



ANNO TRICESIMO SECUNDO

ELIZABETHAE II REGINAE

A.D. 1983

No. 45 of 1983

An Act to amend the Criminal Law Consolidation Act, 1935-1981.

[Assented to 16 June 1983]

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, 1983".

(2) The Criminal Law Consolidation Act, 1935-1981, 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, 1935-1983".

Insertion of new s. 13a.

Criminal liability in relation to suicide.

2. The following section is inserted after section 13 of the principal Act:

13a. (1) It is not an offence to commit or attempt to commit suicide.

(2) Notwithstanding the provisions of subsection (1), a person who finds another committing or about to commit an act which he believes upon reasonable grounds would, if committed or completed, result in suicide is justified in using reasonable force to prevent the commission or completion of the act.

(3) If upon the trial of a person for the murder of another the jury is satisfied that the accused killed the other, or was a party to the other being killed by a third person, but is further satisfied that the acts or omissions alleged against the accused were done or made in pursuance of a suicide pact with the person killed, then, subject to subsection (11), the jury shall not find the accused guilty of murder but may bring in a verdict of manslaughter.

(4) The killing of another or an attempt to kill another in pursuance of a suicide pact shall, for the purposes of determining the criminal liability of a person who was a party to the killing or attempt but not

a party to the suicide pact, be regarded as murder or attempted murder, as the case may require.

(5) A person who aids, abets or counsels the suicide of another or an attempt by another to commit suicide shall be guilty of an indictable offence.

(6) The penalty for an offence against subsection (5) shall be—

(a) subject to paragraph (b)—

(i) where suicide was committed—imprisonment for a term not exceeding fourteen years;

(ii) where suicide was attempted—imprisonment for a term not exceeding eight years;

(b) where the convicted person committed the offence in pursuance of a suicide pact and—

(i) suicide was committed—imprisonment for a term not exceeding five years;

(ii) suicide was attempted—imprisonment for a term not exceeding two years.

(7) A person who by fraud, duress or undue influence procures the suicide of another or an attempt by another to commit suicide shall (whether or not he was a party to a suicide pact with the other person) be guilty of murder or attempted murder, as the case may require.

(8) If upon the trial of a person for murder or attempted murder the jury is not satisfied that the accused is guilty of the offence charged but is satisfied that he is guilty of an offence against subsection (5), the jury may bring in a verdict that he is guilty of an offence against that subsection.

(9) In any criminal proceedings in which it is material to establish the existence of a suicide pact and whether an act was done, or an omission made, in pursuance of the pact, the onus of proving the existence of the pact and that the act was done, or the omission made, in pursuance of the pact shall lie upon the accused.

(10) For the purposes of this section—

(a) “suicide pact” means an agreement between two or more persons having for its object the death of all of them whether or not each is to take his own life;

and

(b) nothing done or omitted to be done by a person who enters into a suicide pact shall be treated as done or omitted to be done in pursuance of the pact unless it is done or omitted to be done while he has the settled intention of dying in pursuance of the pact.

(11) Where a person induced another to enter into a suicide pact by means of fraud, duress or undue influence, the person is not entitled in relation to an offence against the other to any mitigation of criminal liability or penalty under this section based upon the existence of the pact.

Insertion of new
s. 270ab.

3. The following section is inserted after section 270a of the principal Act:

Attempted
manslaughter.

270ab. (1) Where—

(a) a person attempts to kill another or is a party to an attempt to kill another;

and

(b) he would, if the attempt had been successfully carried to completion, have been guilty of manslaughter rather than murder,

he shall be guilty of the felony of attempted manslaughter.

(2) The penalty for attempted manslaughter is imprisonment for a term not exceeding twelve years.

(3) If upon the trial of a person for attempted murder the jury is not satisfied that the accused is guilty of the offence charged, but is satisfied that the accused is guilty of attempted manslaughter, the jury shall acquit the accused of attempted murder but may find him guilty of attempted manslaughter.

Insertion of new
s. 285b.

4. The following section is inserted after section 285a of the principal Act:

Conviction on
plea of guilty of
offence other than
that charged.

285b. Where a person arraigned upon an information pleads not guilty of an offence charged in the information but guilty of some other offence of which he might be found guilty upon trial for the offence charged and the plea of guilty is accepted by the prosecution then (whether or not the two offences are separately charged in distinct counts)—

(a) the person may be convicted on the plea of guilty and his conviction shall operate as an acquittal of the offence charged;

(b) if he has been placed in the charge of the jury, the jury shall be discharged without being required to give a verdict (unless the trial is to continue in respect of further counts that are unaffected by the plea);

and

(c) he shall be liable to be punished for the offence of which he has been convicted in the same manner as if he had been found guilty of the offence upon trial for the offence charged.

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

D. B. DUNSTAN, Governor