



Criminal Code Amendment (Slavery and Sexual Servitude) Act 1999

No. 104, 1999

An Act to amend the *Criminal Code Act 1995*, and for related purposes

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Criminal Code Amendment (Slavery and Sexual Servitude) Act 1999

No. 104, 1999

An Act to amend the *Criminal Code Act 1995*, and for related purposes

[Assented to 24 August 1999]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Criminal Code Amendment (Slavery and Sexual Servitude) Act 1999*.

2 Commencement

This Act commences 28 days after the day on which it receives the Royal Assent.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Criminal Code Act 1995

1 Before the Dictionary in the *Criminal Code*

Insert:

Chapter 8—Offences against humanity

Division 270—Slavery, sexual servitude and deceptive recruiting

270.1 Definition of *slavery*

For the purposes of this Division, *slavery* is the condition of a person over whom any or all of the powers attaching to the right of ownership are exercised, including where such a condition results from a debt or contract made by the person.

270.2 Slavery is unlawful

Slavery remains unlawful and its abolition is maintained, despite the repeal by the *Criminal Code Amendment (Slavery and Sexual Servitude) Act 1999* of Imperial Acts relating to slavery.

270.3 Slavery offences

- (1) A person who, whether within or outside Australia, intentionally:
 - (a) possesses a slave or exercises over a slave any of the other powers attaching to the right of ownership; or
 - (b) engages in slave trading; or
 - (c) enters into any commercial transaction involving a slave; or
 - (d) exercises control or direction over, or provides finance for:
 - (i) any act of slave trading; or
 - (ii) any commercial transaction involving a slave;is guilty of an offence.

Penalty: Imprisonment for 25 years.

- (2) A person who:
 - (a) whether within or outside Australia:

- (i) enters into any commercial transaction involving a slave; or
 - (ii) exercises control or direction over, or provides finance for, any commercial transaction involving a slave; or
 - (iii) exercises control or direction over, or provides finance for, any act of slave trading; and
- (b) is reckless as to whether the transaction or act involves a slave, slavery or slave trading;
is guilty of an offence.

Penalty: Imprisonment for 17 years.

- (3) In this section:

slave trading includes:

- (a) the capture, transport or disposal of a person with the intention of reducing the person to slavery; or
 - (b) the purchase or sale of a slave.
- (4) A person who engages in any conduct with the intention of securing the release of a person from slavery is not guilty of an offence against this section.
- (5) The defendant bears a legal burden of proving the matter mentioned in subsection (4).

270.4 Definition of *sexual servitude*

- (1) For the purposes of this Division, *sexual servitude* is the condition of a person who provides sexual services and who, because of the use of force or threats:
- (a) is not free to cease providing sexual services; or
 - (b) is not free to leave the place or area where the person provides sexual services.

(2) In this section:

sexual service means the commercial use or display of the body of the person providing the service for the sexual gratification of others.

threat means:

- (a) a threat of force; or
- (b) a threat to cause a person's deportation; or
- (c) a threat of any other detrimental action unless there are reasonable grounds for the threat of that action in connection with the provision of sexual services by a person.

270.5 Jurisdictional requirement

A person commits an offence against section 270.6 or 270.7 only if:

- (a) all of the following subparagraphs apply:
 - (i) the person is an Australian citizen, a resident of Australia, a body corporate incorporated by or under a law of the Commonwealth or of a State or Territory or any other body corporate that carries on its activities principally in Australia; and
 - (ii) the conduct constituting the offence is engaged in outside Australia; and
 - (iii) the sexual services to which the alleged offence relates are provided, or to be provided, outside Australia; or
- (b) both:
 - (i) the conduct constituting the alleged offence is to any extent engaged in outside Australia; and
 - (ii) the sexual services to which the alleged offence relates are to any extent provided, or to be provided, within Australia; or
- (c) both:
 - (i) the conduct constituting the alleged offence is to any extent engaged in within Australia; and
 - (ii) the sexual services to which the alleged offence relates are to any extent provided, or to be provided, outside Australia.

270.6 Sexual servitude offences

- (1) A person:
- (a) whose conduct causes another person to enter into or remain in sexual servitude; and
 - (b) who intends to cause, or is reckless as to causing, that sexual servitude;
- is guilty of an offence.

