

**Australian Capital Territory
Legislative Assembly**

Crimes (Consent) Amendment Bill 2022

Amendments to be moved by Marisa Paterson

1
Clause 4 heading
Page 2, line 9—

omit the heading, substitute

4 **New sections 50A to 50C**

2
Clause 4
Proposed new section 50A
Page 2, line 11—

omit proposed new section 50A, substitute

50A **Objects—pt 3**

An object of this part is to recognise the following in relation to a sexual act:

- (a) consent to participate in a sexual act is not to be presumed;
- (b) every person has a right to choose not to participate in a sexual act;
- (c) a consensual sexual act involves ongoing and mutual communication and decision-making by the people participating in the sexual act.

insert

50C Meaning of *sexual act*—pt 3

- (1) In this part:
sexual act—
- (a) means—
 - (i) sexual intercourse; and
 - (ii) sexual touching; and
 - (iii) any other act in circumstances where a reasonable person would consider the act to be sexual; but
 - (b) does not include an act carried out for a proper medical purpose or otherwise authorised by law.
- (2) The matters to be taken into account in deciding whether a reasonable person would consider an act to be sexual include the following:
- (a) whether the area of the body involved in the act is a person's breasts, genital area or anal area;
 - (b) whether the person carrying out the act does so for the purpose of sexual arousal or sexual gratification;
 - (c) whether any other aspect of the act (including the circumstances in which it is carried out) makes it sexual.
- (3) In this section:
object—see section 50 (2).
sexual touching, by a person (the *first person*) means—
- (a) touching another person, including through something, with any part of the first person's body or with an object in circumstances where a reasonable person would consider the touching to be sexual; and

- (b) the continuation of sexual touching as defined in paragraph (a).
-

4

Clause 5

Proposed new section 67 (2)

Page 4, line 15—

omit proposed new section 67 (2), substitute

- (2) A person also does not consent to an act with another person (the ***accused person***) only because the person—
- (a) does not say or do something to resist the act; or
 - (b) consented to—
 - (i) another act with the accused person; or
 - (ii) the same act with the accused person at a different time or place; or
 - (iii) the same act with a person other than the accused person; or
 - (iv) a different act with a person other than the accused person.
-

5

Clause 5

Proposed new section 67 (3)

Page 4, line 23—

omit

a person

substitute

an accused person

6

Clause 5

Proposed new section 67 (3)

Page 4, line 26—

omit

subsection (1) (a) to (o), the

substitute

subsection (1) (a) to (o), the accused

7

Clause 5

Proposed new section 67 (4)

Page 5, line 1—

omit

A person (the *accused person*)

substitute

An accused person

8

Clause 7

Proposed new section 442D heading

Page 6, line 3—

omit the heading, substitute

442D Review—pt 3

9

Clause 7

Proposed new section 442D (3)

Page 6, line 10—

omit

6 months

substitute

12 months

10
Clause 8
Page 6, line 12—

omit clause 8, substitute

8 Dictionary, new definitions

insert

consent, for part 3 (Sexual offences)—see section 50B.

sexual act, for part 3 (Sexual offences)—see section 50C.