



**CRIMINAL LAW CONSOLIDATION (SELF DEFENCE) AMENDMENT
ACT 1997**

No. 10 of 1997

SUMMARY OF PROVISIONS

1. **Short title**
2. **Substitution of s. 15**
 15. **Self defence**
 - 15A. **Defence of property, etc.**



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ELIZABETHAE II REGINAE

A.D. 1997

No. 10 of 1997

An Act to amend the Criminal Law Consolidation Act 1936.

[Assented to 27 March 1997]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Criminal Law Consolidation (Self Defence) Amendment Act 1997*.

(2) The *Criminal Law Consolidation Act 1936* is referred to in this Act as "the principal Act".

Substitution of s. 15

2. Section 15 of the principal Act is repealed and the following sections are substituted:

Self defence

15. (1) It is a defence to a charge of an offence if—

- (a) the defendant genuinely believed the conduct to which the charge relates to be necessary and reasonable for a defensive purpose; and
- (b) the conduct was, in the circumstances as the defendant genuinely believed them to be, reasonably proportionate to the threat that the defendant genuinely believed to exist.

(2) It is a partial defence to a charge of murder (reducing the offence to manslaughter) if—

- (a) the defendant genuinely believed the conduct to which the charge relates to be necessary and reasonable for a defensive purpose; but
- (b) the conduct was not, in the circumstances as the defendant genuinely believed them to be, reasonably proportionate to the threat that the defendant genuinely believed to exist.

(3) For the purposes of this section, a person acts for a **defensive purpose** if the person acts—

- (a) in self defence or in defence of another; or
- (b) to prevent or terminate the unlawful imprisonment of himself, herself or another.

(4) However, if a person—

- (a) resists another who is purporting to exercise a power of arrest or some other power of law enforcement; or
- (b) resists another who is acting in response to an unlawful act against person or property committed by the person or to which the person is a party,

the person will not be taken to be acting for a defensive purpose unless the person genuinely believes, on reasonable grounds, that the other person is acting unlawfully.

(5) If a defendant raises a defence under this section, the defence is taken to have been established unless the prosecution disproves the defence beyond reasonable doubt.

Defence of property, etc.

15A. (1) It is a defence to a charge of an offence if—

- (a) the defendant genuinely believed the conduct to which the charge relates to be necessary and reasonable—
 - (i) to protect property from unlawful appropriation, destruction, damage or interference; or
 - (ii) to prevent criminal trespass to land or premises, or to remove from land or premises a person who is committing a criminal trespass; or
 - (iii) to make or assist in the lawful arrest of an offender or alleged offender or a person who is unlawfully at large; and
- (b) if the conduct resulted in death—the defendant did not intend to cause death nor did the defendant act recklessly realising that the conduct could result in death; and
- (c) the conduct was, in the circumstances as the defendant genuinely believed them to be, reasonably proportionate to the threat that the defendant genuinely believed to exist.

(2) It is a partial defence to a charge of murder (reducing the offence to manslaughter) if—

- (a) the defendant genuinely believed the conduct to which the charge relates to be necessary and reasonable—
 - (i) to protect property from unlawful appropriation, destruction, damage or interference; or

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- (ii) to prevent criminal trespass to land or premises, or to remove from land or premises a person who is committing a criminal trespass; or
 - (iii) to make or assist in the lawful arrest of an offender or alleged offender or a person who is unlawfully at large; and
- (b) the defendant did not intend to cause death; but
- (c) the conduct was not, in the circumstances as the defendant genuinely believed them to be, reasonably proportionate to the threat that the defendant genuinely believed to exist.

(3) For the purposes of this section, a person commits a criminal trespass if the person trespasses on land or premises—

- (a) with the intention of committing an offence against a person or property (or both); or
- (b) in circumstances where the trespass itself constitutes an offence.

(4) If a defendant raises a defence under this section, the defence is taken to have been established unless the prosecution disproves the defence beyond reasonable doubt.

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

E. J. NEAL, Governor