

Serial
Criminal Justice Legislation Amendment (Sexual Offences) Bill 2023
Mr Paech

A Bill for an Act to amend the Criminal Code and the *Sentencing Act 1995*

**EXPOSURE DRAFT ONLY
PREPARED FOR THE DEPARTMENT OF THE ATTORNEY-GENERAL
AND JUSTICE**

NORTHERN TERRITORY OF AUSTRALIA

CRIMINAL JUSTICE LEGISLATION AMENDMENT (SEXUAL OFFENCES)
ACT 2023

Act No. [] of 2023

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2023

An Act to amend the Criminal Code and the *Sentencing Act 1995*

[Assented to [] 2023]
[Introduced [] 2023]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Criminal Justice Legislation Amendment (Sexual Offences) Act 2023*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

Part 2 Amendment of Criminal Code

3 Criminal Code amended

This Part amends the Criminal Code.

4 Section 1 amended (Definitions)

(1) Section 1

omit

Code, unless the contrary intention appears:

insert

Code:

- (2) Section 1, definitions ***aggravated offence***, ***law enforcement officer***, ***sexual intercourse*** and ***vagina***

omit

- (3) Section 1

insert

act of piracy, for Part III, Division 6, see section 72A.

aggravated offence, see:

(a) for Part VI – section 149B; or

(b) for Part VIA – section 208G.

close family member, for Part VIA, Division 6, see section 208M.

consent, for Part VIA, see section 208GA(1).

genitals, for Part VIA, see section 208G.

indecent, for Part VIA, see section 208GB(1).

indecent act, for Part VIA, see section 208GB(2).

law enforcement officer, for Part VI, see section 149B.

married, for Part VIA, see section 208G.

mental impairment, for Part VIA, Division 5, see section 208L.

part of the body, for Part VIA, see section 208G.

penis, for Part VIA, see section 208G.

pirate, for Part III, Division 6, see section 72.

position of authority, for Part VIA, see section 208GC.

senior rank, for Part VIA, Division 8, see section 208P.

sexual intercourse, for Part VIA, see section 208G.

touches, for Part VIA, see section 208GD.

5 Section 72 amended (Definitions)

- (1) Section 72, definitions ***act of piracy*** and ***master***
omit
- (2) Section 72
insert
act of piracy, see section 72A.

6 Section 72A inserted

After section 72

insert

72A Meaning of *act of piracy*

- (1) Subject to subsection (2), an ***act of piracy*** is any of the following acts on the high seas:
- (a) an act that, if committed in the Territory, would constitute an offence against section 218(1);
 - (b) the boarding of a ship against the wishes or without the knowledge of the master for the purpose of committing on the ship an act that, if committed in the Territory, would constitute an offence against section 156, 181, 194, 195, 202, 208H(1), 208HA(1), 208HB(1) or (2), 241, 243 or 245;
 - (c) an act committed on a ship that, if committed in the Territory, would constitute an offence against section 156, 181, 194, 195, 202, 208H(1), 208HA(1), 208HB(1) or (2), 241, 243 or 245;
 - (d) the stealing of a ship;
 - (e) directly or indirectly taking control of a ship against the wishes of the master;
 - (f) the confining of the master of a ship against the master's will;
 - (g) an act of a person on board a ship intentionally disobeying a lawful direction of the master given for the purpose of ensuring the safety of the ship, the crew or the passengers.

- (2) Neither of the following is an **act of piracy**:
- (a) an act of war committed under the authority of the Commonwealth or the lawful government of a foreign state;
 - (b) the taking of control of a ship by a person against the wishes of the master if:
 - (i) the person is a member of the armed forces of, or is acting with the authority of, the Commonwealth or the lawful government of a foreign state; and
 - (ii) the master had control of the ship as a result of an act of piracy.
- (3) In this section:

master, of a ship, means the person for the time being in control of the ship, whether or not that control was lawfully obtained.

7 Sections 125B to 125E replaced

Sections 125B to 125E

repeal, insert

125B Production, possession etc. of child abuse material

- (1) A person commits an offence if:
- (a) the person intentionally produces, sells, distributes or possesses, or offers or advertises for sale or distribution, material; and
 - (b) the material is child abuse material and the person is reckless in relation to that circumstance.

Maximum penalty:

- (a) for an individual – imprisonment for 10 years; or
 - (b) for a body corporate – 10 000 penalty units.
- (2) It is a defence to a prosecution for an offence against subsection (1) if the defendant:
- (a) is a member or officer of a law enforcement agency or a court who has child abuse material in the member's or officer's possession in the exercise of a power or performance of a function conferred or imposed on the member or officer by or under an Act or law; or

- (b) has child abuse material in the defendant's possession in the exercise of a power, or performance of a function, relating to the classification of such material that is conferred or imposed on the defendant by or under an Act or law; or
 - (c) has child abuse material in the defendant's possession for legitimate medical or health research purposes.
- (3) In a prosecution of a person for an offence against subsection (1), each of the following is evidence that material was in the person's possession:
- (a) proof that the material was in or on a place of which the person was the occupier;
 - (b) proof that the material was in or on a place, the management or control of which, the person was concerned in.
- (4) Subsection (3) does not apply to a person if the person neither knew nor had reason to suspect that the material was in or on that place.
- (5) In proceedings for an offence against subsection (1), a Commonwealth evidentiary certificate is admissible in any court of law and is prima facie evidence that the film, publication or computer game mentioned in the certificate is child abuse material.
- (6) A court that finds a person guilty of an offence against subsection (1):
- (a) must order the forfeiture and destruction of any child abuse material in respect of which the offence was committed; and
 - (b) may order the forfeiture and destruction of any other articles seized at the same time as the child abuse material in respect of which the offence was committed.
- (7) In this section:

Commonwealth evidentiary certificate means a certificate issued under section 87 of the Commonwealth Act that:

- (a) purports to be signed by the Director of the Classification Board or the Deputy Director of the Classification Board; and

- (b) states that a film, publication or computer game is classified RC on the basis that it describes or depicts, in a way that is likely to cause offence to a reasonable adult, a person who is, or appears to be, a child (whether the person is engaged in sexual activity or not).

Note for section 125B

See also section 208JF.

125C Publishing indecent articles

- (1) A person commits an offence if:
 - (a) the person intentionally publishes an article; and
 - (b) the article is indecent and the person is reckless in relation to that circumstance.

