



ANNO QUADRAGESIMO

ELIZABETHAE II REGINAE

A.D. 1991

No. 33 of 1991

An Act to amend the Administration and Probate Act 1919, the Crimes (Confiscation of Profits) Act 1986, the Criminal Law Consolidation Act 1935, the Criminal Law (Sentencing) Act 1988, the Judicial Administration (Auxiliary Appointments and Powers) Act 1988, the Justices Act 1921, the Law of Property Act 1936, the Prisoners (Interstate Transfer) Act 1982 and the Supreme Court Act 1935.

[Assented to 24 April 1991]

The Parliament of South Australia enacts as follows:

PART I PRELIMINARY

Short title

1. This Act may be cited as the *Statutes Amendment (Attorney-General's Portfolio) Act 1991*.

Commencement

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

Interpretation

3. A reference in this Act to the principal Act is a reference to the Act referred to in the heading to the Part in which the reference occurs.

PART II

AMENDMENT OF ADMINISTRATION AND PROBATE ACT 1919

Substitution of s. 6

4. Section 6 of the principal Act is repealed and the following section is substituted:

Registrar of Probates

6. (1) There will be a Registrar of Probates and such deputy or acting Registrars of Probates and other officers as may be necessary for the proper administration of this Act.

(2) A person is not eligible for appointment as the Registrar unless he or she is a practitioner of the Supreme Court of at least three years standing (but it is not necessary for a deputy or acting Registrar to be a practitioner).

(3) A person may not be appointed as the Registrar or as a deputy or acting Registrar except on the recommendation of the Chief Justice.

(4) The Registrar or a deputy Registrar must not be dismissed or reduced in status except on the recommendation or with the concurrence of the Chief Justice.

Safe custody of wills, etc.

5. Section 29 of the principal Act is amended—

(a) by striking out subsection (1) and substituting the following subsection:

(1) The Governor may, with the concurrence of the Chief Justice, by notice in the *Gazette*, appoint places for the safe custody, under the control of the Court, of—

(a) wills deposited with the Registrar under this Act;

(b) wills brought into the Court for any purpose;

(c) wills of which probate has been granted, or in relation to which administration (with the will annexed) has been granted;

and

(d) such other documents as the Court may direct.;

and

(b) by striking out subsection (3).

PART III**AMENDMENT OF CRIMES (CONFISCATION OF PROFITS) ACT 1986****Interpretation**

6. Section 3 of the principal Act is amended by striking out subparagraph (iii) of paragraph (b) of the definition of “prescribed offence” and substituting the following subparagraph:

(iii) section 47 (1), (2) or (4), 48 (1), 48a (1), 51 (1) or 60 (1) of the *National Parks and Wildlife Act 1972*;

PART IV**AMENDMENT OF CRIMINAL LAW CONSOLIDATION ACT 1935****Unlawful sexual intercourse**

7. Section 49 of the principal Act is amended by striking out subsection (6) and substituting the following subsection:

(6) A person who, knowing that another is by reason of intellectual disability unable to understand the nature or consequences of sexual intercourse, has sexual intercourse with that other person is guilty of an indictable offence.

Penalty: Imprisonment for a term not exceeding seven years.

Time for appealing

8. Section 357 of the principal Act is amended by striking out “ten days” and substituting “21 days”.

Admission of appellant to bail and custody when attending Court

9. Section 364 of the principal Act is amended by striking out from subsection (3) “and, subject to any directions which the Full Court may give to the contrary on any appeal, the time during which the appellant, if in custody, is specially treated as an appellant”.

PART V**AMENDMENT OF CRIMINAL LAW (SENTENCING) ACT 1988****Insertion of s. 60a**

10. The following section is inserted after section 60 of the principal Act:

Reminder notice fees

60a. (1) Where a person has been in default of payment of a pecuniary sum for 14 days or more, the appropriate officer may cause a reminder notice to be issued and sent by post to the person.

(2) The costs of issuing a reminder notice under this section will be added to the amount in respect of which the notice was issued.

PART VI**AMENDMENT OF JUDICIAL ADMINISTRATION (AUXILIARY APPOINTMENTS
AND POWERS) ACT 1988****Appointment of judicial auxiliaries**

11. Section 3 of the principal Act is amended by striking out “or” between paragraphs (a) and (b) of subsection (2) and inserting after paragraph (b) the following word and paragraph:

or

(c) has retired from office as a judge of—

(i) the High Court;

(ii) the Federal Court;

(iii) the Supreme Court of some other State, or a Territory, of the Commonwealth;

or

(iv) the Court of Appeal or the Supreme Court of New Zealand.

PART VII**AMENDMENT OF JUSTICES ACT 1921****Receipt of evidence of prosecution witnesses**

12. Section 106 of the principal Act is amended—

(a) by inserting in paragraph (c) (ii) of subsection (2) “or audiotape” after “videotape”;

(b) by striking out from subsection (3) “videotape or transcript” and substituting “or a videotape or audiotape accompanied by a written transcript”;

(c) by inserting in subsection (5) after “videotape” where it occurs for the first time “, audiotape”;

(d) by striking out subparagraph (i) of paragraph (a) of subsection (5) and substituting the following subparagraph:

(i) —

(A) in the case of a written statement or affidavit—a copy of the statement or affidavit;

(B) in the case of a videotape or audiotape—a copy of the tape and of the transcript or a copy of the transcript together with a statement of a time and place at which the tape and facilities to play it back will be made available to the defendant and his or her legal representatives;;

(e) by inserting in paragraph (b) of subsection (5) “audiotape,” after “videotape,”;
and

(f) by inserting in paragraph (a) of subsection (6) “, audiotape” after “videotape”.

PART VIII

AMENDMENT OF LAW OF PROPERTY ACT 1936

Interpretation

13. Section 7 of the principal Act is amended by striking out the definition of “court” and substituting the following definition:

“court” means the Supreme Court or a Judge of that Court.

PART IX

AMENDMENT OF PRISONERS (INTERSTATE TRANSFER) ACT 1982

Interpretation

14. Section 5 of the principal Act is amended by inserting in subsection (4) “or of a State or Territory” after “Commonwealth”.

PART X

AMENDMENT OF SUPREME COURT ACT 1935

Party subsequently claiming may petition the Supreme Court, etc.

15. Section 129 of the principal Act is amended by striking out from subsection (1) “simple interest thereon at the rate of three per centum per annum, from the time when the money was paid to the Treasurer as aforesaid” and substituting “such additional amount as would have accrued (whether as interest or otherwise) had that sum been retained by the court from the time when it was paid to the Treasurer to the time of the court order”.

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

ROMA MITCHELL Governor