

SEXUAL OFFENCES (PROTECTION OF CHILDREN) AMENDMENT BILL 2002

AMENDMENTS AGREED TO IN COMMITTEE

1 Clause 2—

At page 4, line 7—

omit, insert—

‘(1) Part 1A commences on assent.

‘(2) The remaining provisions of this Act commence on a day to be fixed by proclamation.’.

2 After clause 2—

At page 4, after line 7—

insert—

‘PART 1A—AMENDMENT OF BAIL ACT 1980

‘2A Act amended in pt 1A

‘This part amends the *Bail Act 1980*.

‘2B Insertion of new s 10B

‘After section 10A—

insert—

‘10B No costs order

‘(1) A court may not make any order concerning costs in a bail proceeding.

‘(2) It does not matter whether the bail proceeding started, or the relevant offence was committed, before or after the commencement of this section.

‘(3) In this section—

“bail proceeding” includes—

- (a) an application under this Act; and
- (b) an application to grant, enlarge, vary or revoke bail under another Act; and
- (c) an appeal to the Court of Appeal from an order made on an application mentioned in paragraph (a) or (b).’.

‘2C Amendment of s 28B (Warrant authority to apprehend defendant on other charges)

‘Section 28B, ‘28A(1)(a)’—

omit, insert—

‘28A(1)(a), (b), (c) or (e)’.

‘2D Amendment of s 33 (Failure to appear in accordance with undertaking)

‘Section 33(1)(b) and (3)(b)(i), ‘28A(1)(a)’—

omit, insert—

‘28A(1)(a), (b), (c) or (e)’.

‘2E Insertion of new s 39

‘After section 38—

insert—

‘39 Provision concerning references to s 28A(1)(a)

‘(1) It is declared that, during the relevant period, the *Acts Interpretation Act 1954*, section 14H¹ applied so that the reference to section 28A(1)(a) in sections 28B and 33² included a reference to section 28A(1)(b), (c) and (e).

1 *Acts Interpretation Act 1954*, section 14H (References taken to be included in reference to law)

2 Sections 28B (Warrant authority to apprehend defendant on other charges) and 33 (Failure to appear in accordance with undertaking)

‘(2) Without limiting subsection (1), if a defendant was apprehended during the relevant period under an affected warrant, subsections (3) and (4) apply.

‘(3) Section 28B is taken to have applied in relation to the affected warrant as if the reference in section 28B to a warrant issued under section 28A(1)(a) included a reference to the affected warrant.

‘(4) If the defendant was convicted of an offence against section 33, section 33 is taken to have applied, in relation to the defendant and the proceedings for the offence against section 33, as if the references in section 33 to a warrant issued under section 28A(1)(a) included a reference to the affected warrant.

‘(5) In this section—

“**affected warrant**” means a warrant issued before the commencement date under old section 28A(1)(a)(ii), (iii) or (iv) or during the relevant period under section 28A(1)(b), (c) or (e).

“**commencement date**” means the date the *Criminal Law Amendment Act 2002*, the schedule, amendments of the *Bail Act 1980* commenced.

“**old**”, in relation to a provision, means the provision as in force from time to time before the commencement date.

“**relevant period**” means the period beginning on the commencement date and ending immediately before the commencement of this section.’.

3 After clause 14—

At page 9, after line 21—

insert—

‘14A Amendment of s 1 (Definitions)

‘Section 1—

insert—

“**computer generated image**” means electronically recorded data capable, by way of an electronic device, of being produced on a computer monitor, television screen, liquid crystal display or similar medium as an image, including an image in the form of text.

“indecent matter” includes indecent film, videotape, audiotape, picture, photograph or printed or written matter.

“picture” includes image including computer generated image.’.’.

4 Clause 17—

At page 10, line 23, ‘indecent matter,’—

omit, insert—

‘indecent matter,³’.

5 Clause 17—

At page 11, lines 27 and 28—

omit.

6 Clause 21—

At page 15, line 3, ‘subsection (6) and (7)’—

omit, insert—

‘subsection (5) and (6)’.

7 After clause 24—

At page 16, after line 20—

insert—

‘24A Amendment of s 21 (Complaints for certain offences)

‘Section 21(1), ‘section 19(8)’—

omit, insert—

‘section 19(5)’.’.

3 **“indecent matter”** is defined in section 1.

8 After clause 26—

At page 17, after line 12—

insert—

**‘PART 4A—AMENDMENT OF MAGISTRATES ACT
1991**

‘26A Act amended in pt 4A

‘This part amends the *Magistrates Act 1991*.

‘26B Replacement of s 6 (Appointment of acting Magistrates)

‘Section 6—

omit, insert—

‘6 Appointment of acting magistrates

‘(1) The Governor in Council may, at the request of the chief magistrate, appoint any of the following persons to act as a magistrate—

- (a) a clerk of the court;
- (b) a person qualified to be appointed as a magistrate;
- (c) a person who is, or has been, a judge or magistrate of a court of another State or Territory;
- (d) a person who is, or has been, a judge of a federal court or a federal magistrate;
- (e) a Supreme Court judge, if the Chief Justice consents;
- (f) a District Court judge, if the Chief Judge consents.

‘(2) The appointment may be for a specified period or for a specified matter.

‘(3) For the purpose of the person acting as a magistrate—

- (a) this Act and other Acts apply to the person as if the person were a magistrate; and
- (b) the person has all the powers and functions of a magistrate; and

- (c) subject to section 6A(4), the person is to be paid the remuneration and allowances decided by the Governor in Council, not being less than the remuneration and allowances paid to a magistrate.

‘(4) A person who has acted as a magistrate may constitute a Magistrates Court at a place directed by the Chief Magistrate to give judgment in, or otherwise complete, a proceeding heard by the person while acting as a magistrate, despite the fact that the person is no longer a magistrate.

‘6A Acting magistrates who are clerks of the court

‘(1) This section applies if a clerk of the court is appointed to act as a magistrate.

‘(2) The *Public Service Act 1996* does not apply to the clerk while the clerk is acting as a magistrate.

‘(3) The clerk retains all rights that have accrued to the clerk because of the clerk’s employment, or that would accrue in the future to the clerk because of that employment, as if service acting as a magistrate were a continuation of service as a clerk of the court.

‘(4) However, for deciding whether remuneration is payable to a clerk of the court while acting as a magistrate, the *Public Service Act 1996* applies to the person.’.