Maximum penalty:

- (a) for an individual – imprisonment for 2 years; or
 - (b) for a body corporate – 175 penalty units.
- (2) It is a defence to a prosecution for an offence against subsection (1) if the defendant:
 - (a) published the indecent article for the purposes of an application for classification under the Commonwealth Act; or
 - (b) is a member or officer of a law enforcement agency and published the indecent article in the exercise of a power conferred, or performance of a function imposed, on the member or officer by or under an Act or law.
 - (3) For this section, an article may be indecent even though part of it is not indecent.

125D Using child for production of child abuse material or pornographic or abusive performance

A person commits an offence if:

- (a) the person intentionally uses, offers or procures another person for the production of material or a performance; and
- (b) the other person is a child, or a person who appears to be a child, and the person is reckless in relation to that circumstance; and

- (c) the material is child abuse material, or the performance is a pornographic or abusive performance, and the person is reckless in relation to that circumstance.

Maximum penalty:

- (a) for an individual – imprisonment for 14 years; or
- (b) for a body corporate – 15 000 penalty units.

125E Criminal liability of executive officer of body corporate – legal burden of proof on defence

- (1) An executive officer of a body corporate commits an offence if the body corporate commits an offence against section 125B(1), 125C(1) or 125D (a **relevant offence**).

Maximum penalty: The maximum penalty that may be imposed on an individual for the commission of the relevant offence.

- (2) An offence against subsection (1) is an offence of absolute liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant:
 - (a) was not in a position to influence the conduct of the body corporate in relation to the commission of the relevant offence; or
 - (b) took reasonable steps to prevent the commission of the relevant offence; or
 - (c) did not know, and could not reasonably have been expected to know, that the relevant offence would be committed.
- (4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).
- (5) In deciding whether the defendant took (or failed to take) reasonable steps to prevent the commission of the relevant offence, a court must consider the following:
 - (a) any action the defendant took directed towards ensuring the following (to the extent the action is relevant to the commission of the relevant offence):
 - (i) the body corporate arranged regular professional assessments of the body corporate's compliance with the provision to which the relevant offence relates;

-
- (ii) the body corporate implemented any appropriate recommendation arising from an assessment under subparagraph (i);
 - (iii) the body corporate's employees, agents and contractors had a reasonable knowledge and understanding of the requirement to comply with the provision to which the relevant offence relates;
- (b) any action the defendant took when the defendant became aware that the relevant offence was, or could be, about to be committed.
- (6) Subsection (5) does not limit the matters the court may consider.
- (7) This section does not affect the liability of the body corporate.
- (8) This section applies to an executive officer whether or not the body corporate is prosecuted for, or found guilty of, the relevant offence.
- (9) Subsection (1) does not apply to an executive officer if the body corporate would have a defence to a prosecution for the relevant offence.

Note for subsection (9)

The defendant has an evidential burden in relation to the matters mentioned in subsection (9) (see section 43BU of the Criminal Code).

- (10) In this section:

executive officer, of a body corporate, means a director or other person who is concerned with, or takes part in, the management of the body corporate.

8 Section 125F amended (Court proceedings)

- (1) Section 125F(1)(a)

omit, insert

- (a) an offence against section 125B(1) or 125D; or

- (2) Section 125F(1)(b)

omit

125C

insert

125C(1)

9 Part V, Division 2, Subdivision 2 replaced

Part V, Division 2, Subdivision 2

repeal, insert

Division 2A Offence relating to human remains**126 Interference with or indignity to human remains**

- (1) A person commits an offence if:
- (a) the person intentionally engages in conduct in relation to human remains, whether or not the remains are buried; and
 - (b) the conduct is an improper or indecent interference with, or an indignity to, the remains, according to the standards of ordinary people.

Maximum penalty: Imprisonment for 2 years.

- (2) Absolute liability applies to subsection (1)(b).
- (3) In a prosecution for an offence against subsection (1), the question of what is improper, indecent or an indignity is a matter for the trier of fact.

10 Section 188 amended (Common assault)

- (1) Section 188(2)(k)
omit
- (2) Section 188(2)(m)
omit
weapon,
insert
weapon;
- (3) Section 188(2)(a) to (j), at the end
insert
or

(4) Section 188(3)

omit

11 Sections 192 to 192B repealed

Sections 192 to 192B

repeal

12 Section 208AAB inserted

After section 208AA

insert

208AAB Recording or capturing intimate image without consent

- (1) A person commits an offence if:
- (a) the person intentionally records or captures an image of another person; and
 - (b) the image is an intimate image and the person is reckless in relation to that circumstance; and
 - (c) the other person did not consent to the recording or capturing of the image at the time it was recorded or captured and the person is reckless in relation to that circumstance.

Maximum penalty: Imprisonment for 3 years.

- (2) It is a defence to a prosecution for an offence against subsection (1) if the image was recorded or captured:
- (a) by a law enforcement officer acting reasonably in the performance of the officer's duty; or
 - (b) for the purpose of reporting unlawful conduct to a law enforcement officer; or
 - (c) of a child or other person incapable of giving consent:
 - (i) for a scientific, medical or educational purpose; or
 - (ii) in other circumstances that a reasonable person would regard as acceptable.

Example for subsection (2)(c)(ii)

Sharing a photograph or movie of a naked newborn relative.

- (3) A person under the age of 16 years is taken to be incapable of consenting to the recording or capturing of an intimate image of the person.

13 Part VIA inserted

After section 208F

insert

Part VIA Sexual offences

Division 1 Interpretation

208G Definitions

In this Part:

aggravated offence means an offence against this Part that is an aggravated offence under section 208PA.

close family member, for Division 6, see section 208M.

consent, see section 208GA(1).

genitals includes the internal and external female genitals and any surgically constructed genitals.

indecent, see section 208GB(1).

indecent act, see section 208GB(2).

married means married according to the law of Australia.

mental impairment, for Division 5, see section 208L.

part of the body includes a surgically constructed part of the body.

penis includes a surgically constructed penis.

position of authority, see section 208GC.

senior rank, for Division 8, see section 208P.

sexual intercourse means:

- (a) the penetration (to any extent) of the genitals or anus of a person with any part of the body of a person or with anything manipulated by a person; or

- (b) the penetration (to any extent) of the mouth of a person with the penis of a person; or
- (c) cunnilingus; or
- (d) fellatio; or
- (e) the continuation of sexual intercourse, as defined in paragraphs (a) to (d).

