



New South Wales

Crimes Amendment (Female Genital Mutilation) Bill 2014

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to increase (from 7 years imprisonment to 21 years imprisonment) the maximum penalty for the offence of performing an act of female genital mutilation, or aiding, abetting, counselling or procuring a person to perform such an act, and
- (b) to create a separate offence (with a maximum penalty of 21 years imprisonment) if a person takes, or arranges for the taking of, another person from the State with the intention of having female genital mutilation performed on the other person.

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 date of assent to the proposed Act.

Schedule 1 Amendment of Crimes Act 1900 No 40

Schedule 1 [1] inserts proposed section 10F (3) into the Act to provide that the necessary geographical nexus exists between the State and a female genital mutilation offence, if the person against whom the offence is committed is ordinarily resident in NSW, to enable a prosecution in NSW of those offences even if the offence is committed outside NSW.

Schedule 1 [2] amends section 45 (1) of the Act to increase, from 7 years imprisonment to 21 years imprisonment, the maximum penalty for an offence committed against that section.

Schedule 1 [3] makes a consequential amendment to section 45 of the Act to omit section 45 (2). Section 45 (2) is re-enacted under proposed section 10F (3).

Schedule 1 [4] inserts proposed section 45A into the Act to create a separate offence of taking a person from the State, or arranging for a person to be taken from the State, with the intention of having female genital mutilation performed on the person. The proposed section includes an evidentiary provision in relation to proceedings for the offence to the effect that, in the absence of proof to the contrary, the accused is presumed to have acted with the intention of having female genital mutilation performed on a person if the accused took, or arranged for the taking of, the person from the State and the mutilation was performed on the person while outside the State. The proposed section provides that it is not a defence to a charge under the section that the person taken from the State consented to being so taken.

Schedule 2 Amendment of Child Protection (Working with Children) Act 2012 No 51

Schedule 2 amends the *Child Protection (Working with Children) Act 2012* to provide that it is a trigger for an assessment requirement under that Act in relation to a person if proceedings have been commenced against the person for an offence against proposed section 45A of the *Crimes Act 1900*, whatever the outcome of the proceedings.