



New South Wales

Crimes Amendment (Sexual Procurement or Grooming of Children) Act 2007 No 74

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New South Wales

Crimes Amendment (Sexual Procurement or Grooming of Children) Act 2007 No 74

Act No 74, 2007

An Act to amend the *Crimes Act 1900* with respect to the sexual procurement or grooming of children, and to make consequential amendments to other Acts. [Assented to 7 December 2007]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Crimes Amendment (Sexual Procurement or Grooming of Children) Act 2007*.

2 Commencement

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

3 Amendment of Crimes Act 1900 No 40

The *Crimes Act 1900* is amended as set out in Schedule 1.

4 Consequential amendments to Criminal Procedure Act 1986 No 209

The *Criminal Procedure Act 1986* is amended as set out in Schedule 2.

5 Consequential amendment to Child Protection (Offenders Registration) Act 2000 No 42

The *Child Protection (Offenders Registration) Act 2000* is amended as set out in Schedule 3.

6 Repeal of Act

- (1) This Act is repealed on the day following the day on which this Act commences.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

Schedule 1 Amendment of Crimes Act 1900 No 40

(Section 3)

[1] Section 66EB

Insert after section 66EA:

66EB Procuring or grooming child under 16 for unlawful sexual activity

(1) Definitions

In this section:

adult person means a person who is of or over the age of 18 years.

child means a person who is under the age of 16 years.

conduct includes:

- (a) communicating in person or by telephone, the internet or other means, or
- (b) providing any computer image, video or publication.

unlawful sexual activity means an act that constitutes an offence under this Division or Division 10A or 15 (or, in the case of an act occurring outside this State, that would constitute such an offence if it occurred in this State).

(2) Procuring children

An adult person who intentionally procures a child for unlawful sexual activity with that or any other person is guilty of an offence.

Maximum penalty:

- (a) in the case of a child who is under the age of 14 years—imprisonment for 15 years, or
- (b) in any other case—imprisonment for 12 years.

(3) Grooming children

An adult person:

- (a) who engages in any conduct that exposes a child to indecent material or provides a child with an intoxicating substance, and
- (b) who does so with the intention of making it easier to procure the child for unlawful sexual activity with that or any other person,

is guilty of an offence.

Maximum penalty:

- (a) in the case of a child who is under the age of 14 years—imprisonment for 12 years, or
- (b) in any other case—imprisonment for 10 years.

(4) **Unlawful sexual activity need not be particularised**

In any proceedings for an offence against this section, it is necessary to prove that the child was or was to be procured for unlawful sexual activity, but it is not necessary to specify or to prove any particular unlawful sexual activity.

(5) **Fictitious children**

A reference in this section to a child includes a reference to a person who pretends to be a child if the accused believed that the person was a child. In that case, a reference in this section:

- (a) to unlawful sexual activity includes a reference to anything that would be unlawful sexual activity if the person were a child, and
- (b) to the age of the child is a reference to the age that the accused believed the person to be.

(6) **Charge for aggravated offence**

The higher maximum penalty under subsection (2) or (3) in the case of a child under the age of 14 years does not apply unless the age of the child is set out in the charge for the offence.

(7) **Defence**

It is a defence in proceedings for an offence against this section if the accused reasonably believed that the other person was not a child.

(8) **Alternative verdict**

If on the trial of a person charged with an offence against subsection (2) the jury is not satisfied that the offence is proven but is satisfied that the person has committed an offence against subsection (3), the jury may acquit the person of the offence charged and find the person guilty of an offence against subsection (3). The person is liable to punishment accordingly.

[2] Section 77 Consent no defence in certain cases

Insert “, 66EB” after “66EA”.

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Amendment of Crimes Act 1900 No 40

Schedule 1

[3] Section 562A Definition of “personal violence offence”

Insert “, 66EB” after “66EA”.

Schedule 2 Consequential amendments to Criminal Procedure Act 1986 No 209

(Section 4)

[1] Section 3 (1) Definition of “prescribed sexual offence”

Insert “, 66EB” after “66EA”.

[2] Schedule 1 Indictable offences triable summarily

Omit “or 61O (1) or (1A)” from clause 1 of Table 2.

Insert instead “, 61O (1) or (1A) or 66EB”.

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Consequential amendment to Child Protection (Offenders Registration) Act Schedule 3
2000 No 42

**Schedule 3 Consequential amendment to Child
Protection (Offenders Registration) Act
2000 No 42**

(Section 5)

Section 3 (1) Definition of “Class 2 offence”

Insert after paragraph (a):

(a1) an offence under section 66EB of the *Crimes Act 1900*, or

[Second reading speech made in Legislative Council on 7 November 2007

Agreement in principle speech made in Legislative Assembly on 28 November 2007]

BY AUTHORITY