*Note for definition **sexual intercourse***

Section 208PD provides a general exception for an offence against this Part for engaging in sexual intercourse in the course of a procedure carried out in good faith for medical or hygienic purposes.

touches, see section 208GD.

208GA Consent

- (1) **Consent**, to a sexual act, means free and voluntary agreement to the act.
- (2) Examples of circumstances in which a person does not consent to a sexual act include the following:
 - (a) the person submits to the act because of force or the fear of force to the person or to someone else;
 - (b) the person submits to the act because the person is unlawfully detained;
 - (c) the person submits to the act because of a false representation as to the nature or purpose of the act;
 - (d) the person is asleep or unconscious or is so affected by alcohol, a drug or another substance as to be incapable of consenting;
 - (e) the person is incapable of understanding the sexual nature of the act;
 - (f) the person is mistaken about the sexual nature of the act;
 - (g) the person is mistaken about the identity of another person involved in the act;

- (h) the person participates in the act because of an intentional misrepresentation by another person about the use of a condom.

Example for subsection (2)(f)

The person mistakenly believes that the act is for medical or hygienic purposes.

- (3) In this section:

sexual act means an act that is the subject of an offence against this Part.

Note for section 208GA

Section 208PC also requires that the Judge direct a jury, in a relevant case, as to the factors the jury may have regard to in determining whether or not there was consent.

208GB Indecent and indecent act

- (1) An act is **indecent** if it is indecent according to the standards of ordinary people.
- (2) An **indecent act** is an act that is indecent but does not include indecent touching.
- (3) In a prosecution for an offence, indecency or gross indecency is a matter for the trier of fact.

208GC Meaning of *position of authority*

- (1) A person is in a **position of authority** in relation to a person who is 16 or 17 years of age (the **young person**) if, at the time of the conduct concerned:
- (a) the person is a parent, step-parent, foster parent, legal guardian or legal custodian of the young person; or
- (b) the person is a school teacher at a school and the young person is enrolled at the school; or
- (c) the person is an employer of the young person; or
- (d) the person is a religious instructor to the young person; or
- (e) the person is a counsellor to the young person in a professional capacity; or
- (f) the person is a health practitioner and the young person is the person's patient; or

- (g) the person is a police officer or correctional services officer and the young person is in the person's care, custody or control as such an officer; or
- (h) the person has authority over the young person because of the circumstances of the person's relationship with the young person, regardless of whether the authority is exercised lawfully.

Example for subsection (1)(h)

The person supplies the young person with drugs.

- (2) In subsection (1):

health practitioner means a person registered under the Health Practitioner Regulation National Law to practise in a health profession (other than as a student).

208GD Meaning of touches

A person **touches** another person if the person touches the other person with any part of the person's body or with anything manipulated by the person.

Division 2 Sexual acts committed without consent

208H Sexual intercourse

- (1) A person commits an offence if:
 - (a) the person intentionally engages in sexual intercourse with another person; and
 - (b) the other person does not consent to the sexual intercourse and the person is reckless in relation to the other person's lack of consent.

Maximum penalty: Imprisonment for life.

- (2) For subsection (1), despite section 43AK:
 - (a) being reckless in relation to a lack of consent to sexual intercourse includes not giving any thought to whether or not the other person consents to sexual intercourse; and
 - (b) the trier of fact must have regard to all the circumstances of the case including any steps taken by the person to ascertain whether the other person consents to the sexual intercourse.

208HA Procuring sexual intercourse or penetration

- (1) A person commits an offence if:
- (a) the person intentionally procures, by force or otherwise, another person:
 - (i) to engage in sexual intercourse with someone else; or
 - (ii) to sexually deal with, or be sexually dealt with by, an animal, as defined in section 208N(2) or (3); or
 - (iii) to penetrate (to any extent) the other person's own genitals or anus; and
 - (b) the other person does not consent to engaging in the conduct and the person is reckless in relation to the other person's lack of consent.

Maximum penalty: Imprisonment for life.

- (2) For subsection (1), despite section 43AK:
- (a) being reckless in relation to a lack of consent to engaging in conduct includes not giving any thought to whether or not the other person consents to engaging in the conduct; and
 - (b) the trier of fact must have regard to all the circumstances of the case including any steps taken by the person to ascertain whether the other person consents to engaging in the conduct.

208HB Gross indecency

- (1) A person commits an offence if:
- (a) the person intentionally performs an act on another person; and
 - (b) the act is grossly indecent; and
 - (c) the other person does not consent to the act being performed and the person is reckless in relation to the other person's lack of consent.

Maximum penalty: Imprisonment for 14 years or, for an aggravated offence, 17 years.

- (2) A person commits an offence if:
- (a) the person intentionally engages in conduct; and

- (b) the conduct results in another person performing an act on the person and the person intends that result; and
- (c) the act is grossly indecent; and
- (d) the other person does not consent to performing the act and the person is reckless in relation to the other person's lack of consent.

Maximum penalty: Imprisonment for 14 years or, for an aggravated offence, 17 years.

- (3) Absolute liability applies to subsections (1)(b) and (2)(c).
- (4) For subsections (1) and (2), despite section 43AK:
 - (a) being reckless in relation to a lack of consent to the performance of an act includes not giving any thought to whether or not the other person consents to the act; and
 - (b) the trier of fact must have regard to all the circumstances of the case including any steps taken by the person to ascertain whether the other person consents to the act.

208HC Indecent touching or act

- (1) A person commits an offence if:
 - (a) the person intentionally:
 - (i) touches another person; or
 - (ii) engages in an act directed at another person; and
 - (b) the touching is indecent or the act is an indecent act; and
 - (c) the other person does not consent to the touching or act and the person is reckless in relation to the other person's lack of consent.

Maximum penalty: Imprisonment for 5 years or, for an aggravated offence, 7 years.

- (2) A person commits an offence if:
 - (a) the person intentionally engages in conduct; and
 - (b) the conduct results in the person being touched by another person and the person intends that result; and
 - (c) the touching is indecent; and

- (d) the other person does not consent to the touching and the person is reckless in relation to the other person's lack of consent.

Maximum penalty: Imprisonment for 5 years or, for an aggravated offence, 7 years.