Penalty:

- (c) in the case of an aggravated offence (see section 270.8)—imprisonment for 19 years; or
 - (d) in any other case—imprisonment for 15 years.
- (2) A person:
- (a) who conducts any business that involves the sexual servitude of other persons; and
 - (b) who knows about, or is reckless as to, that sexual servitude;
- is guilty of an offence.

Penalty:

- (c) in the case of an aggravated offence (see section 270.8)—imprisonment for 19 years; or
 - (d) in any other case—imprisonment for 15 years.
- (3) In this section:

conducting a business includes:

- (a) taking any part in the management of the business; or
- (b) exercising control or direction over the business; or
- (c) providing finance for the business.

270.7 Deceptive recruiting for sexual services

- (1) A person who, with the intention of inducing another person to enter into an engagement to provide sexual services, deceives that other person about the fact that the engagement will involve the provision of sexual services is guilty of an offence.

Penalty:

- (a) in the case of an aggravated offence (see section 270.8)—
imprisonment for 9 years; or
 - (b) in any other case—imprisonment for 7 years.
- (2) In this section:

sexual service means the commercial use or display of the body of the person providing the service for the sexual gratification of others.

270.8 Aggravated offences

- (1) For the purposes of this Division, an offence against section 270.6 or 270.7 is an **aggravated offence** if the offence was committed against a person who is under 18.
- (2) If the prosecution intends to prove an aggravated offence, the charge must allege that the offence was committed against a person under that age.
- (3) In order to prove an aggravated offence, the prosecution must prove that the defendant intended to commit, or was reckless as to committing, the offence against a person under that age.

270.9 Alternative verdict if aggravated offence not proven

If, on a trial for an aggravated offence against section 270.6 or 270.7, the jury is not satisfied that the defendant is guilty of an aggravated offence, but is otherwise satisfied that he or she is guilty of an offence against that section, it may find the defendant not guilty of the aggravated offence but guilty of an offence against that section.

270.10 No nationality requirement

In determining whether a person has committed an offence against this Division (other than an offence to which paragraph 270.5(a) applies), it does not matter whether the person is or is not an Australian citizen or a resident of Australia.

270.11 Attorney-General's consent required

- (1) Proceedings for an offence against this Division must not be commenced without the Attorney-General's written consent if:
 - (a) the conduct constituting the alleged offence is to any extent engaged in outside Australia; and
 - (b) the person alleged to have committed the offence is not:
 - (i) an Australian citizen; or
 - (ii) a resident of Australia; or
 - (iii) a body corporate incorporated by or under a law of the Commonwealth or of a State or Territory; or
 - (iv) any other body corporate that carries on its activities principally in Australia.
- (2) However, a person may be arrested for, charged with, or remanded in custody or released on bail in connection with an offence against this Division before the necessary consent has been given.

270.12 Other laws not excluded

This Division is not intended to exclude or limit the operation of any other law of the Commonwealth or any law of a State or Territory.

270.13 Double jeopardy

If a person has been convicted or acquitted in a country outside Australia of an offence against the law of that country in respect of any conduct, the person cannot be convicted of an offence against this Division in respect of that conduct.

270.14 External Territories

In this Division:

Australia, when used in a geographical sense, includes the external Territories.

2 The Dictionary in the *Criminal Code*

Insert:

sexual servitude has the meaning given by section 270.4.

3 The Dictionary in the *Criminal Code*

Insert:

slavery has the meaning given by section 270.1.

Schedule 2—Repeal of Imperial Acts

1 Repeal of certain Imperial Acts relating to slavery

The Imperial Acts and provisions of Imperial Acts specified in this Schedule are repealed, so far as they are part of the law of Australia or of an external Territory.

Pacific Islanders Protection Act 1873 (35 & 36 Victoria, ch 19)

2 The whole of the Act

Repeal the Act.

Pacific Islanders Protection Act 1875 (38 & 39 Victoria, ch 51)

3 The whole of the Act

Repeal the Act.

Slavery Abolition Act 1833 (3 & 4 William IV, ch 73)

4 Section 12

Repeal the section.

Slave Trade Act 1824 (5 George IV, ch 113)

5 The whole of the Act

Repeal the Act.

Slave Trade Act 1843 (6 & 7 Victoria, ch 98)

6 The whole of the Act

Repeal the Act.

Slave Trade Act 1873 (36 & 37 Victoria, ch 88)

7 The whole of the Act

Repeal the Act.

*[Minister's second reading speech made in—
Senate on 24 March 1999
House of Representatives on 11 August 1999]*

(42/99)
