

LEGISLATIVE COUNCIL

CHILDREN, YOUTH AND FAMILIES AMENDMENT (CHILD PROTECTION)
BILL 2021

(Amendments and New Clauses to be proposed in Committee by Dr RATNAM)

1. Clause 1, page 3, after line 26 insert—
 - "(xvia) to increase the minimum age of criminal responsibility from 10 years of age to 14 years of age; and".
2. Page 97, after line 8 insert the following heading—

"Part 19A—Amendments to raise the age of criminal responsibility".

NEW CLAUSES

3. Insert the following New Clauses to follow clause 134 and the heading proposed by amendment number 2—

'134A Definitions

In section 3(1) of the Principal Act, in the definition of *child*—

- (a) in paragraph (a), for "10 years" **substitute** "14 years";
- (b) in paragraph (ae), for "10 years" **substitute** "14 years".

134B Children under 10 years of age

- (1) In the heading to section 344 of the Principal Act, for "**10 years**" **substitute** "**14 years**".
- (2) In section 344 of the Principal Act, for "10 years" **substitute** "14 years".

134C Court may make youth residential centre order

In section 410(1)(b) of the Principal Act, for "aged 10 years or more but under 15 years" **substitute** "14 years of age".

134D Power of Youth Parole Board to transfer person to a youth justice centre

In section 464 of the Principal Act, for "may, subject to section 465," **substitute** "may".

134E Section 465 repealed

Section 465 of the Principal Act is **repealed**.

134F Schedule 3—Children and Young Persons Infringement Notice System

In Schedule 3 to the Principal Act, in clause 2, in the definition of *child*, for "10 years" **substitute** "14 years".

4. Clause 136, page 103, line 8, omit 'report.'" and insert "report."

5. Clause 136, page 103, after line 8 insert—

'9 Transitional provision—age of criminal responsibility

- (1) The definition of *child* in section 3(1), as in force immediately before the commencement of Part 19A of the amending Act, continues to apply for the purposes of a proceeding commenced under this Act before the commencement of that Part.
- (2) Sections 344 and 410, as in force immediately before the commencement of Part 19A of the amending Act, continue to apply for the purposes of a proceeding commenced under this Act before the commencement of that Part.
- (3) Section 465, as in force immediately before the commencement of Part 19A of the amending Act, continues to apply for the purposes of making a direction under section 464 in respect of a person against whom a proceeding is commenced under this Act before the commencement of that Part.
- (4) The definition of *child* in clause 2 of Schedule 3, as in force immediately before the commencement of Part 19A of the amending Act, continues to apply for the purposes of an infringement offence alleged to have been committed before the commencement of that Part."

NEW CLAUSES

6. Page 103, before line 9 insert the following New Clauses and Division headings—

'Division 1A—Consequential amendments to the Crimes Act 1958

136A Fingerprinting of children aged 14 or under

- (1) In the heading to section 464L of the **Crimes Act 1958**, for "aged 14 or under" **substitute** "under 15 years of age".
- (2) In section 464L(1) of the **Crimes Act 1958**, for "10 years" **substitute** "14 years".
- (3) In section 464L(2) of the **Crimes Act 1958**, for "aged 10 years or more but under 15 years" **substitute** "who is 14 years of age".

136B Children's Court may order fingerprinting

In section 464M(5) of the **Crimes Act 1958**, for "aged 10 years or more but under 15 years" **substitute** "who is 14 years of age".

136C Forensic procedure on child

- (1) In section 464U(1)(a) of the **Crimes Act 1958**, for "10 years" **substitute** "14 years".

- (2) In section 464U(2) of the **Crimes Act 1958**, for "10 years" substitute "14 years".
- (3) In section 464U(7) of the **Crimes Act 1958**, for "10 years" substitute "14 years".

136D Forensic procedure following the commission of forensic sample offence

In section 464ZF(1) of the **Crimes Act 1958**, in the definition of *child*, for "10 years" substitute "14 years".

136E Forensic procedure following finding of not guilty because of mental impairment

In section 464ZFAAA(1) of the **Crimes Act 1958**, in the definition of *child*, for "10 years" substitute "14 years".

136F New section 638 inserted

After section 637 of the **Crimes Act 1958** insert—

"638 Transitional provision—Children, Youth and Families Amendment (Child Protection) Act 2022

- (1) Sections 464L, 464M and 464U, as in force immediately before the commencement day, continue to apply for the purposes of a proceeding commenced before the commencement day.
- (2) The definition of *child* in section 464ZF(1), as in force immediately before the commencement day, continues to apply for the purposes of a finding of guilt made in a proceeding commenced before the commencement day.
- (3) The definition of *child* in section 464ZFAAA(1), as in force immediately before the commencement day, continues to apply for the purposes of a finding of not guilty because of mental impairment made in a proceeding commenced before the commencement day.
- (4) In this section—

commencement day means the day on which Division 1A of Part 20 of the **Children, Youth and Families Amendment (Child Protection) Act 2022** comes into operation."

Division 1B—Consequential amendments to the Fines Reform Act 2014

136G Definitions

In section 3 of the **Fines Reform Act 2014**, in the definition of *child*, for "10 years" substitute "14 years".

136H New section 201C inserted

After section 201B of the **Fines Reform Act 2014** insert—

"201C Transitional provision—Children, Youth and Families Amendment (Child Protection) Act 2022

The definition of *child* in section 3, as in force immediately before the commencement of section 136G of the **Children, Youth and Families Amendment (Child Protection) Act 2022**, continues to apply for the purposes of an infringement offence alleged to have been committed before that date of commencement."

Division 1C—Consequential amendments to the Infringements Act 2006

136I Definitions

In section 3(1) of the **Infringements Act 2006**, in the definition of *child*, for "10 years" substitute "14 years".

136J New Division 4 of Part 16 inserted

After Division 3 of Part 16 of the **Infringements Act 2006** insert—

"Division 4—Children, Youth and Families Amendment (Child Protection) Act 2022

218 Definition of *child*

The definition of *child* in section 3(1), as in force immediately before the commencement of section 136I of the **Children, Youth and Families Amendment (Child Protection) Act 2022**, continues to apply for the purposes of an infringement offence alleged to have been committed before that date of commencement."!