



ANNO PRIMO

ELIZABETHAE II REGINAE

A.D. 1952

No. 27 of 1952.

**An Act to amend the Criminal Law Consolidation
Act, 1935-1940.**

[Assented to 27th November, 1952.]

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, 1952".

(2) The Criminal Law Consolidation Act, 1935-1940, as amended by this Act, may be cited as the "Criminal Law Consolidation Act, 1935-1952".

(3) The Criminal Law Consolidation Act, 1935-1940, is hereinafter called "the principal Act".

Incorporation.

2. This Act is incorporated with the principal Act and this Act and that Act shall be read as one Act.

Enactment of s. 14a. of the principal Act—

3. The following section is enacted and inserted in the principal Act after section 14 thereof :—

Power to convict for careless driving on trial for manslaughter, etc.

14a. (1) If upon the trial of a person for manslaughter or for an offence against section 14 of this Act the jury is not satisfied that the accused is guilty of the offence charged, but is satisfied that he is guilty of an offence of driving a motor vehicle without due care or attention,

or without reasonable consideration for other persons using the road, or recklessly, or at a speed or in a manner which is dangerous to the public, the jury may bring in a verdict that he is guilty of the offence as to which it is so satisfied.

(2) If the accused is found guilty of any such offence the court may impose on him either or both of the following penalties, namely:—

- (a) a fine not exceeding one hundred pounds;
- (b) imprisonment for a term not exceeding six months.

In addition the court may make such order under section 38a of the Road Traffic Act, 1934-1951, as the court deems just.

4. Section 15 of the principal Act is amended by striking out in the first line the words "the last preceding section" and inserting in their place the words "section 14 of this Act".

Consequential amendment of s. 15 of principal Act.

5. The following section is enacted and inserted in the principal Act after section 38 thereof:—

Enactment of s. 38a of principal Act—

38a. (1) If upon the trial of a person for an offence against section 38 of this Act the jury is not satisfied that the accused is guilty of the offence charged, but is satisfied that he is guilty of driving a vehicle or animal without due care or attention, or without reasonable consideration for other persons using the road, or recklessly, or at a speed or in a manner which is dangerous to the public the jury may bring in a verdict that he is guilty of the offence as to which it is so satisfied.

Power to convict of careless driving on charge of causing bodily harm.

(2) If the accused is found guilty of any such offence the court may impose on him either or both of the following penalties, namely:—

- (a) a fine not exceeding one hundred pounds;
- (b) imprisonment for a term not exceeding six months.

In addition the court may make such order under section 38a of the Road Traffic Act, 1934-1951, as the court deems just.

(3) In this section "vehicle" has the same meaning as in section 38.

6. Section 46 of the principal Act is repealed and the following section inserted in its place:—

Repeal of s. 46 of principal Act and enactment of other provisions—
Summary proceedings for assault.

46. (1) A complaint for assault or battery laid by or on behalf of the party aggrieved may be heard and determined summarily.

(2) In any such summary proceedings the court may punish the defendant by a fine not exceeding one hundred pounds, or imprisonment for any term not exceeding six months.

(3) Where the complaint is laid by the person aggrieved by the assault or battery the court may on the application of that person, in addition to imposing such penalty (if any) as the court deems proper, order the offender to pay to the said party such sum by way of compensation for the injury or loss suffered by him from the assault or battery as the court deems just.

(4) If at the conclusion of the hearing of the complaint the court is of opinion that it has not sufficient evidence to enable it to determine the liability for, or the amount of, the compensation, or that for any other reason it is not expedient to determine the question of compensation in those proceedings, it may decline to consider the application for compensation.

In such a case the application for compensation under this section shall not be a bar to any other proceedings for compensation.

Amendment of
s. 54 of
principal Act—
Consequential
amendment.

7. Section 54 of the principal Act is amended by striking out the words “any of the last preceding four sections” in the first and second lines of section 54 and inserting in lieu thereof the words “section 50, 51, 52 or 53”.

Amendment of
s. 55 of
principal Act—
Carnal
knowledge

8. Section 55 of the principal Act is amended—

- (a) by striking out the word “sixteen” in the fourth line of paragraph (a) of subsection (1) and inserting in lieu thereof the word “seventeen”;
- (b) by inserting after the word “attempt” in the fourth line of subsection (2) the words “the said female was of or above the age of sixteen years and”;
- (c) by striking out the word “sixteen” in paragraphs (a) and (b) of subsection (2) and inserting in lieu thereof in each case the word “seventeen”; and
- (d) by striking out subsection (3) thereof.

Enactment of
s. 57a and 57b
of principal
Act—

9. The following sections are enacted and inserted in the principal Act after section 57 thereof:—

Power to take
plea of guilty
without
evidence.

