



ANNO DECIMO OCTAVO

ELIZABETHAE II REGINAE

A.D. 1969

No. 109 of 1969

An Act to amend the Criminal Law Consolidation Act, 1935-1966.

[Assented to 8th January, 1970.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short titles.

1. (1) This Act may be cited as the "Criminal Law Consolidation Act Amendment Act, 1969".

(2) The Criminal Law Consolidation Act, 1935-1966, as amended by this Act, may be cited as the "Criminal Law Consolidation Act, 1935-1969".

(3) The Criminal Law Consolidation Act, 1935-1966, is hereinafter referred to as "the principal Act".

Amendment of
principal Act,
s. 3—
Arrangement of
Act.

2. Section 3 of the principal Act is amended—

(a) by striking out the passage "(Sections 20-38)" and inserting in lieu thereof the passage "(Sections 20-38a)";

(b) by striking out the passage "(Sections 73-78)" and inserting in lieu thereof the passage "(Sections 73-77a)";

(c) by striking out the passage "(Section 79)" and inserting in lieu thereof the passage "(Sections 78-79)";

(d) by striking out the passage "(Sections 81, 82)" and inserting in lieu thereof the passage "(Sections 81-82a)";

(e) by striking out the passage “(Sections 237-269)” and inserting in lieu thereof the passage “(Sections 237-266)”;

and

(f) by striking out the passage “*Enforcement of Fines and Estreated Recognizances* (Section 300)” and inserting in lieu thereof the passage “*Fines and Forfeited Recognizances* (Sections 300-300h)”.

3. The following section is enacted and inserted in the principal Act after section 82 thereof:—

Enactment of
s. 82a of
principal Act—

82a. (1) Notwithstanding anything contained in section 81 or section 82 of this Act, but subject to this section, a person shall not be guilty of a felony or misdemeanour under either of those sections—

Medical
termination of
pregnancy.

(a) if the pregnancy of a woman is terminated by a legally qualified medical practitioner in a case where he and one other legally qualified medical practitioner are of the opinion, formed in good faith after both have personally examined the woman—

(i) that the continuance of the pregnancy would involve greater risk to the life of the pregnant woman or greater risk of injury to the physical or mental health of the pregnant woman than if the pregnancy were terminated;

or

(ii) that there is a substantial risk that, if the pregnancy were not terminated and the child were born to the pregnant woman, the child would suffer from such physical or mental abnormalities as to be seriously handicapped,

and where the treatment for the termination of the pregnancy is carried out in a hospital or a hospital of a class declared by regulation to be a prescribed hospital or a hospital of a prescribed class for the purposes of this section;

or

(b) if the pregnancy of a woman is terminated by a legally qualified medical practitioner in a case where he is of the opinion, formed in good faith, that the termination is immediately necessary

to save the life, or to prevent grave injury to the physical or mental health, of the pregnant woman.

(2) Paragraph (a) of subsection (1) of this section does not refer or apply to any woman who has not resided in South Australia for a period of at least two months before the termination of her pregnancy.

(3) In determining whether the continuance of a pregnancy would involve such risk of injury to the physical or mental health of a pregnant woman as is mentioned in subparagraph (i) of paragraph (a) of subsection (1) of this section, account may be taken of the pregnant woman's actual or reasonably foreseeable environment.

(4) The Governor may make regulations—

- (a) for requiring any such opinion as is referred to in subsection (1) of this section to be certified by the legally qualified medical practitioners or practitioner concerned in such form and at or within such time as may be prescribed, and for requiring the preservation and disposal of any such certificate made for the purposes of this Act ;
- (b) for requiring any legally qualified medical practitioner who terminates a pregnancy to give notice of the termination and such other information relating to the termination as may be prescribed to the Director-General of Medical Services ;
- (c) for prohibiting the disclosure, except to such persons or for such purposes as may be prescribed, of notices or information given pursuant to the regulations ,
- (d) declaring a particular hospital or a class of hospitals to be a prescribed hospital or a prescribed class of hospital for the purposes of this section ;.

and

- (e) for providing for and prescribing any penalty, not exceeding two hundred dollars, for any contravention of, or failure to comply with any regulations.

(5) Subject to subsection (6) of this section, no person is under a duty, whether by contract or by any statutory or other legal requirement, to participate in any treatment authorized by virtue of the provisions of this section to which he has a conscientious objection: But in any legal proceedings the burden of proof of conscientious objection rests on the person claiming to rely on it.

(6) Nothing in subsection (5) of this section affects any duty to participate in treatment which is necessary to save the life or to prevent grave injury to the physical or mental health of a pregnant woman.

(7) The provisions of subsection (1) of this section do not apply to or in relation to a person who, with intent to destroy the life of a child capable of being born alive, by any wilful act causes such a child to die before it has an existence independent of its mother where it is proved that the act which caused the death of the child was not done in good faith for the purpose only of preserving the life of the mother.

(8) For the purposes of subsection (7) of this section, evidence that a woman had at any material time been pregnant for a period of twenty-eight weeks or more shall be *prima facie* proof that she was at that time pregnant of a child capable of being born alive.

(9) For the purposes of sections 81 and 82 of this Act, anything done with intent to procure the miscarriage of a woman is unlawfully done unless authorized by virtue of the provisions of this section.

(10) In this section and in sections 81 and 82 of this Act, "woman" means any female person of any age.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

J. W. HARRISON, Governor.