

CRIMINAL CODE AMENDMENT (CHILD MARRIAGE) BILL 2018

EXPLANATORY MEMORANDUM

The Criminal Code Amendment (Child Marriage) Bill 2018 (the Bill) provides for an Act to repeal provisions in the *Criminal Code Act Compilation Act 1913 (WA)* (the Criminal Code) that provide marriage as a defence to certain sexual offences committed against a child under the age of 16. These marriage defence provisions have no legal operation in Australia as it is not possible for a person to be lawfully married to a child under 16 years of age in Australia; the Bill thus seeks to delete these defences from the Criminal Code.

The Bill is set out as follows:

Clause 1 **Short title**

The Act will be called the *Criminal Code Amendment (Child Marriage) Act 2018*.

Clause 2 **Commencement**

This clause provides for the commencement of the Act, with sections 1 and 2 coming into operation on the day on which the Act receives the Royal Assent; and the rest of the Act on the day after that day.

Clause 3 **Act amended**

This clause states the purpose of the Act is to amend the Criminal Code.

Clause 4 **Section 321 amended**

This clause amends section 321, by repealing subsections (10)-(13) which provide a defence to certain sexual offences committed against a child under the age of 16, where the accused person is lawfully married to the child. The sexual offences include: sexual penetration of a child, procuring, inciting or encouraging a child to engage in sexual behaviour or to do an indecent act, and indecently dealing with or recording a child.

Clause 5 **Section 321A amended**

This clause amends section 321A, repealing subsection (10) which provides a defence to the sexual offence of persistent sexual conduct with a child under the age of 16, where the accused person is lawfully married to the child.