1953*

4—Amendment of section 17A—Trespassers on premises

Section 17A(2b) and (2c)—delete subsections (2b) and (2c)

5—Insertion of sections 17AB and 17AC

After section 17A insert:

17AB—Trespassers etc at private parties

- (1) If an authorised person reasonably suspects that a person who is on premises that are being used for a private party is not entitled to be on the premises, the authorised person may require the person to produce evidence that he or she is entitled to be on the premises.
- (2) If a person refuses or fails to produce evidence, in accordance with a requirement under subsection (1), that is satisfactory to the authorised person—
 - (a) the authorised person may advise the person that he or she is a trespasser on the premises; and
 - (b) on being so advised, the person will be taken to be a trespasser on the premises for the purposes of this section and section 15A of the *Criminal Law Consolidation Act 1935*.
- (3) Nothing in subsection (2) limits the manner in which a person may become a trespasser on premises that are being used for a private party.
- (4) If—
 - (a) a person trespasses on premises that are being used for a private party; and
 - (b) the trespasser is asked by an authorised person to leave the premises (whether the trespasser is asked individually or as a member of a group),

the trespasser is, if he or she fails to leave the premises immediately or again trespasses on the premises while they are being used for the private party, guilty of an offence.

Maximum penalty: \$5 000 or imprisonment for 1 year.

- (5) A person who, while trespassing on premises that are being used for a private party, uses offensive language or behaves in an offensive manner is guilty of an offence.

Maximum penalty: \$2 500.

- (6) A person who trespasses on premises that are being used for a private party must, if asked to do so by an authorised person, give his or her name and address to the authorised person.

Maximum penalty: \$2 500.

(7) If—

- (a) a police officer attending at premises that are being used for a private party reasonably suspects that a person on the premises is committing an offence against this section; and
- (b) an authorised person at the premises requests the police officer to remove the person from the premises,

the police officer may remove the person from the premises.

(8) If a person is loitering in the vicinity of premises that are being used for a private party, or a group of persons is assembled in the vicinity of such premises, and a police officer believes or apprehends on reasonable grounds—

(a) that the person or any member of the group of persons—

- (i) is or has been behaving in a disorderly, indecent or offensive manner; or
- (ii) is or has been using offensive words; or
- (iii) in any way, except by lawful authority or on some other lawful ground, is or has been obstructing or interfering with—

(A) a person seeking to attend the private party;
or

(B) the conduct of the private party; or

(b) that a breach of the peace has occurred, is occurring, or is about to occur, in the vicinity of that person or group,

the officer may request that person to cease loitering, or request the persons in that group to disperse, as the case may require.

(9) A person of whom a request is made under subsection (8) must leave the place and the area in the vicinity of the place in which he or she was loitering or assembled in the group.

Maximum penalty: \$2 500 or imprisonment for 6 months.

(10) In proceedings for an offence against this section, an allegation in the complaint that—

- (a) specified premises were being used for a private party on a specified date and at a specified time; or
- (b) a person named in the complaint was, on a specified date, an authorised person in relation to specified premises,

will be accepted as proved in the absence of proof to the contrary.

(11) This section is in addition to, and does not limit or derogate from, any other provision of this Act or any other law.

(12) In this section—

authorised person, in relation to premises that are being used for a private party, means—

- (a) the occupier of the premises, or a person acting on the authority of the occupier of the premises; or
- (b) a person responsible for organising the party, or a person acting on the authority of such a person,

but does not include a minor;

occupier, in relation to premises, means the person in possession, or entitled to immediate possession, of the premises;

offensive includes threatening, abusive or insulting;

premises means—

- (a) any land; or
- (b) any building or structure; or
- (c) any aircraft, vehicle, ship or boat;

private party means a party, event or celebration to which admittance is allowed by invitation only but does not include a party, event or celebration that is held—

- (a) on premises (other than residential premises) by or on behalf of a company or business; or
- (b) in a public place; or
- (c) on premises, or a part of premises, in respect of which a licence is in force under the *Liquor Licensing Act 1997* (other than a limited licence granted under that Act for a term of not more than 24 hours).

17AC—Authorised persons

- (1) An authorised person within the meaning of section 17A or section 17AB must, at the request of a person in relation to whom the authorised person is exercising powers under either of those sections, inform the person of—
 - (a) the authorised person's name; and
 - (b) the capacity in which the person is an authorised person under the relevant section.
- (2) A person must not falsely pretend, by words or conduct, to have the powers of an authorised person under section 17A or section 17AB.
Maximum penalty: \$750.

Schedule 1—Related amendment to *Criminal Law Consolidation Act 1935*

1—Amendment of section 15A—Defence of property etc

Section 15A(3)(b)—after "offence" insert:

or is an element of the offence