



ANNO TRICESIMO NONO

ELIZABETHAE II REGINAE

A.D. 1990

No. 38 of 1990

An Act to amend the Summary Offences Act, 1953.

[Assented to 3 May 1990]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Summary Offences Act Amendment Act, 1990*.
- (2) The *Summary Offences Act, 1953*, 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.

Interpretation

3. Section 4 of the principal Act is amended by inserting after the definition of “public place” in subsection (1) the following definition:

“senior police officer” means a member of the police force of or above the rank of inspector.

Insertion of s. 74b

4. The following section is inserted after section 74a of the principal Act:

Road blocks

74b. (1) In this section—

“major offence” means an offence attracting a penalty or maximum penalty of life imprisonment or imprisonment for at least seven years.

(2) Where a senior police officer believes on reasonable grounds that the establishment of a road block at a particular place would significantly improve the prospects of apprehending a person—

(a) suspected of having committed a major offence;

or

(b) who has escaped from lawful custody,

the officer may authorize the establishment of a road block at that place.

- (3) An authorization under this section—
- (a) operates for an initial period (not exceeding 12 hours) specified by the officer granting the authorization;
- and
- (b) may be renewed from time to time by a magistrate for a further period (not exceeding 12 hours).
- (4) An authorization may be granted under this section orally or in writing but a written record must be kept of—
- (a) the place at which the establishment of a road block was authorized;
 - (b) the period or periods for which the authorization was granted or renewed;
 - (c) the grounds on which the authorization was granted or renewed.
- (5) Where a road block is authorized under this section, a member of the police force—
- (a) may establish a road block (consisting of any appropriate form of barrier or obstruction preventing or limiting the passage of vehicles) at the place to which the authorization relates;
 - (b) may stop vehicles at or in the vicinity of the road block;
 - (c) may require any person in any such vehicle to state his or her full name and address;
 - (d) may search the vehicle for the purpose of ascertaining whether the person for whose apprehension the road block was established is in or on the vehicle and give reasonable directions to any person in the vehicle for the purpose of facilitating the search;
 - (e) may take possession of any object found in the course of such a search that the member suspects on reasonable grounds to constitute evidence of an offence.
- (6) Where a member of the police force suspects on reasonable grounds that a name or address as stated in response to a requirement under subsection (5) is false, he or she may require the person making the statement to produce evidence of the correctness of the name or address as stated.
- (7) A person who—
- (a) fails, without reasonable excuse, to stop a vehicle at a road block when requested or signalled to do so;
 - (b) fails, without reasonable excuse, to comply with a requirement or direction under subsection (5) or (6);
- or
- (c) in response to a requirement under subsection (5) or (6)—
 - (i) states a name or address that is false;or
 - (ii) produces false evidence of his or her name or address,
- is guilty of an offence.
- Penalty: \$2 000 or imprisonment for 6 months.
- (8) In proceedings for an offence against this section, a certificate apparently signed by a senior police officer stating—

(a) that an authorization under this section was given or renewed for a specified period;

(b) that the authorization authorized the establishment of a road block at a specified place;

and

(c) the grounds on which the authorization was given or renewed,

will be accepted, in the absence of proof to the contrary, as proof of the matters stated in the certificate.

(9) The Commissioner must, as soon as practicable after each successive period of three months following the commencement of this section, submit a report to the Minister in relation to that period stating—

(a) the number of authorizations granted under this section during that period;

(b) in relation to each authorization granted during that period—

(i) the place at which the establishment of a road block was authorized;

(ii) the period or periods for which the authorization was granted or renewed;

(iii) the grounds on which the authorization was granted or renewed;

(c) any other matters the Commissioner considers relevant.

(10) The Minister must cause copies of a report under subsection (9) to be laid before both Houses of Parliament within seven sitting days after receipt of the report if Parliament is in session, or if Parliament is not then in session, within seven sitting days after the commencement of the next session of Parliament.

Insertion of ss. 83b and 83c

5. The following sections are inserted before section 84 of the principal Act:

Dangerous areas

83b. (1) Where a senior police officer believes on reasonable grounds that it would be unsafe for members of the public to enter a particular area, locality or place because of conditions temporarily prevailing there, the officer may declare the area, locality or place to be dangerous.

(2) A declaration under this section—

(a) comes into force when it is made but should be broadcast as soon as practicable after that time by public radio or published in any other manner the senior police officer thinks appropriate in the circumstances of the case;

and

(b) remains in force for a period (not exceeding 2 days) stated in the declaration.

