

Criminal Code (Child Sexual Offences Reform) and Other Legislation Amendment Act 2020

Explanatory notes for SL 2021 No. 40

Made under the

Criminal Code (Child Sexual Offences Reform) and Other Legislation Amendment Act 2020

General Outline

Short Title

Proclamation - *Criminal Code (Child Sexual Offences Reform) and Other Legislation Amendment Act 2020* (commencing remaining provisions)

Authorising law

Section 2(2) of the *Criminal Code (Child Sexual Offences Reform) and Other Legislation Amendment Act 2020* (the Amendment Act).

Policy objectives and the reasons for them

The principal policy objective of the Amendment Act is to improve the responsiveness of the criminal justice system to child sexual offending and the victims of child sexual offences by including amendments that respond to recommendations of the Criminal Justice Report of the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission).

The Amendment Act received assent on 14 September 2020. Pursuant to section 2(1) of the Amendment Act, most provisions commenced on 15 September 2020, the day after assent.

Section 2(2) of the Amendment Act provides that the following provisions are to commence on a day to be fixed by proclamation:

- part 3;
- part 5, division 3;
- part 6, division 3;
- part 7, division 3;
- part 8, division 3;
- parts 9 and 10; and
- part 14, division 3.

Part 5, division 3 (sections 22, 23, 25, 26 and 28), part 7, division 3, and part 14, division 3 relate to the introduction of two new Criminal Code offences of 'Failure to protect child from child sexual offence' and 'Failure to report belief of child sexual offence committed in relation to child'.

Part 3, part 5, division 3 (sections 24 and 27), part 6, division 3, part 8, division 3, and parts 9 and 10 relate to intermediaries. These provisions will provide the framework for establishment of the Queensland Intermediary Scheme pilot.

The Proclamation will set the commencement date for provisions under section 2(2) of the Amendment Act.

Achievement of policy objectives

The policy objective is achieved by fixing 5 July 2021 as the commencement date for all remaining provisions under the Amendment Act.

Consistency with policy objectives of authorising law

The Proclamation is consistent with the policy objectives of the Act.

Inconsistency with policy objectives of other legislation

The Proclamation is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

The main benefit of the Proclamation is the commencement of provisions of the Amendment Act which address recommendations from the Royal Commission's Criminal Justice Report.

Implementation of the two new Criminal Code offences (relating to failure to protect child from child sexual offence and failure to report belief of child sexual offence committed in relation to child) will assist in the protection of children.

An increase in the number of reports to the Queensland Police Service and related prosecutions is likely to result from the new offences. This will have an impact on criminal justice agencies and Queensland Courts; however the extent of the impact is unknown and will be monitored.

There may also be impacts for other departments, non-Government stakeholders and community organisations. These costs are likely to relate to the training of staff and updating policies and procedures, to ensure consistency with the new offences. Implementation will be supported through publication of information about the operation of the new offences.

Implementation of the Queensland Intermediary Scheme pilot is beneficial in that it will assist witnesses with communication needs.

The Queensland Government has provided additional funding of \$10 million over four years for the Department of Justice and Attorney-General (DJAG) and Queensland Police Service to respond to recommendations from the Royal Commission's Criminal Justice Report. This funding has been allocated to the implementation of key recommendations to improve the criminal justice system's response for victims and survivors of child sexual abuse, including improvement of prosecution and police responses to vulnerable people and the establishment of a pilot intermediary scheme in Queensland.

Consistency with fundamental legislative principles

The Proclamation is consistent with fundamental legislative principles.

Consultation

Feedback from a range of government and non-government stakeholders has informed the setting of the commencement date under the Proclamation. This included consultation with the Steering Committee established to assist with the implementation of the Queensland Intermediary Scheme pilot. This Steering Committee includes the Chief Judge of the District Court of Queensland, the Director of Public Prosecutions and a representative of the Bar Association of Queensland.

No consultation on the Proclamation was undertaken given its machinery nature.

The DJAG has self-assessed the proclamation to be excluded from further regulatory impact analysis under exclusion category (g) of the Queensland Government Guide to Better Regulation on the basis that it is a regulatory proposal of a machinery nature.