



CRIMINAL LAW CONSOLIDATION (JURIES) AMENDMENT ACT 1999

No. 16 of 1999

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ANNO QUADRAGESIMO OCTAVO

ELIZABETHAE II REGINAE

A.D. 1999

No. 16 of 1999

An Act to amend the Criminal Law Consolidation Act 1935.

[Assented to 1 April 1999]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Criminal Law Consolidation (Juries) Amendment Act 1999*.

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

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Substitution of s. 246

3. Section 246 of the principal Act is repealed and the following section is substituted:

Confidentiality of jury deliberations and identities

246. (1) This section applies in relation to juries in criminal, civil or coronial proceedings in a court of the State, the Commonwealth, a Territory or another State whether instituted before or after the commencement of this section.

(2) A person must not disclose protected information if the person is aware that, in consequence of the disclosure, the information will, or is likely to, be published.

Penalty: In the case of a body corporate—\$25 000.
In any other case—\$10 000 or imprisonment for 2 years.

(3) A person must not solicit or obtain protected information with the intention of publishing or facilitating the publication of that information.

Penalty: In the case of a body corporate—\$25 000.
In any other case—\$10 000 or imprisonment for 2 years.

(4) A person must not publish protected information.

Penalty: In the case of a body corporate—\$25 000.
In any other case—\$10 000 or imprisonment for 2 years.

(5) Subsection (2) does not prohibit disclosing protected information—

- (a) to a court; or
- (b) to a Royal Commission; or
- (c) to the Director of Public Prosecutions, a member of the staff of the Director's Office or a member of the police force for the purpose of an investigation concerning an alleged contempt of court or alleged offence relating to jury deliberations or a juror's identity; or
- (d) as part of a fair and accurate report of an investigation referred to in paragraph (c); or
- (e) to a person in accordance with an authorisation granted by the Attorney-General to conduct research into matters relating to juries or jury service.

(6) Subsection (3) does not prohibit soliciting or obtaining protected information—

- (a) in the course of proceedings in a court; or
- (b) by a Royal Commission; or
- (c) by the Director of Public Prosecutions, a member of the staff of the Director's Office or a member of the police force for the purpose of an investigation concerning an alleged contempt of court or alleged offence relating to jury deliberations or a juror's identity; or
- (d) by a person in accordance with an authorisation granted by the Attorney-General to conduct research into matters relating to juries or jury service.

(7) Subsection (4) does not prohibit publishing protected information—

- (a) in accordance with an authorisation granted by the Attorney-General to conduct research into matters relating to juries or jury service; or
- (b) as part of a fair and accurate report of—
 - (i) proceedings in respect of an alleged contempt of court, an alleged offence against this section or an alleged offence otherwise relating to jury deliberations or a juror's identity; or
 - (ii) proceedings by way of appeal from proceedings referred to in subparagraph (i); or
 - (iii) if the protected information relates to jury deliberations—proceedings by way of appeal from the proceedings in the course of which the deliberations took place if the nature or circumstances of the deliberations is an issue relevant to the appeal.

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(8) This section does not prohibit a person—

- (a) during the course of proceedings, publishing or otherwise disclosing, with the leave of the court or otherwise with lawful excuse, information that identifies, or is likely to identify, the person or another person as, or as having been, a juror in the proceedings; or
- (b) after proceedings have been completed, publishing or otherwise disclosing—
 - (i) information that identifies, or is likely to identify, the person as, or as having been, a juror in the proceedings; or
 - (ii) information that identifies, or is likely to identify, another person as, or as having been, a juror in the proceedings if the other person has consented to the publication or disclosure of that information.

(9) This section does not apply in relation to information about a prosecution for an alleged offence against this section if, before the prosecution was instituted, that information had been published generally to the public.

(10) Proceedings for an offence against this section must not be commenced without the consent of the Director of Public Prosecutions.

(11) In this section—

"protected information" means—

- (a) particulars of statements made, opinions expressed, arguments advanced and votes cast by members of a jury in the course of their deliberations, other than anything said or done in open court; or
- (b) information that identifies, or is likely to identify, a person as, or as having been, a juror in particular proceedings;

"publish", in relation to protected information, means communicate or disseminate the information in such a way or to such an extent that it is available to, or likely to come to the notice of, the public or a section of the public.

Amendment of s. 247—Harassment to obtain information about jury's deliberations

4. Section 247 of the principal Act is amended—

(a) by striking out the penalty provision from subsection (1) and substituting:

Penalty: In the case of a body corporate—\$25 000.
In any other case—\$10 000 or imprisonment for 2 years.;

(b) by striking out subsection (2).

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

E. J. NEAL Governor