



ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

No. 94 of 1972

An Act to amend the Criminal Law Consolidation Act, 1935-1971, and for other purposes.

[Assented to 9th 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, 1972". Short titles.

(2) The Criminal Law Consolidation Act, 1935-1971, as amended by 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. Section 3 of the principal Act is amended by striking out from the heading commencing "*Unnatural Offences*" the passage "(Sections 69-72)" and inserting in lieu thereof the passage "(Sections 68a-72)". Arrangement of Act.

3. The following section is enacted and inserted in the part of the principal Act headed "*Unnatural Offences*" immediately before section 69 thereof:— Enactment of s. 68a of principal Act—

Certain
homosexual
acts not
offences.

68a. (1) Where a male person is charged with an offence that consists in the commission of a homosexual act, it shall be a defence for that person to prove that the homosexual act was committed with another male person, in private, and that both he and the other male person consented to the act and had attained the age of twenty-one years.

(2) A homosexual act shall not be held to have been done in private if it is done—

(a) when more than two persons take part in or are present at the commission of the act;

or

(b) in any lavatory to which the public have or are permitted to have access, whether free of charge or otherwise.

(3) A homosexual act includes—

(a) an act of buggery between two male persons;

or

(b) an act of gross indecency between two male persons.

Repeal of
ss. 69-71 of
principal Act
and
enactment of
section in their
place—

Offences against
male persons.

4. Sections 69, 70 and 71 of the principal Act are repealed and the following section is enacted and inserted in their place:—

69. (1) Subject to section 68a of this Act—

(a) any person who commits buggery, either with a human being or an animal, shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding ten years;

(b) any person who—

(i) attempts to commit buggery either with a human being or an animal;

(ii) assaults any person with intent to commit buggery;

or

(iii) indecently assaults any male person,

shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding seven years;

and

(c) any male person who commits an act of gross indecency with another male person shall be guilty of an offence and liable to be imprisoned for a term not exceeding three years.

(2) Unless a male person has attained the age of twenty-one years, he shall not be considered capable of consenting to an indecent assault on his person by a male person and unless a male person has attained the age of seventeen years he shall not be considered capable of consenting to an indecent assault on his person by a female person.

(3) Any person who procures or attempts to procure the commission of an act of buggery or gross indecency between two other persons shall (notwithstanding that a good defence to a charge relating to that act, or proposed act, of buggery or gross indecency could be made out under section 68a of this Act) be guilty of an offence and liable to be imprisoned for a term not exceeding three years.

(4) Any person who solicits with a view to inducing any other person to commit an act of buggery or gross indecency and in so doing causes offence to the person whom he seeks to induce to commit that act, shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars or imprisonment for three months.

(5) Proceedings for an offence against subsection (4) of this section shall be disposed of summarily.

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

M. L. OLIPHANT, Governor