



ANNO TRICESIMO

ELIZABETHAE II REGINAE

A.D. 1981

No. 107 of 1981

An Act to amend the Criminal Law Consolidation Act, 1935-1980; and to make consequential amendments to the Acts Interpretation Act, 1915-1978.

[Assented to 23 December 1981]

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

1. (1) This Act may be cited as the "Criminal Law Consolidation Act Amendment Act, 1981". Short titles.

(2) The Criminal Law Consolidation Act, 1935-1980, is in this Act referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Criminal Law Consolidation Act, 1935-1981".

2. This Act shall come into operation on a day to be fixed by proclamation. Commence-
ment.

3. Section 3 of the principal Act is amended by striking out the item:
Attempts to Murder (section 18). Amendment of
s. 3—
Arrangement
of Act.

4. Section 18 of the principal Act and the heading immediately preceding that section are repealed. Repeal of
s. 18 and
heading.

5. Section 23 of the principal Act is amended by striking out the passage "for any term not exceeding three years" and substituting the passage "for a term not exceeding five years, or, where the victim was at the time of the commission of the offence under the age of twelve years, for a term not exceeding eight years". Amendment of
s. 23—
Malicious
wounding, etc.

6. Section 39 of the principal Act is amended by striking out the passage "for any term not exceeding one year" and substituting the passage "for a term not exceeding three years". Amendment of
s. 39—
Common
assault.

Amendment of
s. 40—
Assaults
occasioning
harm.

7. Section 40 of the principal Act is amended by striking out the passage “for any term not exceeding three years” and substituting the passage “for a term not exceeding five years, or, where the victim was at the time of the commission of the offence under the age of twelve years, for a term not exceeding eight years”.

Amendment of
s. 43—
Assaults in the
course of
resisting arrest,
etc.

8. Section 43 of the principal Act is amended—

(a) by striking out paragraph (a);

and

(b) by striking out the passage “for any term not exceeding two years” and substituting the passage “for a term not exceeding five years”.

Amendment of
s. 48—
Rape.

9. Section 48 of the principal Act is amended by striking out subsection (2).

Amendment of
s. 49—
Unlawful
sexual
intercourse.

10. Section 49 of the principal Act is amended—

(a) by striking out subsection (2);

(b) by striking out from subsection (3) the passage “, or attempts to have sexual intercourse,”;

(c) by striking out from paragraphs (a) and (b) of subsection (4) the passage “or to have attempted,” wherever it occurs;

(d) by striking out from subsection (5) the passage “or attempts to have sexual intercourse,”;

and

(e) by striking out from subsection (6) the passage “, or attempts to have,”.

Repeal of
s. 56 and
substitution
of new section.

11. Section 56 of the principal Act is repealed and the following section is substituted:

Indecent
assault.

56. A person who indecently assaults another shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding eight years, or, where the victim was at the time of the commission of the offence under the age of twelve years, for a term not exceeding ten years.

Amendment of
s. 58—
Acts of
gross
indecenty.

12. Section 58 of the principal Act is amended by striking out from paragraph (b) of subsection (1) the passage “or attempts to procure”.

Amendment of
s. 63—
Procuring
persons to
be prostitutes.

13. Section 63 of the principal Act is amended by striking out “, or endeavours to procure,” wherever it occurs.

Amendment of
s. 64—
Procuring
sexual
intercourse.

14. Section 64 of the principal Act is amended—

(a) by striking out from paragraph (a) the passage “, or endeavours to procure,”;

and

(b) by striking out from paragraph (b) the passage "endeavours to procure" and substituting the word "procures".

