



ANNO VICESIMO PRIMO

# ELIZABETHAE II REGINAE

A.D. 1972

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## No. 102 of 1972

An Act to amend the Criminal Law Consolidation Act, 1935-1972.

[Assented to 16th November, 1972]

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

1. (1) This Act may be cited as the "Criminal Law Consolidation Act Amendment Act (No. 3), 1972". Short titles.

(2) The Criminal Law Consolidation Act, 1935-1971, as amended by this Act and by all Acts amending the same prior to the commencement of this Act, may be cited as the "Criminal Law Consolidation Act, 1935-1972".

(3) The Criminal Law Consolidation Act, 1935-1971, is hereinafter referred to as "the principal Act".

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

3. Section 3 of the principal Act is amended by inserting after the item "Costs, Witness Fees, and Compensations (Sections 297-299)" the item "Firearms and Offensive Weapons (Section 299a)"; Amendment of principal Act, s. 3—  
Arrangement of Act.

Amendment of  
principal Act,  
s. 297—  
Fees for  
witnesses.

4. Section 297 of the principal Act is amended—

(a) by striking out from subsection (2) the passage “preliminary inquiry” and inserting in lieu thereof the passage “preliminary examination”;

(b) by inserting after subsection (2) the following subsection:—

(2a) This section does not derogate from the powers conferred on an examining magistrate or justice under the Justices Act, 1921-1971, to order payment of any fees or compensation to witnesses in the course, or at the conclusion, of a preliminary examination.;

and

(c) by striking out from subsection (6) the passage “the person entitled to receive the same, and the sheriff” and inserting in lieu thereof the passage “the sheriff who”.

Enactment of  
s. 299a of  
principal Act—

5. The following heading and section are enacted and inserted in the principal Act immediately after section 299 thereof:—

*Firearms and Offensive Weapons*

Orders as to  
firearms and  
offensive  
weapons.

299a. (1) Where a court is satisfied by evidence adduced before it that—

(a) a firearm or other offensive weapon was used in the commission of an offence;

(b) the commission of an offence was facilitated by the use of a firearm or other offensive weapon;

or

(c) in the circumstances it is expedient that an order or orders be made under this section,

the court may make any one or more of the following orders:—

(d) an order that the firearm or other weapon be forfeited to the Crown;

(e) an order that the firearm or other weapon be delivered into the custody of the Commissioner of Police for a period specified in the order, or until further order;

(f) any other order as to the custody or disposition of the firearm;

(g) an order prohibiting any person or persons specified in the order from using or possessing a firearm or offensive weapon of any kind, or of a kind specified in the order, for a period specified in the order, or until further order.

(2) Upon application by a person with a proper interest in the matter, the court may vary or revoke an order under paragraph (e), (f) or (g) of subsection (1) of this section.

(3) Where an application is made under subsection (2) of this section, the court shall not vary or revoke the order in respect of which the application is made unless it is satisfied that it is not inimical to the safety of the community to do so.

(4) A person who contravenes or fails to comply with an order under this section shall be guilty of an offence cognizable by the court by which the order was made and liable to a penalty not exceeding five hundred dollars or imprisonment for twelve months.

(5) Subsection (4) of this section shall not derogate from the power of a court to punish for contempt.

(6) In this section "court" means the Supreme Court, the District Criminal Court, or a court of summary jurisdiction, and includes any judge or special magistrate, or justices entitled to preside over, or constitute the court.

6. Section 331 of the principal Act is amended by inserting after subsection (4) the following subsections:—

Amendment of  
principal Act,  
s. 331—  
Curator of  
prisoner's  
property.

(5) The Curator may institute and carry through any legal proceedings on behalf of a prisoner, or may continue on behalf of a prisoner any legal proceedings instituted by him before he became subject to the operation of this Part.

(6) If any legal proceedings instituted under this section have not been finally disposed of when the person on whose behalf the proceedings were brought ceases to be subject to the operation of this Part, that person may continue the proceedings in his own name and right in all respects as if they had been originally commenced in his own name and right.

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

M. L. OLIPHANT, Governor