



New South Wales

Crimes Legislation Amendment (Child Sexual Offences) Act 1998 No 131

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Crimes Legislation Amendment (Child Sexual Offences) Act 1998 No 131

Act No 131, 1998

An Act to amend the *Crimes Act 1900* and the *Summary Offences Act 1988* to create offences relating to the persistent sexual abuse of children and to loitering by convicted child sexual offenders near premises frequented by children. [Assented to 30 November 1998]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Crimes Legislation Amendment (Child Sexual Offences) Act 1998*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Acts

The Acts specified in Schedules 1 and 2 are amended as set out in those Schedules.

- (6) In order for the accused to be convicted of an offence against this section:
- (a) the jury must be satisfied beyond reasonable doubt that the evidence establishes at least 3 separate occasions, occurring on separate days during the period concerned, on which the accused engaged in conduct constituting a sexual offence in relation to a particular child of a nature described in the charge, and
 - (b) the jury must be so satisfied about the material facts of the 3 such occasions, although the jury need not be so satisfied about the dates or the order of those occasions, and
 - (c) if more than 3 such occasions are relied on as evidence of the commission of an offence against this section, all the members of the jury must be so satisfied about the same 3 occasions, and
 - (d) the jury must be satisfied that the 3 such occasions relied on as evidence of the commission of an offence against this section occurred after the commencement of this section.
- (7) In proceedings for an offence against this section, the judge must inform the jury of the requirements of subsection (6).
- (8) A person who has been convicted or acquitted of an offence against this section may not be convicted of a sexual offence in relation to the same child that is alleged to have been committed in the period during which the accused was alleged to have committed an offence against this section. This subsection does not prevent an alternative verdict under subsection (10).
- (9) A person who has been convicted or acquitted of a sexual offence may not be convicted of an offence against this section in relation to the same child if any of the occasions relied on as evidence of the commission of the offence against this section includes the occasion of that sexual offence.

- (10) If on the trial of a person charged with an offence against this section the jury is not satisfied that the offence is proven but is satisfied that the person has, in respect of any of the occasions, relied on as evidence of the commission of the offence against this section, committed a sexual offence, the jury may acquit the person of the offence charged and find the person guilty of that sexual offence. The person is liable to punishment accordingly.
- (11) Proceedings for an offence against this section may only be instituted by or with the approval of the Director of Public Prosecutions.
- (12) In this section:
- child* means a person under the age of 18 years.
- sexual offence* means any of the following:
- (a) an offence under section 61I, 61J, 61K, 61L, 61M, 61N, 61O, 66A, 66B, 66C, 66D, 66F, 73, 74, 78H, 78I, 78K, 78L, 78N, 78O, 78Q or 80A,
 - (b) an offence of attempting to commit an offence referred to in paragraph (a).
 - (c) an offence under the law of a place outside New South Wales that would, if it had been committed in New South Wales, be an offence referred to in paragraph (a) or (b).

[3] Section 77 Consent no defence in certain cases

Insert “, 66EA” after “66D” in section 77(1).

Schedule 2 Amendment of Summary Offences Act 1988 No 25

(Section 3)

Part 2, Division 2A (section 11G)

Insert after Division 2 of Part 2:

Division 2A Loitering by convicted child sexual offenders

11G Loitering by convicted child sexual offenders near premises frequented by children

- (1) A person who is a convicted child sexual offender and who loiters, without reasonable excuse, in or near:
 - (a) a school, or
 - (b) a public place regularly frequented by children and in which children are present at the time of the loitering,

is guilty of an offence.

Maximum penalty: 50 penalty units or imprisonment for 2 years, or both.

- (2) In this section:

child means a person under the age of 16 years.

convicted child sexual offender means a person who has been convicted, whether before or after the commencement of this section, of any of the following offences:

- (a) an offence involving sexual activity or acts of indecency that was committed in New South Wales against or in respect of a child and that was punishable by penal servitude or imprisonment for 12 months or more.
- (b) an offence under sections 91D–91G of the *Crimes Act 1900* (other than if committed by a child prostitute).
- (c) an offence under section 578B or 578C (2A) of the *Crimes Act 1900*.

- (d) an offence of attempting, or of conspiracy or incitement, to commit an offence referred to in paragraphs (a)–(c),
- (e) an offence under a law of a place outside New South Wales that would, if it had been committed in New South Wales, be an offence referred to in paragraphs (a)–(d).

conviction includes a spent conviction.

[Minister's second reading speech made in—
Legislative Council on 20 October 1998
Legislative Assembly on 25 November 1998]