



ANNO VICESIMO QUINTO

**ELIZABETHAE II REGINAE**

**A.D. 1976**

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**No. 115 of 1976**

An Act to abolish capital punishment in South Australia and in connection therewith to amend the Criminal Law Consolidation Act, 1935-1975, the Juries Act, 1927-1976, the Justices Act, 1921-1975, the Local and District Criminal Courts Act, 1926-1975, the Poor Persons Legal Assistance Act, 1925-1972, and the Prisons Act, 1936-1975, and for other purposes.

*[Assented to 23rd December, 1976]*

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

**PART I**

**PART I**

**PRELIMINARY**

Short title and arrangement.

1. (1) This Act may be cited as the "Statutes Amendment (Capital Punishment Abolition) Act, 1976".

(2) This Act is arranged as follows:—

**PART I—PRELIMINARY**

**PART II—AMENDMENT OF CRIMINAL LAW  
CONSOLIDATION ACT, 1935-1975**

**PART III—AMENDMENT OF JURIES ACT, 1927-1976**

**PART IV—AMENDMENT OF JUSTICES ACT, 1921-1975**

**PART V—AMENDMENT OF LOCAL AND DISTRICT  
CRIMINAL COURTS ACT, 1926-1975**

**PART VI—AMENDMENT OF POOR PERSONS LEGAL  
ASSISTANCE ACT, 1925-1972**

**PART VII—AMENDMENT OF PRISONS ACT, 1936-1975.**

## PART II

## PART II

AMENDMENT OF CRIMINAL LAW CONSOLIDATION ACT,  
1935-1975

2. (1) The Criminal Law Consolidation Act, 1935-1975, is in this Part referred to as "the principal Act". Short titles.

(2) The principal Act, as amended by this Part, may be cited as the "Criminal Law Consolidation Act, 1935-1976".

3. Section 3 of the principal Act is amended—

(a) by striking out the passage "(Sections 1-5)" and inserting in lieu thereof the passage "(Sections 1-5a)";

(b) by striking out the passage "(Sections 6-10)" and inserting in lieu thereof the passage "(Sections 6-10a)";

and

(c) by striking out the item "*Sentence and Execution* (Sections 301-314)" and inserting in lieu thereof the passage "*Sentence* (Sections 309-314)".

Amendment of  
principal Act,  
s. 3—  
Arrangement  
of Act.

4. The following section is enacted and inserted in the principal Act immediately after section 5 thereof:— Enactment of  
s. 5a of  
principal Act—

5a. (1) Notwithstanding any provision of any Act or law, no sentence of death shall be— Abolition of  
capital  
punishment.

(a) imposed upon, or recorded against, any person;

or

(b) carried into execution upon any person.

(2) Where any person is liable to sentence of death under any Act or law, the court before which that person is convicted shall, in lieu of sentencing him to death, sentence him to be imprisoned for life.

(3) Any sentence of death that was imposed or recorded before the commencement of the Statutes Amendment (Capital Punishment Abolition) Act, 1976, shall (whether or not that sentence has been commuted to a sentence of imprisonment for life) be deemed to be a sentence of imprisonment for life imposed by a court of competent jurisdiction.

(4) Any direction or order made by the Governor, upon or in relation to the commutation of a sentence of death to a sentence of imprisonment for life, shall be deemed to be a direction or order given or made by a court of competent jurisdiction.

5. The following section is enacted and inserted in Part II of the principal Act immediately after section 10 thereof:— Enactment of  
s. 10a of  
principal Act—

10a. Any person who is convicted of treason shall be imprisoned for life. Penalty for  
treason.

## PART II

Amendment of  
principal Act,  
s. 11—  
Murder.

6. Section 11 of the principal Act is amended by striking out the passage “is convicted of murder shall suffer death as a felon” and inserting in lieu thereof the passage “commits murder shall be guilty of felony and shall be imprisoned for life”.

Amendment of  
principal Act,  
s. 207—  
Piracy and  
attempt to  
murder.

7. Section 207 of the principal Act is amended by striking out the passage “suffer death as a felon” and inserting in lieu thereof the passage “be imprisoned for life”.

Amendment of  
principal Act,  
s. 238—  
Rescuing  
murderers.

8. Section 238 of the principal Act is amended by striking out the passage “, or rescues, or attempts to rescue, any person convicted of murder, going to execution, or during execution,”.

Amendment of  
principal Act,  
s. 296—  
Conviction to  
disqualify for  
office.

9. Section 296 of the principal Act is amended by striking out from subsection (1) the passage “to death, or”.

Repeal of  
sections of  
principal Act  
relating  
to death  
penalty.

10. (1) The heading immediately preceding section 301 of the principal Act is amended by striking out the passage “*and Execution*”.

(2) Sections 301, 301a, 302, 303, 304, 305 and 306 of the principal Act are repealed.

Amendment of  
principal Act,  
s. 314—  
Previous  
convictions  
for felony.

11. Section 314 of the principal Act is amended by striking out from subsection (1) the passage “not punishable with death,”.

Amendment of  
principal Act,  
s. 357—  
Time for  
appealing.

12. Section 357 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “Except in the case of a conviction involving sentence of death the” and inserting in lieu thereof the word “The”;

and

(b) by striking out subsection (2) thereof.

Amendment of  
principal Act,  
s. 369—  
Reference by  
Chief Secretary

13. Section 369 of the principal Act is amended by striking out the passage “(other than sentence of death)”.

Repeal of  
schedules 8  
and 9 of  
principal Act.

14. Schedules 8 and 9 to the principal Act are repealed.

## PART III

PART III

## AMENDMENT OF JURIES ACT, 1927-1976

15. (1) The Juries Act, 1927-1976, is in this Part referred to as "the principal Act". Short titles.

(2) The principal Act, as amended by this Part, may be cited as the "Juries Act, 1927-1976".

16. Sections 55a, 56 and 57 of the principal Act are amended by striking out the passage "a capital offence" wherever occurring therein and inserting in lieu thereof the passage "murder or treason" in each case. Repeal of provisions of principal Act relating to capital offences.

17. Section 87 of the principal Act is repealed. Repeal of s. 87 of principal Act.

## PART IV

PART IV

## AMENDMENT OF JUSTICES ACT, 1921-1975

18. (1) The Justices Act, 1921-1975, is in this Part referred to as "the principal Act". Short titles.

(2) The principal Act, as amended by this Part, may be cited as the "Justices Act, 1921-1975".

19. Section 109 of the principal Act is amended by striking out from paragraph (b) of subsection (3) the passage "a capital offence, or with" and inserting in lieu thereof the passage "murder, treason or". Amendment of principal Act, s. 109—  
Procedure on completion of the evidence for the prosecution.

20. Section 134 of the principal Act is amended by striking out from subsection (1) the passage "a capital offence or with" and inserting in lieu thereof the passage "murder, treason or". Amendment of principal Act, s. 134—  
Defendant may be asked to plead to the charge.

## PART V

PART V

## AMENDMENT OF LOCAL AND DISTRICT CRIMINAL COURTS ACT, 1926-1975

21. (1) The Local and District Criminal Courts Act, 1926-1975, is in this Part referred to as "the principal Act". Short titles.

(2) The principal Act, as amended by this Part, may be cited as the "Local and District Criminal Courts Act, 1926-1975".

22. Section 4 of the principal Act is amended by striking out from the definition of "group 1 offence" in subsection (3) the passage— Amendment of principal Act, s. 4—  
Interpretation.

(a) a capital offence;

or

(b).

