



New South Wales

Crimes Legislation Amendment (Child Sex Offences) Bill 2015

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are:

- (a) to amend section 66A of the *Crimes Act 1900* to make the offence of having sexual intercourse with a child who is under the age of 10 years punishable by a maximum penalty of life imprisonment, and
- (b) to amend the *Crimes (Sentencing Procedure) Act 1999* to establish standard non-parole periods for various child sex offences under the *Crimes Act 1900*.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Crimes Act 1900 No 40

Under section 66A of the *Crimes Act 1900* the offence of having sexual intercourse with a child under the age of 10 years currently carries a maximum penalty of 25 years imprisonment while the offence, if committed in circumstances of aggravation, carries a maximum penalty of imprisonment for life.

Schedule 1 [1] substitutes section 66A to remove the distinction between the basic offence and the aggravated offence and make the basic offence carry a maximum penalty of imprisonment for life.

Under section 21 of the *Crimes (Sentencing Procedure) Act 1999* a court may nevertheless impose a sentence of imprisonment for a specified term. A standard non-parole period of 15 years is set under Division 1A of Part 4 of that Act.

Schedule 1 [2], [3], [4] and [5] contain consequential amendments.

Schedule 1 [6] is a savings and transitional provision.

Schedule 2 Amendment of Crimes (Sentencing Procedure) Act 1999 No 92

The Table to Division 1A of Part 4 of the *Crimes (Sentencing Procedure) Act 1999* (the **Table**) sets standard non-parole periods for a number of offences. When determining a sentence for an offence listed in the Table, a court is required to take into account the standard non-parole period for the offence.

Schedule 2 [2] amends the Table to introduce standard non-parole periods for certain child sex offences under the *Crimes Act 1900* set out in the amendment.

Schedule 2 [1] makes an amendment that is consequential on the amendment made by **Schedule 1 [1]**.

Schedule 2 [3] is a savings and transitional provision.



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Contents

	Page
1 Name of Act	2
2 Commencement	2
Schedule 1 Amendment of Crimes Act 1900 No 40	3
Schedule 2 Amendment of Crimes (Sentencing Procedure) Act 1999 No 92	4



New South Wales

Crimes Legislation Amendment (Child Sex Offences) Bill 2015

No. , 2015

A Bill for

An Act to amend the *Crimes Act 1900* with respect to the offence of sexual intercourse with a child under 10 years of age and to amend the *Crimes (Sentencing Procedure) Act 1999* to set standard non-parole periods for certain child sex offences.

The Legislature of New South Wales enacts:

1

1 Name of Act

2

This Act is the *Crimes Legislation Amendment (Child Sex Offences) Act 2015*.

3

2 Commencement

4

This Act commences on the date of assent to this Act.

5

Schedule 1	Amendment of Crimes Act 1900 No 40	1
[1] Section 66A		2
	Omit the section. Insert instead:	3
66A Sexual intercourse—child under 10		4
(1)	Any person who has sexual intercourse with a child who is under the age of 10 years is guilty of an offence. Maximum penalty: imprisonment for life.	5 6 7
(2)	A person sentenced to imprisonment for life for an offence under this section is to serve that sentence for the term of the person’s natural life.	8 9
(3)	Nothing in this section affects the operation of section 21 of the <i>Crimes (Sentencing Procedure) Act 1999</i> (which authorises the passing of a lesser sentence than imprisonment for life).	10 11 12
(4)	Nothing in this section affects the prerogative of mercy.	13
[2] Section 66E Alternative verdicts		14
	Omit “section 66A (1) or (2)” from section 66E (1). Insert instead “section 66A”.	15
[3] Section 66E (2)		16
	Omit the subsection.	17
[4] Section 77 Consent no defence in certain cases		18
	Omit “66A (1) or (2)” from section 77 (1). Insert instead “66A”.	19
[5] Section 431A Life sentences		20
	Omit “section 66A (2)” from section 431A (2). Insert instead “section 66A”.	21
[6] Schedule 11 Savings and transitional provisions		22
	Insert at the end of the Schedule:	23
Part 34 Crimes Legislation Amendment (Child Sex Offences) Act 2015		24 25
76 Application of amendments		26
	An amendment made by the <i>Crimes Legislation Amendment (Child Sex Offences) Act 2015</i> applies only in respect of an offence committed, or alleged to have been committed, on or after the commencement of the amendment.	27 28 29

Schedule 2 Amendment of Crimes (Sentencing Procedure) Act 1999 No 92

[1] Part 4, Division 1A, Table

Omit “Section 66A (1) or (2)” from item 10. Insert instead “Section 66A”.

[2] Part 4, Division 1A, Table

Insert after item 10:

10A	Section 66B of the <i>Crimes Act 1900</i> (attempt, or assault with intent, to have sexual intercourse with a child under 10 years)	10 years
10B	Section 66C (1) of the <i>Crimes Act 1900</i> (sexual intercourse with a child 10–14 years)	7 years
10C	Section 66C (2) of the <i>Crimes Act 1900</i> (aggravated sexual intercourse with a child 10–14 years)	9 years
10D	Section 66C (4) of the <i>Crimes Act 1900</i> (aggravated sexual intercourse with a child 14–16 years)	5 years
10E	Section 66EB (2) of the <i>Crimes Act 1900</i> (procure a child under 14 years for unlawful sexual activity)	6 years
10F	Section 66EB (2) of the <i>Crimes Act 1900</i> (procure a child 14–16 years for unlawful sexual activity)	5 years
10G	Section 66EB (2A) of the <i>Crimes Act 1900</i> (meet a child under 14 years following grooming)	6 years
10H	Section 66EB (2A) of the <i>Crimes Act 1900</i> (meet a child 14–16 years following grooming)	5 years
10I	Section 66EB (3) of the <i>Crimes Act 1900</i> (groom a child under 14 years for unlawful sexual activity)	5 years
10J	Section 66EB (3) of the <i>Crimes Act 1900</i> (groom a child 14–16 years for unlawful sexual activity)	4 years
10K	Section 91D (1) of the <i>Crimes Act 1900</i> (induce a child under 14 years to participate in child prostitution)	6 years
10L	Section 91E (1) of the <i>Crimes Act 1900</i> (obtain benefit from child prostitution, child under 14 years)	6 years
10M	Section 91G (1) of the <i>Crimes Act 1900</i> (use a child under 14 years for child abuse material purposes)	6 years

[3] Schedule 2 Savings, transitional and other provisions	1
Insert at the end of the Schedule with appropriate Part and clause numbering:	2
Part Provision consequent on enactment of Crimes Legislation Amendment (Child Sex Offences) Act 2015	3 4 5
Standard non-parole periods	6
The amendments made to this Act by the <i>Crimes Legislation Amendment (Child Sex Offences) Act 2015</i> do not apply to offences committed before the commencement of the amendments.	7 8 9