- (3) Absolute liability applies to subsections (1)(b) and (2)(c).
- (4) For subsections (1) and (2), despite section 43AK:
- (a) being reckless in relation to a lack of consent to touching or an act includes not giving any thought to whether or not the other person consents to the touching or act; and
- (b) the trier of fact must have regard to all the circumstances of the case including any steps taken by the person to ascertain whether the other person consents to the touching or act.

208HD Procuring indecent touching

- (1) A person commits an offence if:
- (a) the person intentionally procures, by force or otherwise, another person:
- (i) to touch any part of the other person's own body; or
- (ii) to touch, or be touched by, someone else; or
- (iii) to touch, or be touched by, an animal; and
- (b) the touching is indecent; and
- (c) the other person does not consent to the touching and the person is reckless in relation to the other person's lack of consent.

Maximum penalty: Imprisonment for 5 years or, for an aggravated offence, 7 years.

- (2) Absolute liability applies to subsection (1)(b).
- (3) For subsection (1), despite section 43AK:
- (a) being reckless in relation to a lack of consent to touching includes not giving any thought to whether or not the other person consents to the touching; and

- (b) the trier of fact must have regard to all the circumstances of the case including any steps taken by the person to ascertain whether the other person consents to the touching.

208HE Public masturbation

- (1) A person commits an offence if:
 - (a) the person intentionally masturbates; and
 - (b) the conduct occurs in public or in a place that is visible to the public.

Maximum penalty: Imprisonment for 2 years.

- (2) Strict liability applies to subsection (1)(b).

208HF Attempt to commit sexual offence and recklessness

- (1) Despite section 43BF(4), if recklessness is specified to be a fault element for a physical element of an offence against this Division, recklessness is also a fault element for the same physical element in relation to an attempt to commit that offence.
- (2) The fault element of recklessness mentioned in subsection (1) includes the fault element as extended by section 208H(2), 208HA(2), 208HB(4), 208HC(4) or 208HD(3).

Division 3 Sexual acts committed against or with children

208J Sexual intercourse involving child

- (1) A person commits an offence if:
 - (a) the person intentionally engages in sexual intercourse with another person; and
 - (b) the other person is under 14 years of age.

Maximum penalty:

- (a) if the other person is under 10 years of age – imprisonment for life; or
 - (b) if the other person is at least 10 years of age but under 14 years of age – imprisonment for 20 years or, for an aggravated offence, 25 years.
- (2) Absolute liability applies to subsection (1)(b).

- (3) A person commits an offence if:
- (a) the person intentionally engages in sexual intercourse with another person; and
 - (b) the other person is 14 or 15 years of age.

Maximum penalty: Imprisonment for 16 years or, for an aggravated offence, 20 years.

- (4) Strict liability applies to subsection (3)(b).
- (5) It is a defence to a prosecution for an offence against subsection (3) if:
- (a) the defendant is not more than 24 months older or younger than the person in relation to whom the offence is alleged to have been committed; and
 - (b) the person consented to the sexual intercourse.

208JA Procuring sexual intercourse or penetration involving child

- (1) A person commits an offence if:
- (a) the person intentionally procures, by force or otherwise, another person:
 - (i) to engage in sexual intercourse with someone else; or
 - (ii) to sexually deal with, or be sexually dealt with by, an animal, as defined in section 208N(2) or (3); or
 - (iii) to penetrate (to any extent) the other person's own genitals or anus; and
 - (b) the other person is under 14 years of age.

Maximum penalty:

- (a) if the other person is under 10 years of age – imprisonment for life; or
 - (b) if the other person is at least 10 years of age but under 14 years of age – imprisonment for 20 years or, for an aggravated offence, 25 years.
- (2) Absolute liability applies to subsection (1)(b).

(3) A person commits an offence if:

(a) the person intentionally procures, by force or otherwise, another person:

- (i) to engage in sexual intercourse with someone else; or
- (ii) to sexually deal with, or be sexually dealt with by, an animal, as defined in section 208N(2) or (3); or
- (iii) to penetrate (to any extent) the other person's own genitals or anus; and

(b) the other person is 14 or 15 years of age.

Maximum penalty: Imprisonment for 16 years or, for an aggravated offence, 20 years.

(4) Strict liability applies to subsection (3)(b).

208JB Gross indecency involving child

(1) A person commits an offence if:

(a) the person:

- (i) intentionally performs an act on another person; or
- (ii) intentionally allows another person to perform an act on the person; and

(b) the act is grossly indecent; and

(c) the other person is under 14 years of age.

Maximum penalty: Imprisonment for 20 years or, for an aggravated offence, 25 years.

(2) A person commits an offence if:

(a) the person:

- (i) intentionally performs an act on another person; or
- (ii) intentionally allows another person to perform an act on the person; and

(b) the act is grossly indecent; and

(c) the other person is 14 or 15 years of age.

Maximum penalty: Imprisonment for 16 years or, for an aggravated offence, 20 years.

(3) Absolute liability applies to subsections (1)(b) and (c) and (2)(b).

(4) Strict liability applies to subsection (2)(c).

208JC Indecent touching involving child or indecent act directed at child

(1) A person commits an offence if:

(a) the person:

(i) intentionally touches another person; or

(ii) intentionally allows another person to touch the person;
or

(iii) intentionally engages in an act directed at another person; and

(b) the touching is indecent or the act is an indecent act; and

(c) the other person is under 14 years of age.

Maximum penalty: Imprisonment for 14 years or, for an aggravated offence, 17 years.

(2) A person commits an offence if:

(a) the person:

(i) intentionally touches another person; or

(ii) intentionally allows another person to touch the person;
or

(iii) intentionally engages in an act directed at another person; and

(b) the touching is indecent or the act is an indecent act; and

(c) the other person is 14 or 15 years of age.

Maximum penalty: Imprisonment for 10 years or, for an aggravated offence, 12 years.

(3) Absolute liability applies to subsections (1)(b) and (c) and (2)(b).

- (4) Strict liability applies to subsection (2)(c).

208JD Procuring child to engage in indecent act or touching

- (1) A person commits an offence if:
- (a) the person intentionally procures (by force or otherwise) another person:
 - (i) to engage in an act; or
 - (ii) to touch any part of the other person's own body, touch, or be touched by, someone else or touch, or be touched by, an animal; and
 - (b) the act is an indecent act or the touching is indecent; and
 - (c) the other person is under 14 years of age.

