

South Australia

Statutes Amendment (Attorney-General's Portfolio and Other Justice Measures) Act 2025

An Act to amend various Acts within the portfolio of the Attorney-General and to amend certain other Acts.

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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 (Attorney-General's Portfolio and Other Justice Measures) Act 2025*.

2—Commencement

- (1) Subject to this section, this Act comes into operation on the day on which it is assented to by, or on behalf of, the Crown.
- (2) The following provisions of this Act come into operation on a day to be fixed by proclamation:
 - (a) Part 2;
 - (b) Part 5 to Part 7 (inclusive);
 - (c) Part 12 and Part 13.

Part 2—Amendment of *Controlled Substances Act 1984*

3—Amendment of section 4—Interpretation

Section 4(1), definition of *analyst*, (b)—delete "Governor" and substitute:

Minister

4—Amendment of section 33P—Knowledge or recklessness with respect to identity or quantity

- (1) Section 33P(2)—after "identity" insert:
or quantity
- (2) Section 33P—after subsection (2) insert:
 - (3) In this section, a reference to an offence against this Part relating to a controlled substance includes an offence of attempting to commit that offence in accordance with section 270A of the *Criminal Law Consolidation Act 1935*.

5—Amendment of section 51—Analysts

- (1) Section 51(1)—delete "the Governor may" and substitute:
the Minister may, by notice in the Gazette,
- (2) Section 51(1)—delete "Governor" second occurring and substitute:
Minister

6—Transitional provisions

- (1) The amendments made by section 4 of this Act to the *Controlled Substances Act 1984* apply to proceedings relating to an offence that are commenced after the commencement of those amendments, regardless of when the offence occurred.
- (2) A relevant approval or appointment made by the Governor and in force immediately before the commencement of this section continues in force as if the relevant approval or appointment were made by the Minister.
- (3) In this section—
relevant approval or appointment means—
 - (a) a class approved by the Governor under paragraph (b) of the definition of *analyst* in section 4(1) of the *Controlled Substances Act 1984*; or
 - (b) an appointment made by the Governor of a person as an analyst under section 51(1) of the *Controlled Substances Act 1984*.

Part 3—Amendment of *Correctional Services Act 1982*

7—Amendment of section 71—Variation or revocation of parole conditions

- (1) Section 71(1)—after "subject" insert:
or impose further conditions on the parole
- (2) Section 71(2)—after "subject" insert:
or impose further conditions on the parole

8—Transitional provision

The amendments made by this Act to the *Correctional Services Act 1982* apply in relation to the parole of a person released on or before the commencement of those amendments.

Part 4—Amendment of *Criminal Law Consolidation Act 1935*

9—Amendment of section 85B—Special provision for causing bushfire

Section 85B(3)(b)—delete paragraph (b) and substitute:

- (b) —
 - (i) the bushfire is caused in the course of carrying out a fire prevention, fire suppression or other land management activity; and
 - (ii) at the time the activity was carried out—
 - (A) there was in force a provision made by or under an Act or by a code of practice approved under an Act, that regulated or otherwise applied to the carrying out of the activity and the person in carrying out that activity acted in accordance with the provision; and
 - (B) the person believed that their conduct in carrying out the activity was justified having regard to all of the circumstances.

Part 5—Amendment of *District Court Act 1991*

10—Insertion of section 50C

After section 50B insert:

50C—Death or incapacity of Judge during trial

If, during the course of a civil or criminal trial, the presiding Judge dies or is incapacitated—

- (a) if reasons for judgment in final form were prepared by the presiding Judge—another Judge appointed by the Chief Judge may publish the reasons and grant judgment in accordance with them; or
- (b) in any other case—another Judge appointed by the Chief Judge may complete the hearing and determination of the proceeding and—
 - (i) rehear evidence and submissions to the extent that the Judge thinks fit; and
 - (ii) make orders as appropriate.

Part 6—Amendment of *Environment, Resources and Development Court Act 1993*

11—Amendment of section 15—Constitution of the Court

Section 15—after subsection (14) insert:

- (15) If, during the course of a civil or criminal trial, the presiding Judge or magistrate dies or is incapacitated—
- (a) if reasons for judgment in final form were prepared by the presiding Judge or magistrate—another Judge or magistrate appointed by the Senior Judge of the Court may publish the reasons and grant judgment in accordance with them; or
 - (b) in any other case—another Judge or magistrate appointed by the Senior Judge of the Court may complete the hearing and determination of the proceeding and—
 - (i) rehear evidence and submissions to the extent that the Judge or magistrate thinks fit; and
 - (ii) make orders as appropriate.

