

CLAUSE NOTES

Justice Legislation Amendments (Criminal Responsibility) Bill 2020

PART 1 – PRELIMINARY

Clause 1: Short title

Cites the Act as the *Justice Legislation Amendments (Criminal Responsibility) Bill 2020*.

Clause 2: Commencement

The Act commences on proclamation.

PART 2 – CRIMINAL CODE ACT 1924 AMENDED

Clause 3: Principal Act

For the purposes of Clauses 3 and 4, the Principal Act is the *Criminal Code Act 1924*.

Clause 4: Principal Act amended

The reference to “an event which occurs by chance” is removed from section 13(1).

It is replaced by two subsections; 13(1)(a) and 13(1)(b)

Section 13(1)(a) sets down a subjective test, namely whether a person intended an event or foresaw the event as a possible consequence.

Section 13(1)(b) sets down an objective test, namely whether an “ordinary person” would have reasonably foreseen the event as a possible consequence.

Clause 4(c) inserts the new section 13(1A). This new subsection incorporates the “eggshell skull principle” into section 13.

Clause 4(d) inserts the new section 464. This section specifies that the changes to section 13 only apply after the commencement of the changes and do not affect the operation of section 13 in regards to events that occur prior to the commencement of the changes.

PART 3 – SENTENCING ACT 1997 AMENDED

Clause 5: Principal Act

For the purposes of clauses 5, 6 and 7, the Principal Act is the *Sentencing Act 1997*

Clause 6: Section 11C inserted

This clause inserts a new section 11C into the Principal Act.

This clause ensures that a court does not consider the self-induced intoxication of the offender at the time of the offence as a mitigating factor when sentencing the offender.

The new section 11C then goes on to define relevant terms such as “drug”, “intoxication” and “self-induced intoxication”.

Clause 7: Section 104AC inserted

This clause creates a specific transitional provision in relation to section 11C.

Section 11C will only apply to offences committed after the commencement of the provision.

PART 4 – CONCLUDING PROVISION

Clause 8: Repeal of Act

The *Justice Legislation Amendments (Criminal Responsibility) Act 2020* will be repealed one year after it commences.