Maximum penalty: Imprisonment for 14 years or, for an aggravated offence, 17 years.

- (2) A person commits an offence if:
- (a) the person intentionally procures, by force or otherwise, another person:
 - (i) to engage in an act; or
 - (ii) to touch any part of the other person's own body, touch, or be touched by, someone else or touch, or be touched by, an animal; and
 - (b) the act is an indecent act or the touching is indecent; and
 - (c) the other person is 14 or 15 years of age.

Maximum penalty: Imprisonment for 10 years or, for an aggravated offence, 12 years.

- (3) Absolute liability applies to subsections (1)(b) and (c) and (2)(b).
- (4) Strict liability applies to subsection (2)(c).

208JE Exposing child to indecent thing or indecent act

- (1) A person commits an offence if:
- (a) the person intentionally exposes another person to a thing or act; and

(b) the thing is indecent or the act is an indecent act; and

(c) the other person is under 14 years of age.

Maximum penalty: Imprisonment for 14 years or, for an aggravated offence, 17 years.

(2) A person commits an offence if:

(a) the person intentionally exposes another person to a thing or act; and

(b) the thing is indecent or the act is an indecent act; and

(c) the other person is 14 or 15 years of age.

Maximum penalty: Imprisonment for 10 years or, for an aggravated offence, 12 years.

(3) Absolute liability applies to subsections (1)(b) and (c) and (2)(b).

(4) Strict liability applies to subsection (2)(c).

(5) It is a defence to a prosecution for an offence against subsection (1) or (2) if the defendant has a reasonable excuse.

208JF Recording or capturing indecent image of child

(1) A person commits an offence if:

(a) the person intentionally records or captures a visual image of another person; and

(b) the image is indecent; and

(c) the other person is under 14 years of age.

Maximum penalty: Imprisonment for 10 years.

(2) A person commits an offence if:

(a) the person intentionally records or captures a visual image of another person; and

(b) the image is indecent; and

(c) the other person is 14 or 15 years of age.

Maximum penalty: Imprisonment for 8 years.

(3) Absolute liability applies to subsections (1)(b) and (c) and (2)(b).

- (4) Strict liability applies to subsection (2)(c).
- (5) It is a defence to a prosecution for an offence against subsection (1) or (2) if the defendant has a reasonable excuse.
- (6) In this section:

image means a moving or still image in any form.

Examples for definition image

1 A file stored on a computer.

2 A photo stored on a phone.

Note for section 208JF

See also section 125B.

208JG Engaging in conduct to procure child to engage in sexual activity

- (1) A person commits an offence if:
- (a) the person engages in conduct in relation to another person (the ***child***); and
 - (b) the person does so with the intention of procuring the child to engage in sexual activity with the person or another person; and
 - (c) the child is under 14 years of age.

Maximum penalty: Imprisonment for 14 years or, for an aggravated offence, 17 years.

- (2) A person commits an offence if:
- (a) the person engages in conduct in relation to another person (the ***child***); and
 - (b) the person does so with the intention of procuring the child to engage in sexual activity with the person or another person; and
 - (c) the child is 14 or 15 years of age.

Maximum penalty: Imprisonment for 10 years or, for an aggravated offence, 12 years.

- (3) Subsection (1)(b) is the fault element for the conduct in subsection (1)(a) and subsection (2)(b) is the fault element for the conduct in subsection (2)(a).

- (4) Absolute liability applies to subsection (1)(c).
- (5) Strict liability applies to subsection (2)(c).
- (6) In this section:

sexual activity means sexual intercourse, an act of gross indecency, an indecent act or indecent touching.

208JH Grooming child to engage in sexual activity

- (1) A person commits an offence if:
 - (a) the person engages in conduct in relation to another person (the **child**); and
 - (b) the person does so with the intention of making it easier to procure the child to engage in sexual activity with the person or another person; and
 - (c) the child is someone:
 - (i) who is under 16 years of age; or
 - (ii) who the person believes to be under 16 years of age.

Maximum penalty: Imprisonment for 10 years or, for an aggravated offence, 12 years.

- (2) A person commits an offence if:
 - (a) the person engages in conduct in relation to the carer of a person (the **child**); and
 - (b) the person does so with the intention of making it easier to procure the child to engage in sexual activity with the person or another person; and
 - (c) the child is someone:
 - (i) who is under 16 years of age; or
 - (ii) who the person believes to be under 16 years of age.

Maximum penalty: Imprisonment for 10 years or, for an aggravated offence, 12 years.

- (3) Subsection (1)(b) is the fault element for the conduct in subsection (1)(a) and subsection (2)(b) is the fault element for the conduct in subsection (2)(a).

- (4) Absolute liability applies to subsections (1)(c)(i) and (2)(c)(i).
- (5) A person may be found guilty of an offence against subsection (1) or (2) even if:
- (a) it is impossible for the sexual activity mentioned in the subsection to take place; or
 - (b) the child is a fictitious person represented to the accused person as a real person; or
 - (c) without limiting section 43CA, the accused person and the child or carer, as the case may be, were both outside the Territory at the time at which some or all of the conduct constituting the offence against subsection (1) or (2) occurred, so long as the intended sexual activity would occur in the Territory.
- (6) In this section:

carer, of a child, means a person who, from time to time, has the child under the person's care, supervision or authority.

Examples for definition carer

1 A parent or guardian of the child.

2 A person who babysits the child.

sexual activity means sexual intercourse, an act of gross indecency, an indecent act or indecent touching.

208JI Repeated sexual abuse of child

- (1) A person commits an offence if:
- (a) the person intentionally engages in a sexual act with another person on more than one occasion during any period; and
 - (b) the other person is under 16 years of age.

Maximum penalty: Imprisonment for life.

- (2) Absolute liability applies to subsection (1)(b).
- (3) For a person to be found guilty of an offence against subsection (1), all the members of the jury must be satisfied beyond reasonable doubt that the evidence establishes that the defendant engaged in sexual acts with the other person on more than one occasion.