(3) Where a declaration is in force under this section, a member of the police force may—

(a) warn any person apparently proceeding towards, or in the vicinity of, the dangerous area, locality or place against entering it;

and

(b) require or signal the driver of a motor vehicle to stop so that such a warning may be given to the occupants of the vehicle.

(4) A warning under this section lapses—

(a) when the relevant declaration expires;

or

(b) at some earlier time specified by a senior police officer.

(5) A person who—

(a) enters a dangerous area, locality or place contrary to a warning under this section;

or

(b) fails, without reasonable excuse, to stop a vehicle when required or signalled to do so under this section,

is guilty of an offence.

Penalty: \$2 000 or imprisonment for 6 months.

(6) Subsection (5) (a) does not apply to—

(a) a person if it is reasonably necessary for the person to enter the area, locality or place in order to protect life or property;

or

(b) a representative of the news media, unless the member of the police force who gave the warning believes on reasonable grounds that the entry of the representative into the area, locality or place would give rise to a risk of death or injury to any person other than the representative and advises the representative accordingly.

(7) If—

(a) a person enters a dangerous area, locality or place contrary to a warning under this section;

and

(b) the person is found guilty of an offence against subsection (5) (a),

the person is liable to compensate the Crown for the costs of operations reasonably carried out for the purpose of finding or rescuing that person.

(8) In civil or criminal proceedings under this section, a certificate apparently signed by a senior police officer stating—

(a) that a declaration was made under this section in relation to a particular area, locality or place;

(b) that the declaration was in force for a specified period;

and

(c) the grounds on which the declaration was made,

will be accepted, in the absence of proof to the contrary, as proof of the matters stated in the certificate.

(9) The Commissioner must, as soon as practicable after each successive period of three months following the commencement of this section, submit a report to the Minister in relation to that period stating—

- (a) the number of declarations made under this section during that period;
- (b) in relation to each declaration made during that period—
 - (i) the area, locality or place in relation to which the declaration was made;
 - (ii) the period for which the declaration was in force;
 - (iii) the grounds on which the declaration was made;
- (c) any other matters the Commissioner considers relevant.

(10) The Minister must cause copies of a report under subsection (9) to be laid before both Houses of Parliament within seven sitting days after receipt of the report if Parliament is in session, or if Parliament is not then in session, within seven sitting days after the commencement of the next session of Parliament.

(11) This section does not apply if—

- (a) a declaration of a state of disaster is in force under the *State Disaster Act, 1980*;
- (b) an emergency order is in force under the *State Emergency Service Act, 1987*.

Special powers of entry

83c. (1) Where a senior police officer suspects on reasonable grounds—

- (a) that an occupant of premises has died and his or her body is in the premises;
- or
- (b) that an occupant of premises is in need of medical or other assistance,

the officer may authorize a member of the police force to enter the premises for the purpose of investigating the matter and taking such action as the circumstances of the case may require.

(2) An authorization under subsection (1) must be in writing unless the authorizing officer has reason to believe that in the circumstances urgent action is required, in which case, the authorization may be given orally.

(3) Where a person has died and the Commissioner considers it necessary or desirable to do so, the Commissioner may issue to a member of the police force a warrant in the prescribed form authorizing the member to enter the premises in which the person last resided before death and—

- (a) search the premises for material that might identify or assist in identifying the deceased or relatives of the deceased;
- (b) take property of the deceased into safe custody.

(4) A member of the police force may, if necessary, exercise reasonable force for the purpose of obtaining entry to premises, or carrying out a search, under this section.

(5) The Commissioner is responsible for ensuring that a proper record is kept of property taken from premises under this section and must, if satisfied that a person has a proper interest in the matter, allow that person to inspect the record.

(6) The Commissioner must, as soon as practicable (but not later than three months) after each 30 June, submit a report to the Minister in relation to the year ended on that 30 June stating—

- (a) the number of authorizations and warrants granted under this section during that year;

-
- (b) the nature of the grounds on which the authorizations and warrants were granted;
 - (c) the type of property taken from premises pursuant to warrant under this section;
 - (d) any other matters the Commissioner considers relevant.

(7) The Minister must cause copies of a report under subsection (6) to be laid before both Houses of Parliament within seven sitting days after receipt of the report if Parliament is in session, or if Parliament is not then in session, within seven sitting days after the commencement of the next session of Parliament.

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

D. B. DUNSTAN, Governor