



## CRIMINAL CODE AMENDMENT ACT 1995

**No. 96 of 1995**

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### AN ACT to amend the *Criminal Code*

[Royal Assent 24 November 1995]

**B**E it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

#### Short title

**1**—This Act may be cited as the *Criminal Code Amendment Act 1995*.

## Commencement

2—This Act commences on a day to be proclaimed.

## Principal Act

3—In this Act, the *Criminal Code*\* is referred to as the Code.

## Section 1 amended (Interpretation)

4—Section 1 of the Code is amended by inserting after the definition of “explosive substance” the following definition:—

“female genital mutilation” means—

- (a) a clitoridectomy; or
- (b) an excision of any other part of the female genital organs; or
- (c) an infibulation or similar procedure; or
- (d) any other mutilation of the female genital organs;

## Sections 178A, 178B and 178C inserted

5—After section 178 of the Code the following sections are inserted:—

### Female genital mutilation

178A—(1) Any person who performs female genital mutilation on another person is guilty of a crime.

Charge: Performing female genital mutilation.

(2) It is not a defence to a charge under this section that the person on whom female genital mutilation was performed or that person’s parent or guardian consented to the mutilation.

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\* Schedule 1 to 14 Geo. V No. 69. For the *Criminal Code Act 1924* and the *Criminal Code*, as amended to 1 March 1980, see the continuing Reprint of Statutes. Subsequently amended by No. 19 of 1980, No. 52 of 1981, Nos. 33 and 99 of 1982, No. 77 of 1983, No. 3 of 1984, No. 17 of 1985, Nos. 77, 86 and 93 of 1986, Nos. 26, 71, 81 and 83 of 1987, Nos. 14 and 29 of 1988, Nos. 7, 9 and 33 of 1989, No. 13 of 1990, Nos. 3, 43 and 46 of 1991, No. 21 of 1992, Nos. 9, 72 and 89 of 1993, Nos. 4, 7, 10, 21, 61, 68, 72 and 96 of 1994 and Nos. 43, 65, 72 and 75 of 1995.

**Removal of child from State**

178B—(1) Any person who takes a child under the age of 18 years, or arranges for such a child to be taken, out of the State with the intention of having female genital mutilation performed on that child is guilty of a crime.

Charge: Removal of child for performance of female genital mutilation.

(2) If it is proved that a person took the child, or arranged for the child to be taken, out of the State and that female genital mutilation was performed on the child outside the State, it is a presumption, in absence of proof to the contrary, that the person took the child, or arranged for the child to be taken, out of the State with the intention of having female genital mutilation performed on the child.

**Medical procedures**

178C—(1) Sections 178A (1) and 178B (1) do not apply in relation to the performance of—

- (a) a surgical procedure for a genuine therapeutic purpose; or
- (b) a sexual reassignment procedure.

(2) The fact that a surgical procedure is performed as, or as part of, a cultural, religious or other social custom is not, of itself, a genuine therapeutic purpose.

(3) A sexual reassignment procedure is a surgical procedure to give a female, or a person whose sex is ambivalent, the genital appearance of a particular sex.

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*[Second reading presentation speech made in:—  
House of Assembly on 17 October 1995  
Legislative Council on 1 November 1995]*