

Crimes Amendment (Sexual Offences) Bill 1999

Explanatory note

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

Overview of Bill

The object of this Bill is to repeal certain provisions that apply solely to male homosexual intercourse with the result that, in future, certain types of sexual misconduct by any person against any other person will be dealt with on the same bases, including as to the age of the victim, the defences available to the accused and the penalties for the offence, irrespective of the sex of the perpetrator or victim.

The Bill also makes other consequential amendments, including an amendment, because of the repeal of the provisions referred to above, to extend an offence relating to unlawful carnal knowledge, by teachers or others, of a female up to the age of 17 years and irrespective of consent, to males in similar circumstances.

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 on the day that is 30 days after the date of assent, unless commenced sooner by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Crimes Act 1900* set out in Schedule 1.

Schedule 1 Amendments

Schedule 1 [7] repeals certain sections of the *Crimes Act 1900* (sections 78H, 78I, 78K, 78L, 78N, 78O and 78Q) that relate solely to sexual offences committed by a male on another male person. It is proposed that, in future, such offences will be prosecuted under the same provisions (sections 61H–61U of the *Crimes Act 1900*), and on the same bases, as apply to offences committed by any person on any other person, irrespective of the sex of the perpetrator or of the victim. This means that the same rules concerning the age of victims, the defences available to accused persons and penalties will apply to all such offences.

Certain procedural sections, linked to the provisions proposed for repeal, are retained to enable due prosecution of any offences committed against those provisions before the commencement of the proposed Act.

Schedule 1 [6] makes a consequential amendment in this regard.

As a consequence of the proposed repeal of provisions dealing with homosexual intercourse by teachers, fathers or step-fathers with males up to the age of 18 years and irrespective of consent (and attempts to have such intercourse), a provision dealing with unlawful carnal knowledge by teachers, fathers and step-fathers of females up to the age of 17 years and irrespective of consent is amended to include offences against males. (See **Schedule 1 [1]–[3]**.)

Schedule 1 [4] makes a consequential amendment to a provision dealing with attempts at carnal knowledge or assaults with intent to carnally know young persons in these circumstances.

Schedule 1 [5] and **[8]** make consequential amendments to ensure that the defences available to accused persons are the same, irrespective of their sex or that of the alleged victim.