



New South Wales

Crimes Amendment (Sexual Offences and Female Genital Mutilation) Bill 2025

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Crimes Act 1900* (*the Act*) to—

- (a) clarify certain aspects of female genital mutilation offences, and
- (b) make it an offence for a person to intentionally carry out a sexual act in the presence of a child, where the presence of the child is a source of sexual gratification or arousal for the person, and
- (c) increase the maximum penalty for the offence of indecently interfering with a dead human body, and
- (d) provide that, at trial, when the trier of fact is satisfied that the accused committed a sexual offence or misconduct with regard to a corpse against the deceased, but is uncertain as to the time of death of the deceased, the accused is liable for whichever offence has the lesser maximum penalty, and
- (e) raise the age threshold for the definition of *child* from the age of 16 years to the age of 18 years for child abuse material offences.

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Schedule 1 Amendment of Crimes Act 1900 No 40

Schedule 1[1] and [5] clarify that female genital mutilation offences can be committed against a person regardless of the person's age.

Schedule 1[2] clarifies that female genital mutilation offences are not limited to acts performed for a ritualistic or traditional purpose. **Schedule 1[6]** makes a consequential amendment.

Schedule 1[3] provides that it is not an offence to mutilate female genitalia to perform—

- (a) piercing or tattooing in certain circumstances, or
- (b) another act prescribed by the regulations.

Schedule 1[4] amends the Act, section 45(7), definition of *authorised professional* to include a person who is a member of a class of persons prescribed by the regulations.

Schedule 1[7]–[10] make it an offence for a person to intentionally carry out a sexual act—

- (a) in the presence of a child under the age of 10 years, or
- (b) in the presence of a child who is of or above the age of 10 years and under the age of 16 years, including in circumstances of aggravation, or
- (c) in the presence of a child under the age of 16 years, for the production of child abuse material.

The offences apply if the presence of the child is a source of sexual arousal or gratification of the person carrying out the sexual act.

Schedule 1[11] inserts proposed section 80AH to provide that if, on the trial of a person charged with a sexual offence under the Act, Part 3, Division 10 or the offence of indecently interfering with a dead human body, the trier of fact is satisfied that the person committed a sexual offence or offence of indecently interfering with a dead human body but is not satisfied which offence was committed, the person is not entitled to be acquitted and is liable to be sentenced for the offence with the lesser punishment.

Schedule 1[12] increases the maximum penalty for the offence of indecently interfering with any dead human body to 3 years imprisonment.

Schedule 1[13] amends the definition of *child* for the Act, Part 3, Division 15A, concerning child abuse material, to include persons aged 16 and 17. **Schedule 1[14]–[16]** make consequential amendments.