- (4) Despite subsection (3):
- (a) it is immaterial:
 - (i) whether the sexual acts are of the same nature, or constitute or would constitute the same offence, on each occasion; or
 - (ii) whether any of the sexual acts occurred outside the Territory, so long as at least one occurred in the Territory; and
 - (b) the prosecution is not required to allege the particulars of any sexual act that would be necessary if the act were charged as a separate offence; and
 - (c) the jury is not required to be satisfied of the particulars of any sexual act that it would have to be satisfied of if the act were charged as a separate offence; and
 - (d) all the members of the jury are not required to be satisfied about the same sexual acts; and
 - (e) it is not necessary for the prosecution to prove each element of each offence constituted by each sexual act.
- (5) A person may be charged in one indictment with:
- (a) the offence against subsection (1) (the ***repeated sexual abuse offence***); and
 - (b) one or more other offences against this Division alleged to have been committed by the person in relation to the other person in the course of the alleged repeated sexual abuse.
- (6) The person charged in one indictment as mentioned in subsection (5) may be found guilty of and punished for any or all of the offences charged.
- (7) A proceeding for an offence against subsection (1) must not be started without the consent of the Director of Public Prosecutions.
- (8) Despite subsection (7), a person may be arrested for or charged with, or remanded in custody or on bail in connection with, an offence against subsection (1) before the necessary consent has been given.

(9) In this section:

sexual act means an act that constitutes, or if it were separately charged would constitute, an offence against another provision of this Part.

208JJ No defence of consent

Consent of the child concerned is not a defence to an offence against this Division, except as mentioned in section 208J(5)(b).

208JK No defence of belief in marriage or de facto relationship

It is not a defence to an offence against this Division if the person charged with the offence believed the person:

- (a) was married to the child; or
- (b) was the de facto partner of the child.

208JL Proceeding against child

(1) This section applies in relation to:

- (a) an offence against section 208JG(1) or (2) or 208JH(1) or (2) alleged to have been committed by a child; or
- (b) an offence against another provision of this Division, other than section 208JI(1), alleged to have been committed by a child under 14 years of age.

(2) A proceeding for the offence must not be started without the consent of the Director of Public Prosecutions.

(3) Despite subsection (2), a child mentioned in subsection (1) may be arrested for or charged with, or remanded in custody or on bail in connection with, the offence before the necessary consent has been given.

Division 4 Sexual acts committed against young persons by persons in positions of authority

208K Sexual intercourse involving young person

(1) A person commits an offence if:

- (a) the person is in a position of authority in relation to another person and is reckless in relation to that circumstance; and

(b) the person intentionally engages in sexual intercourse with the other person; and

(c) the other person is 16 or 17 years of age.

Maximum penalty: Imprisonment for 8 years or, for an aggravated offence, 10 years.

(2) Absolute liability applies to subsection (1)(c).

208KA Procuring sexual intercourse or penetration involving young person

(1) A person commits an offence if:

(a) the person is in a position of authority in relation to another person and is reckless in relation to that circumstance; and

(b) the person intentionally procures, by force or otherwise, the other person:

(i) to engage in sexual intercourse with someone else; or

(ii) to sexually deal with, or be sexually dealt with by, an animal, as defined in section 208N(2) or (3); or

(iii) to penetrate (to any extent) the other person's own genitals or anus; and

(c) the other person is 16 or 17 years of age.

Maximum penalty: Imprisonment for 8 years or, for an aggravated offence, 10 years.

(2) Absolute liability applies to subsection (1)(c).

208KB Gross indecency involving young person

(1) A person commits an offence if:

(a) the person is in a position of authority in relation to another person and is reckless in relation to that circumstance; and

(b) the person:

(i) intentionally performs an act on the other person; or

(ii) intentionally allows the other person to perform an act on the person; and

(c) the act is grossly indecent; and

(d) the other person is 16 or 17 years of age.

Maximum penalty: Imprisonment for 8 years or, for an aggravated offence, 10 years.

(2) Absolute liability applies to subsection (1)(c) and (d).

208KC Indecent touching involving young person or indecent act directed at young person

(1) A person commits an offence if:

(a) the person is in a position of authority in relation to another person and is reckless in relation to that circumstance; and

(b) the person:

(i) intentionally touches the other person; or

(ii) intentionally allows the other person to touch the person;
or

(iii) intentionally engages in an act directed at the other person; and

(c) the touching is indecent or the act is in an indecent act; and

(d) the other person is 16 or 17 years of age.

Maximum penalty: Imprisonment for 7 years or, for an aggravated offence, 9 years.

(2) Absolute liability applies to subsection (1)(c) and (d).

208KD No defence of consent

Consent of the person in relation to whom the offence was committed is not a defence to an offence against this Division.

208KE Defence – marriage or de facto relationship

A person who is in a position of authority in relation to another person is not criminally responsible for an offence against this Division in relation to conduct involving the other person if, at the time of the conduct:

(a) the person was married to, or honestly believed on reasonable grounds that the person was married to, the other person; or

- (b) the person was the de facto partner of, or honestly believed on reasonable grounds that the person was the de facto partner of, the other person.

Division 5 Sexual acts committed by carers involving mentally impaired persons

208L Definition

In this Division:

mental impairment includes senility, intellectual disability, mental illness, brain damage and severe personality disorder.

208LA Person responsible for care of person with mental impairment

For this Division, a person is responsible for the care of a person with a mental impairment if the person provides medical, nursing, therapeutic or educative services to the person with a mental impairment in connection with the impairment.

208LB Sexual intercourse involving person with mental impairment

- (1) A person commits an offence if the person:
- (a) is responsible for the care of a person with a mental impairment; and
 - (b) intentionally engages in sexual intercourse with the person with a mental impairment.

Maximum penalty: Imprisonment for 8 years or, for an aggravated offence, 10 years.

- (2) Strict liability applies to subsection (1)(a).

208LC Procuring sexual intercourse or penetration

- (1) A person commits an offence if the person:
- (a) is responsible for the care of a person with a mental impairment; and
 - (b) intentionally procures, by force or otherwise, the person with a mental impairment:
 - (i) to engage in sexual intercourse with someone else; or
 - (ii) to sexually deal with, or be sexually dealt with by, an animal, as defined in section 208N(2) or (3); or

- (iii) to penetrate (to any extent) the other person's own genitals or anus.

Maximum penalty: Imprisonment for 8 years or, for an aggravated offence, 10 years.

- (2) Strict liability applies to subsection (1)(a).

208LD Gross indecency involving person with mental impairment

- (1) A person commits an offence if:

- (a) the person is responsible for the care of a person with a mental impairment; and
- (b) the person:
 - (i) intentionally performs an act on the person with a mental impairment; or
 - (ii) intentionally allows the person with a mental impairment to perform an act on the person; and
- (c) the act is grossly indecent.

