



ANNO TRICESIMO SECUNDO

ELIZABETHAE II REGINAE

A.D. 1983

No. 114 of 1983

**An Act to amend the Criminal Law Consolidation Act, 1935, and the
Police Offences Act, 1953.**

[Assented to 22 December 1983]

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

1. This Act may be cited as the "Statutes Amendment (Criminal Law Consolidation and Police Offences) Act, 1983". Short title.
2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.
3. The Criminal Law Consolidation Act, 1935, is amended by striking out subsections (3), (4), (5) and (6) of section 58. Amendment of Criminal Law Consolidation Act.
4. The Police Offences Act, 1953, is amended—
 - (a) by striking out section 33 and substituting the following section:
 33. (1) In this section—
 - "child" means a person under, or apparently under, the age of sixteen years;
 - "indecent or offensive aspects" of indecent material or offensive material means those aspects or characteristics of the material by virtue of which it is indecent material or offensive material;
 - "indecent material" means material of which the subject-matter is, in whole or in part, of an indecent, immoral or obscene nature;
 - "offensive material" means material—
 - (a) of which the subject-matter is or includes—
 - (i) violence or cruelty;
 - (ii) the manufacture, acquisition, supply or use of instruments of violence or cruelty;

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(iii) the manufacture, acquisition, supply, administration or use of drugs;

(iv) instruction in crime;

or

(v) revolting or abhorrent phenomena;

and

(b) which, if generally disseminated, would cause serious and general offence amongst reasonable adult members of the community:

“material” includes—

(a) any written or printed material;

(b) any picture, painting or drawing;

(c) any carving, sculpture, statue or figure;

(d) any photograph, film, video tape or other object from which an image may be reproduced;

or

(e) any other material or object on which an image or representation is recorded or from which an image or representation may be reproduced:

“sell” includes—

(a) barter, exchange or let on hire;

(b) offer or have in possession for sale, barter, exchange or hire;

or

(c) deliver for the purpose of, or in pursuance of, sale, barter, exchange or hire,

and “sale” has a corresponding meaning.

(2) A person who—

(a) produces, or takes any step in the production of, indecent or offensive material for the purpose of sale;

(b) sells indecent or offensive material;

(c) exhibits indecent or offensive material in a public place or so as to be visible from a public place;

(d) deposits indecent or offensive material in a public place or, except with the permission of the occupier, in or on private premises;

(e) exhibits indecent material to a person so as to offend or insult that person;

(f) delivers or exhibits indecent or offensive material to a minor (other than a minor of whom the person is a parent or guardian);

(g) being a parent or guardian of a minor, causes or permits the minor to deliver or exhibit indecent or offensive material to another person;

or

(h) causes or permits a person to do an act referred to in a preceding paragraph of this subsection,

shall be guilty of an offence.

(3) An offence against this section is—

(a) where a child was physically involved as the subject or one of the subjects of the indecent or offensive aspects of the material—a minor indictable offence punishable by imprisonment, in the case of a first offence, for a term not exceeding three years or, in the case of a subsequent offence, for a term not exceeding five years;

or

(b) in any other case—a summary offence punishable by a penalty not exceeding ten thousand dollars or imprisonment for six months.

(4) In proceedings for an offence against this section, the circumstances of the production, sale, exhibition or delivery of material to which the charge relates shall be regarded as irrelevant to the question of whether or not the material is indecent or offensive material.

(5) Notwithstanding the foregoing provisions of this section—

(a) no offence is committed by reason of the production, sale, exhibition or delivery of material in good faith and for the advancement or dissemination of legal, medical or scientific knowledge;

and

(b) no offence is committed by reason of the production, sale, exhibition or delivery of material that constitutes, or forms part of, a work of artistic merit if, having regard to the artistic nature and purposes of the work as a whole, there is no undue emphasis on its indecent or offensive aspects.

(6) A prosecution for an offence against this section shall not be commenced without the written consent of the Minister.

(7) In deciding whether to consent to a prosecution under this section, the Minister shall have regard to any relevant decision of the Classification of Publications Board.

(8) In proceedings for an offence against this section, an apparently genuine document purporting to be signed by a Minister and to be a consent to a prosecution under this section shall be accepted by the court, in the absence of proof to the contrary, as proof of that consent.

(9) Upon finding a person guilty of an offence against this section, a court may, upon the application of the prosecutor, or of its own motion, order that indecent or offensive material to which the proceedings relate be forfeited to the Crown.

(10) This section does not derogate from the Classification of Publications Act, 1974, or the Classification of Films for Public Exhibition Act, 1971.;

and

(b) by inserting in section 84 after the word "shall" the passage
", except where otherwise provided,".

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

D. B. DUNSTAN, Governor