



House of Representatives

Supplementary Order Paper

Tuesday, 16 November 2004

Crimes Amendment Bill (No. 2)

—
Proposed amendments

Marc Alexander, in Committee, to move the following amendment:

Clause 7

To omit section 128(2) (lines 5 to 10 on page 8) and substitute the following subsection:

- “(2) Person A rapes person B if person A has sexual connection with person B, effected by—
 - “(a) the penetration of—
 - “(i) person B’s genitalia, anus or mouth by person A’s penis; or
 - “(ii) person A’s genitalia, anus or mouth by person B’s penis; and
 - “(b) without person B’s consent to the connection; and
 - “(c) without believing on reasonable grounds that person B consents to the connection.”

To insert, after section 134A (line 22 on page 18), the following section:

- “134B **Meeting a child following sexual grooming etc**
- “(1) Everyone is liable to imprisonment for a term not exceeding 5 years who—
 - “(a) having met or communicated with a child under the age of 16 years on at least two earlier occasions,—
 - “(i) intentionally meets the child; or
 - “(ii) travels with the intention of meeting the child in any part of the world; and
 - “(b) at the time, intends to do anything to or in respect of the child, during or after the meeting and in any part of the world, which if done will involve the commission of an offence under this Part;

- “(2) It is a defence to a charge under subsection (1) if the person charged proves that—
- “(a) before the time of the act concerned, he or she had taken reasonable steps to find out whether the young person concerned was of or over the age of 16 years; and
 - “(b) at the time of the act concerned, he or she believed on reasonable grounds that the young person concerned was of or over the age of 16 years.”

Explanatory note

This purpose of this Supplementary Order Paper is to amend the definition of rape to one that is gender-neutral and to provide for a new offence of “sexual grooming”.

The definition of sexual violation in clause 7 of the bill (Section 128 of the principal Act) retains rape as an offence committed by male penetration of the female genitalia only. This amendment modernises the definition of rape to include rape committed by men against men and women against men. The essential element of rape is therefore penile penetration of the vagina, anus or mouth of another— without consent, or without reasonable grounds for believing consent was given.

The SOP also creates a new offence of “sexual grooming”, intended to cover situations where an adult establishes contact with a child through, for example, meetings, telephone conversations or communications on the Internet, and gains the child’s trust and confidence so that he or she can arrange to meet the child for the purpose of committing a sexual offence against the child. The course of conduct prior to the meeting that triggers the offence may have an explicitly sexual content, however, need not necessarily. The penalty of 5 years is analogous to that provided in Section 136 of the principal Act for the offence of conspiracy to induce sexual intercourse.