57a. (1) When a person is charged with carnal knowledge of a girl under seventeen years of age, or with indecent assault, the justice sitting to conduct the preliminary

examination of the witnesses may, without taking any evidence, accept a plea of guilty and commit the defendant to gaol, or admit him to bail, to appear for sentence.

(2) The justice shall take written notes of any facts stated by the prosecutor as the basis of the charge and of any statement made by the defendant in contradiction or explanation of the facts stated by the prosecutor, and shall forward those notes to the Attorney-General, together with any proofs of witnesses tendered by the prosecutor to the justice.

(3) The Attorney-General shall cause the said notes and proofs of witnesses to be delivered to the proper officer of the court at which the defendant is to appear for sentence, before or at the opening of the said court on the first sitting thereof, or at such other time as the judge who is to preside in such court may order.

(4) This section shall not restrict or take away any right of the defendant to withdraw a plea of guilty and substitute a plea of not guilty.

57b. (1) Any person who indecently interferes with—

(a) any child, male or female, under the age of seventeen years, whether with or without the consent of such child ; or

(b) any female of or above the age of seventeen years, without her consent,

Indecent interference with children and females.

shall be guilty of an offence punishable on summary conviction.

Penalty : For a first offence, imprisonment for not more than one year, or a fine of not more than fifty pounds or both such imprisonment and fine.

(2) Every complaint for an offence against this section shall be heard by a magistrate.

(3) If at the close of the case for the prosecution it appears to the Magistrate hearing a complaint under this section that the offence includes carnal knowledge or attempted carnal knowledge or is, in his opinion, of such an aggravated nature that it cannot be sufficiently punished under this section, he shall commit the defendant for trial on any charge which, in his opinion, is disclosed by the evidence.

Enactment of
s. 76a of
principal Act—

10. The following section is enacted and inserted in the principal Act after section 76 thereof:—

Limitation of
time for laying
informations
for certain
offences.

76a. (1) No information shall be laid for any offence specified in subsection (3) of this section more than three years after the commission of the offence.

(2) For the purpose of computing the time within which any such information may be laid, any time during which the defendant was out of the State shall not be counted.

(3) The offences to which this section applies are the offences mentioned in sections 48, 49, 50, 51, 52, 53, 55, 56, 57b, 58, 59, 60, 61, 62, 63, 64, 65, 66, 68, 69, 70, 71, and 72 of this Act.

Amendment of
s. 77a of
principal Act—
Detention of
persons
incapable of
controlling
sexual
instincts.

11. Section 77a of the principal Act (as enacted by section 7 of the Criminal Law Consolidation Act Amendment Act, 1940) is amended—

(a) by adding at the end of subsection (2) thereof the following passage:—

For the purpose of conducting the said examination and making their report the medical practitioners may obtain the assistance of any psychologist, social worker, probation officer, or other person whose assistance they deem necessary:

(b) by striking out the words “it is expedient to release him” at the end of subsection (3) and inserting in lieu thereof the words “he is fit to be at liberty”;

(c) by inserting after the words “but that” in the third line of subsection (4) the figure “(i.)”;

(d) by inserting after the word “others” in the sixth line of subsection (4) the words and figure “or (ii.) for any other reason it would be expedient for him to be detained in an institution” and

(e) by inserting after the word “control” in the ninth line of subsection (4) the words “or that it is expedient that the offender be so detained”.

Repeal of
s. 313 of
principal Act
and enactment
of other
provisions—
Fines, and
sureties.

12. Section 313 of the principal Act is repealed and the following section is enacted in lieu thereof:—

313. (1) Where any person is convicted in the Supreme Court of any felony (other than treason or murder) or of any misdemeanour the court may, in addition to or in lieu

of imposing any other punishment which may lawfully be imposed, exercise all or any of the following powers, namely—

- (a) fine the offender such amount as the court deems just ;
- (b) grant time for the payment of any fine and permit payment thereof by instalments and impose a term of imprisonment in default of payment of the fine or of any instalment thereof ;
- (c) require the offender to enter into his own recognizance with or without sureties for keeping the peace or being of good behaviour, or for both of those purposes, and for complying with such other conditions as the court may impose.

(2) A person shall not be imprisoned for more than one year for not finding sureties under this section.

(3) Notwithstanding any other enactment any power conferred by subsection (1) of this section may be exercised in relation to any offence punishable in the Supreme Court, other than—

- (a) treason and murder ; and
- (b) any offence in respect of which it is expressly provided by any enactment that the said power shall not be used.

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

J. M. NAPIER, Lieutenant-Governor.