Part 7—Amendment of *Magistrates Court Act 1991*

12—Insertion of section 48C

After section 48B insert:

48C—Death or incapacity of magistrate during trial

If, during the course of a civil or criminal trial, the presiding magistrate dies or is incapacitated—

- (a) if reasons for judgment in final form were prepared by the presiding magistrate—another magistrate appointed by the Chief Magistrate may publish the reasons and grant judgment in accordance with them; or
- (b) in any other case—another magistrate appointed by the Chief Magistrate may complete the hearing and determination of the proceeding and—
 - (i) rehear evidence and submissions to the extent that the magistrate thinks fit; and
 - (ii) make orders as appropriate.

Part 8—Amendment of *Motor Vehicles Act 1959*

13—Amendment of section 5—Interpretation

Section 5(1)—after the definition of *Tribunal* insert:

ultra high powered vehicle means a motor vehicle prescribed by the regulations as an ultra high powered vehicle for the purposes of this definition;

14—Amendment of section 74—Duty to hold licence or learner's permit

(1) Section 74—after subsection (2) insert:

(2aa) For the purposes of subsections (1) and (2), a person who, immediately before 1 December 2024, held a licence in this State (other than a provisional licence) that authorised them to drive an ultra high powered vehicle will be taken to have been previously authorised to drive a motor vehicle of that class on a road.

(2) Section 74(3)—after paragraph (a) insert:

(ab) in the case of an ultra high powered vehicle—the person holds a licence that authorises the holder to drive an ultra high powered vehicle; or

(3) Section 74(3)(b)—after "motor bike" insert:

or an ultra high powered vehicle

15—Amendment of section 79A—Driving experience required for issue of licence

Section 79A(3)(b)—delete "evidence to the satisfaction of the Registrar" and substitute:

the Registrar is satisfied

16—Amendment of section 98B—Demerit points for offences in this State

Section 98B—after subsection (1) insert:

(1aa) Where a natural person is convicted of, or expiates, an offence against section 79B(2) of the *Road Traffic Act 1961* constituted of being the owner of a vehicle that appears from evidence obtained through the operation of a photographic detection device to have been involved in the commission of a prescribed offence, the number of demerit points prescribed by the regulations in relation to the prescribed offence in which the vehicle appears to have been involved is, subject to this section, incurred by the person.

17—Transitional provision

Section 98B(1aa) of the *Motor Vehicles Act 1959* (as inserted by section 16) applies in relation to a conviction for, or expiation of, an offence against section 79B(2) of the *Road Traffic Act 1961* regardless of whether the offence, or the conviction for or expiation of the offence, occurred before or after the commencement of section 16 and regardless of whether a number of demerit points was prescribed by regulations under the *Motor Vehicles Act 1959* in relation to the offence at the time the offence was committed (and any demerit points incurred by a person pursuant to this section are taken to be so incurred at the time of the person's conviction for or expiation of the offence).

Part 9—Amendment of *Sentencing Act 2017*

18—Amendment of section 59—Release on licence

Section 59(11)—delete "Crown" and substitute:

DPP

Part 10—Amendment of *Spent Convictions Act 2009*

19—Amendment of section 3—Preliminary

Section 3(1), definition of *justice agency*, (d)—delete "the Australian Commission for Law Enforcement Integrity" and substitute:

the National Anti-Corruption Commission

Part 11—*Summary Offences Act 1953*

20—Amendment of section 43—Interference with railways and similar tracks

(1) Section 43(1)(b)—after "signal" insert:

, cable, system

(2) Section 43(1), penalty provision—delete "\$10 000" and substitute:

\$50 000

Part 12—Amendment of *Supreme Court Act 1935*

21—Insertion of section 126B

After section 126A insert:

126B—Death or incapacity of judge during trial

If, during the course of a civil or criminal trial, the presiding judge dies or is incapacitated—

- (a) if reasons for judgment in final form were prepared by the presiding judge—another judge appointed by the Chief Justice may publish the reasons and grant judgment in accordance with them; or

- (b) in any other case—another judge appointed by the Chief Justice may complete the hearing and determination of the proceeding and—
 - (i) rehear evidence and submissions to the extent that the judge thinks fit; and
 - (ii) make orders as appropriate.

Part 13—Amendment of *Youth Court Act 1993*

22—Insertion of section 31A

After section 31 insert:

31A—Death or incapacity of judicial officer during trial

If, during the course of a civil or criminal trial, the presiding judicial officer dies or is incapacitated—

- (a) if reasons for judgment in final form were prepared by the presiding judicial officer—another judicial officer appointed by the Judge of the Court may publish the reasons and grant judgment in accordance with them; or
- (b) in any other case—another judicial officer appointed by the Judge of the Court may complete the hearing and determination of the proceeding and—
 - (i) rehear evidence and submissions to the extent that the judicial officer thinks fit; and
 - (ii) make orders as appropriate.