Maximum penalty: Imprisonment for 8 years or, for an aggravated offence, 10 years.

- (2) Strict liability applies to subsection (1)(a).
- (3) Absolute liability applies to subsection (1)(c).

208LE Indecent touching involving person with mental impairment or indecent act directed at person with mental impairment

- (1) A person commits an offence if:

- (a) the person is responsible for the care of a person with a mental impairment; and
- (b) the person:
 - (i) intentionally touches the person with a mental impairment; or
 - (ii) intentionally allows the person with a mental impairment to touch the person; or
 - (iii) intentionally engages in an act directed at the person with a mental impairment; and

(c) the touching is indecent or the act is an indecent act.

Maximum penalty: Imprisonment for 7 years or, for an aggravated offence, 9 years.

- (2) Strict liability applies to subsection (1)(a).
- (3) Absolute liability applies to subsection (1)(c).

208LF Defence – consent

- (1) Subject to subsection (2), consent of the person with a mental impairment is not a defence to an offence against this Division.
- (2) A person who is responsible for the care of a person with a mental impairment is not criminally responsible for an offence against this Division in relation to conduct if, at the time of the conduct:
- (a) the person with a mental impairment consented to the conduct; and
- (b) the giving of the consent was not unduly influenced by the fact that the person was responsible for the care of the person with a mental impairment.

208LG Defence – marriage or de facto relationship

A person who is responsible for the care of a person with a mental impairment is not criminally responsible for an offence against this Division in relation to conduct if, at the time of the conduct:

- (a) the person was married to, or honestly believed on reasonable grounds that the person was married to, the person with a mental impairment; or
- (b) the person was the de facto partner of, or honestly believed on reasonable grounds that the person was the de facto partner of, the person with a mental impairment.

Division 6 Incest

208M Definition

In this Division:

close family member, of a person, means someone who from birth and not from marriage or adoption, is a grandparent, parent, sibling (including a half-brother or half-sister), child or grandchild of the person.

208MA Incest

A person commits an offence if:

- (a) the person intentionally engages in sexual intercourse with another person; and
- (b) the other person is a close family member of the person and the person has knowledge of that circumstance.

Maximum penalty: Imprisonment for 14 years.

208MB No defence of consent

Consent of the close family member is not a defence to an offence against this Division.

208MC Defence – compulsion

A person is not criminally responsible for an offence against section 208MA if a close family member procured (by force or otherwise) the person to engage in the conduct mentioned in section 208MA(a).

Division 7 Sexual offence involving animal**208N Sexual offence involving animal**

(1) A person commits an offence if the person:

- (a) intentionally sexually deals with an animal; or
- (b) intentionally allows the animal to sexually deal with the person.

Maximum penalty: Imprisonment for 7 years.

(2) A person **sexually deals with** an animal if the person:

- (a) inserts (to any extent) any part of the person's body or a thing manipulated by the person into the genitals or anus of the animal; or
- (b) inserts (to any extent) the person's penis into the mouth of the animal; or

- (c) touches the animal's genitals with any part of the person's mouth.

*Note for definition **sexually deals with***

Section 208PD provides a general exception for an offence against this Part for acts done in the course of a procedure carried out in good faith for veterinary or agricultural purposes.

- (3) A person is **sexually dealt with** by an animal if:
- (a) the animal's penis is inserted (to any extent) into the person's genitals, anus or mouth; or
 - (b) any part of the animal's mouth touches the person's genitals.

Division 8 General matters

208P Definition

In this Division:

senior rank means a rank of or above the rank of Commander.

208PA Increased penalty for aggravated offence

- (1) The following are circumstances of aggravation for an offence committed against this Part, and a maximum penalty specified in this Part for an aggravated offence applies if a circumstance of aggravation applies to the offence:
- (a) the offence was committed during torture;
 - (b) the offence was committed by the use or threatened use of an offensive weapon;
 - (c) the offence was committed by a person in the company of another person;
 - (d) the offence was committed in circumstances that involved the victim being caused serious harm or being threatened with serious harm or death;
 - (e) the offence was committed against a child under 14 years of age, except in the case of an offence against Division 3;
 - (f) the offence was committed against a child who is 14 or 15 years of age, except in the case of an offence against Division 3;

- (g) the offence was committed against a person in abuse of a position of trust, except in the case of an offence against Division 4 or 5;
 - (h) the offence was committed against a person in abuse of a position of authority, except in the case of an offence against Division 4.
- (2) For subsection (1)(a), the offence was committed during torture if the person who committed it deliberately and systematically, over a period, inflicted severe pain on the person against whom it was committed.

208PB Procedural and evidentiary provisions

- (1) If the prosecution intends to prove an aggravated offence, the relevant circumstance of aggravation must be contained in the charge.
- (2) In order to prove an aggravated offence, the prosecution must prove that the person who committed the offence was reckless in relation to the circumstance of aggravation.

208PC Jury directions on consent

- (1) In a proceeding for an offence against this Part, the Judge must, in an appropriate case, direct the jury that a person must not be regarded as having consented to a particular sexual act merely because:
 - (a) the person did not say or do anything to indicate that the person did not consent; or
 - (b) the person did not protest or physically resist; or
 - (c) the person did not sustain physical injury; or
 - (d) during the period or on the occasion when the sexual act occurred, or on an earlier occasion, the person consented to engage in a sexual act (whether or not of the same type) with the person charged with the offence or with another person.

- (2) In a proceeding for an offence against this Part, the Judge must, in an appropriate case, direct the jury that, in deciding whether the accused was under a mistaken belief that a person consented to a sexual act, the jury may consider whether the mistaken belief was reasonable in the circumstances.

Note for section 208PC

The Sexual Offences (Evidence and Procedure) Act 1983 contains further provisions about evidence and procedure for offences against this Part.

208PD Exception – medical, hygienic, veterinary or agricultural procedures

A person is not criminally responsible for an offence against this Part in relation to any sexual intercourse, touching or other act done in the course of a procedure carried out in good faith for medical, hygienic, veterinary or agricultural purposes.

