

CLAUSE NOTES

Criminal Code Amendment (Sexual Abuse Terminology) Bill 2020

- Part 1 Preliminary
- Clause 1 Short title
Specifies the name of the proposed Act.
- Clause 2 Commencement
Provides for the commencement of the proposed Act on the date of Royal Assent.
- Clause 3 Repeal of Act
Provides for the repeal of the Act on the first anniversary of the day of commencement.
- Part 2 *Criminal Code Act 1924* amended
- Clause 4 Principal Act
Provides that the Principal Act being amended in this Part is the *Criminal Code Act 1924*.
- Clause 5 Principal Act amended
Provides for the following amendments to Schedule 1 of the Principal Act.
- Clause 5(a) Amends the title of “Chapter XIV Crimes Against Morality” to “Chapter XIV Sexual Crimes”.
- Clause 5(b) Substitutes the charge name in Section 124(1) of “Sexual intercourse with a young person under the age of 17 years” with “Penetrative sexual abuse of a child [or young person]”.
- Clause 5(c) Substitutes the charge name in Section 125 of “Permitting unlawful sexual intercourse with a young person on premises” with “Permitting penetrative sexual abuse of a child [or young person] on premises”.
- Clause 5(d) Substitutes the charge name in Section 125A(2) of “Maintaining a sexual relationship with a young person under the age of 17 years” with “Persistent sexual abuse of a child [or young person]”.

- Clause 5(e)** Substitutes the charge name in Section 125B(1) of “Indecent act with or directed at a young person under the age of 17 years” with “Indecent act with or directed at a child [or young person]”.
- Clause 5(f)** Substitutes the charge name in Section 125C(2) of “Procuring unlawful sexual intercourse with young person with “Procuring a child [or young person] for penetrative sexual abuse”.
- Clause 5(g)** Substitutes the charge name in Section 125C(3) of “Procuring indecent act by, or with , young person” with “Procuring a child [or young person] for indecent act”.
- Clause 5(h)** Substitutes the charge name in Section 125D(1) of “Communicating with intent to procure a person under the age of 17 years to engage in an unlawful sexual act” with “Grooming with intent to procure a child [or young person] for sexual abuse”.
- Clause 5(i)** Substitutes the charge name in Section 125D(3) of “Making a communication with the intention of exposing a person under the age of 17 years to indecent material” with “Grooming with intent to expose a child [or young person] to indecent material”.
- Clause 5(j)** Substitutes the charge name in Section 126(1) of “Sexual intercourse with a person with a mental impairment” with “Penetrative sexual abuse of a person with a mental impairment”.
- Clause 5(k)** Substitutes the charge name in Section 129 of “Procuring by threats [or fraud].” with “Procuring a person for penetrative sexual abuse by threats [or fraud]”.
- Clause 5(l)** Inserts “Chapter XIVA” in Section 136(1).
- Clause 5(m)** Inserts a new chapter named “Chapter XIVA – Human Remains” after Section 138.
- Clause 5(n-u)** Inserts consequential amendments to Sections 335, 336, 337, 337A, and 337B by substituting former charge names for new charge names as outlined above.
- Clause 5(v)** Inserts after Section 463 a new Section 464 to provide for transitional arrangements.
- New Section 464(1) defines specific terms relevant to the transitional provisions.
- New Section 464(2) provides that the amendments made pursuant to the *Criminal Code Amendment (Sexual Abuse Terminology) Act 2020* are not intended to effect the elements of the amended crimes and apply regardless of when the conduct alleged to amount to a crime occurred.

New Section 464(3) provides a requirement that the amendment terminology in current (after the commencement date) proceedings to be amended to the new terminology on their next appearance before a Court.

New Section 464(4) provides that any reference in any Act to terminology that has been amended, is taken to include the new terminology.

Clause 5(w) Inserts consequential amendments to Appendix D by substituting the former charge names for the new charge names.

Part 3 *Community Protection (Offender Reporting) Act 2005* amended

Clause 6 Principal Act

Provides that the Principal Act being amended in this Part is the *Community Protection (Offender Reporting) Act 2005*.

Clause 7 Schedule 1 amended (Class 1 offences)

Clause 7(a) Makes consequential amendments into “Schedule 1 – Class 1 offences” by omitting the former charge names and substituting the new charge names.

Clause 7(b) Makes a technical amendment by omitting “Charge –“ in the reference to Section 137 Indecency.

Clause 8 Schedule 2 amended (Class 2 offences)

Makes consequential amendments into “Schedule 2 – Class 2 offences” by omitting the former charge names and substituting the new charge names.

Clause 9 Schedule 3 amended (Class 3 offences)

Makes consequential amendments into “Schedule 3 – Class 3 offences” by omitting the former charge names and substituting the new charge names.

Part 4 *Evidence Act 2001* amended

Clause 10 Principal Act

Provides that the Principal Act being amended in this Part is the *Evidence Act 2001*.

Clause 11 Section 194M amended (Evidence relating to sexual experience)
Inserts reference to Chapter XIVA.

- Part 5 *Youth Justice Act 1997* amended
- Clause 12 Principal Act
Provides that the Principal Act being amended in this Part is the *Youth Justice Act 1997*.
- Clause 13 Section 3 amended (Interpretation)
Omits “Maintaining a sexual relationship with a young person under the age of 17 years” and substitutes with “persistent sexual abuse of a child” in the definition of prescribed offence in paragraph (b)(iia).
- Part 6 *Sentencing Amendment (Phasing out of Suspended Sentences) Act 2017* amended
- Clause 14 Principal Act
Provides that the Principal Act being amended in this Part is the *Sentencing Amendment (Phasing out of Suspended Sentences) Act 2017*.
- Clause 15 Section 19 amended (Schedule 3 inserted)
Makes consequential amendments into Schedule 3 by omitting the former charge names and substituting the new charge names.