- (2). 15. Section 69 of the principal Act is amended by striking out subsection
Amendment of s. 69—
Offences with animals.
16. Section 87 of the principal Act is repealed.
Repeal of s. 87.
17. Section 89 of the principal Act is repealed.
Repeal of s. 89.
18. Section 92 of the principal Act is repealed.
Repeal of s. 92.
- (a). 19. Section 115 of the principal Act is amended by striking out paragraph
Amendment of s. 115—
Poisoning of cattle.
20. Section 138 of the principal Act is amended by striking out the passage
" , or attempts to kill or wound".
Amendment of s. 138—
Stealing deer, etc., in enclosed land.
21. Section 156 of the principal Act is repealed.
Repeal of s. 156.
22. Section 205 of the principal Act is amended by striking out from
paragraph (b) the passage "or endeavours to transfer" and the passage "or
endeavours to receive".
Amendment of s. 205—
Personating the owner of stock.
23. Section 238 of the principal Act is amended by striking out the passage
" , or attempts to rescue or set at liberty out of prison,".
Amendment of s. 238—
Rescuing murderers.
24. Section 268 of the principal Act is amended by striking out subsection
(1) and substituting the following subsection:
(1) A person who becomes an accessory after the fact to a felony
(whether the felony is constituted by statute or common law) shall be
guilty of a felony and liable to be imprisoned for a term not exceeding
five years or, where the felony to which he became an accessory was a
homicide, for a term not exceeding ten years.
Amendment of s. 268—
Accessories after the fact.
25. Section 270 of the principal Act is amended by striking out paragraph
(a) of subsection (1).
Amendment of s. 270—
Punishment for certain offences.
26. The following headings and sections are inserted after section 270 of
the principal Act:
Insertion of new headings
and ss. 270a.
and 270b.

Attempts

- 270a. (1) Subject to subsection (2), a person who attempts to
commit an offence (whether the offence is constituted by statute or
common law) shall be guilty of the offence of attempting to commit that
offence.
Attempts.

(2) Where under a provision of any other Act, or any other provision of this Act, an attempt is constituted as an offence, this section—

(a) does not apply in relation to that offence;

and

(b) does not operate to create a further or alternative offence with which a person who commits the former offence might be charged.

(3) The penalty for an attempt to which this section applies shall be as follows:

(a) in the case of attempted murder or attempted treason—the penalty shall be life imprisonment or imprisonment for some lesser term;

(b) where the penalty or maximum penalty for the principal offence (not being treason or murder) is life imprisonment the penalty for the attempt shall be imprisonment for a term not exceeding twelve years;

(c) in any other case, the penalty for the attempt shall be a penalty not exceeding a maximum of two-thirds of the maximum penalty prescribed for the principal offence.

(4) Where the principal offence is an indictable offence, an attempt to commit that offence shall also be an indictable offence, where the principal offence is a minor indictable offence, an attempt to commit that offence shall also be a minor indictable offence, and where the principal offence is a summary offence, an attempt to commit that offence shall also be a summary offence.

Assaults with Intent to Commit Felonies or Indictable Misdemeanours

Assaults
with
intent.

270b. (1) Subject to subsection (2), a person who assaults another with intent to commit a felony or indictable misdemeanour (whether constituted by statute or common law) shall be guilty of an indictable misdemeanour.

(2) Where under a provision of any other Act, or any other provision of this Act, an assault with intent to commit a felony or indictable misdemeanour is constituted as an offence, this section—

(a) does not apply in relation to that offence;

and

(b) does not operate to create a further or alternative offence with which a person who commits the former offence might be charged.

(3) The penalty for assault to which this section applies shall be—

(a) imprisonment for a term not exceeding seven years;

or

(b) imprisonment for a term not exceeding the maximum term that may be imposed for an attempt to commit the principal offence,

whichever is the greater maximum penalty.

27. The Acts Interpretation Act, 1915-1978, is amended—

Amendment of
the Acts
Interpretation
Act, 1915-1978.

(a) by inserting after the definition of “Minister” in section 4 the following definition:

“minor indictable offence” means an indictable offence that is a minor indictable offence within the meaning, and for the purposes of, the Justices Act, 1921-1981.;

(b) by inserting after the definitions of “statutory declaration” in section 4 the following definition:

“summary offence” means an offence (not being a minor indictable offence) that is punishable summarily.;

and

(c) by striking out section 32.

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

K. D. SEAMAN, Governor