208PE Alternative verdicts

- (1) In a proceeding against a person charged with an offence against a provision of this Part (the **prosecuted offence**), the trier of fact may find the person not guilty of the prosecuted offence but guilty of an offence, or an attempt to commit an offence, against another provision of this Part (the **alternative offence**) if the trier of fact:
- (a) is not satisfied beyond reasonable doubt that the person committed the prosecuted offence; and
 - (b) is satisfied beyond reasonable doubt that the person committed the alternative offence.
- (2) Subsection (1) does not authorise the trier of fact to find a person guilty of an alternative offence for which the maximum penalty is greater than the maximum penalty for the prosecuted offence.

208PF Indecent images and related articles may be destroyed

- (1) If any of the following things are seized by a police officer, a police officer of a senior rank may authorise the forfeiture and destruction by a police officer of the thing:
- (a) an indecent image of a child;
 - (b) an article that contains an indecent image of a child;
 - (c) an article that a police officer of a senior rank believes on reasonable grounds contains an indecent image of a child.

-
- (2) Subsection (1) has effect whether or not a person has been charged, or is to be charged with an offence in relation to the thing.
 - (3) The thing may be destroyed at the place at which it was forfeited or at any other place that a police officer of a senior rank thinks fit.
 - (4) If the operation of this section would, apart from this subsection, result in an acquisition of property from a person otherwise than on just terms:
 - (a) the person is entitled to receive from the Territory the compensation necessary to ensure the acquisition is on just terms; and
 - (b) a court of competent jurisdiction may decide the amount of compensation or make the orders it considers necessary to ensure the acquisition is on just terms.

208PG Article containing indecent images may be returned

- (1) If an article that contains, or is believed to contain, an indecent image of a child is forfeited by a police officer under section 208PF, a police officer of a senior rank may authorise a police officer to return the article to the owner of the article.
- (2) The authorisation must not be given unless the police officer of a senior rank is satisfied that all indecent images of children are removed from the article.

14 Sections 319 and 377 repealed

Sections 319 and 377

repeal

15 Part XI, Division 18 inserted

After section 464

insert

Division 19 Criminal Justice Legislation Amendment (Sexual Offences) Act 2023

471 Definitions

In this Division:

commencement means the commencement of Part 2 of the *Criminal Justice Legislation Amendment (Sexual Offences)*

Act 2023.

offence provisions means the provisions of this Act that create or relate to offences, including provisions that relate to criminal responsibility, defences and penalties.

472 Application of offence provisions generally

- (1) Subject to section 473, the offence provisions, as amended by the *Criminal Justice Legislation Amendment (Sexual Offences) Act 2023*, apply only in relation to offences committed after the commencement.
- (2) The offence provisions, as in force before the commencement, continue to apply in relation to offences committed before the commencement.
- (3) For this section, if any of the conduct constituting an offence occurred before the commencement, the offence is taken to have been committed before the commencement.

473 Offence of repeated sexual abuse of child

- (1) A person may be charged with an offence against section 208JI(1) if it is alleged that the person:
 - (a) engaged, on at least one occasion after the commencement, in conduct constituting a sexual act; and
 - (b) before the commencement, engaged in an act constituting an offence of a sexual nature on one or more occasions.
- (2) For subsection (1), section 208JI has effect as if an offence of a sexual nature were a sexual act.
- (3) Despite subsections (1) and (2) and the repeal of section 131A of the Act, a person may be charged with an offence against section 131A of the Act, as in force immediately before the commencement, in relation to offences of a sexual nature alleged to have been committed on 3 or more occasions before the commencement.
- (4) In this section:

offence of a sexual nature, see section 131A(1) of this Act as in force immediately before the commencement.

sexual act, see section 208JI(9).

16 Schedule 1 amended (Provisions of Code to which Part IIAA applies)

(1) Schedule 1

insert (in numerical order)

Part V (Acts injurious to the public in general), Division 2A (Offences relating to human remains)

(2) Schedule 1

omit

Section 192 (Sexual intercourse and gross indecency without consent)

(3) Schedule 1, entry for Part VI, Division 7A

omit

(Distributing

insert

(Taking and distributing

(4) Schedule 1

insert (in numerical order)

Part VIA (Sexual offences)

17 Act further amended

The Schedule has effect.

Part 3 Amendment of Sentencing Act 1995**18 Act amended**

This Part amends the *Sentencing Act 1995*.

19 Section 5 amended (Sentencing guidelines)

After section 5(3)

insert

- (3A) Despite subsection (2)(e), a court must disregard the good character of an offender if:
- (a) the offence for which the offender is being sentenced is an offence against Part V, Division 2 or Part VIA of the Criminal Code; and
 - (b) the person against whom the offence was committed was, at the time the offence was committed, under 18 years of age; and
 - (c) the court is satisfied that the offender's alleged good character was of assistance to the offender in the commission of the offence.

20 Part 12, Division 11 inserted

After section 148

insert

Division 11 Criminal Justice Legislation Amendment (Sexual Offences) Act 2023**149 Application of amendment**

- (1) Section 5, as amended by Part 3 of the *Criminal Justice Legislation Amendment (Sexual Offences) Act 2023*, applies only in relation to offences committed after the commencement of this section.
- (2) For subsection (1), if any of the conduct constituting an offence occurred before the commencement, the offence is taken to have been committed before the commencement of this section.

Part 4 Repeal of Act**21 Repeal of Act**

This Act is repealed on the day after it commences.

Schedule Act further amended

section 17

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 43BK(1)	natural persons	individuals
section 43BK(2)	natural persons a natural person.	individuals an individual.
Part V, Division 2, heading	whole heading	Division 2 Child abuse material and indecent articles
Part V, Division 2, Subdivision 1, heading	whole heading	
section 125A(1)	Subdivision	Division
section 125A(1), definition Commonwealth Act	of the Commonwealth.	(Cth).
section 125A(2) and (3)	subdivision	Division
section 149B, definition law enforcement officer	whole definition	law enforcement officer means: (a) a police officer or a member of the police force or police service of any State; or (b) a member of the Australian Federal Police; or (c) a member of staff of the Australian Crime Commission.
Part VI, Division 7A, heading	Distributing	Recording and distributing

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 208AA, definition law enforcement officer	whole definition	
section 208AA		consent means free and voluntary agreement.
section 208AA, definition image	"jpeg"	
section 208AB(1)	if the person:	if:
section 208AB(1)(a), before "intentionally"		the person
section 208AB(8)	whole subsection	