MODELS OF LAWS ON GROOMING AND SEXUAL EXPLOITATION OF CHILDREN

Comparative legal review of harassment and sexual exploitation laws across the Commonwealth
Outline
The Legal Assistance Centre and Sisters For Change have compiled four separate volumes of appendices to accompany the EJA report, *Comparative legal review of harassment and sexual exploitation laws across the Commonwealth*. The appendices are available in PDF format and provide excerpts of legislation on discrimination, harassment and sexual exploitation from across the regions of the Commonwealth, as well as relevant international and regional conventions and directives.

Appendix 4 Models of laws on grooming and sexual exploitation of children includes excerpts of domestic laws on grooming and sexual exploitation from across the regions of the Commonwealth – Africa, Asia, Caribbean and the Americas, Europe and Pacific – and international and regional conventions on the rights and protection of children.

About Legal Assistance Centre
The Legal Assistance Centre (LAC) is a public interest law centre in Namibia which strives to make the law accessible to those with the least access, through education, law reform, research, litigation, legal advice, representation and lobbying, with the ultimate aim of creating and maintaining a human rights culture in Namibia.

About Sisters For Change
Sisters For Change (SFC) is an international NGO working to eliminate discrimination and violence against women and girls worldwide through legal reform, legal empowerment, legal accountability and legal advocacy strategies. SFC works to generate systemic change in how governments combat violence, structural change to give women voice and agency in justice systems and social change to end the social acceptance of violence against women and girls. SFC is active in the UK, India and Indonesia. As a member of the Equality & Justice Alliance, SFC is working to reform laws that discriminate against women and girls and LGBT people across the Commonwealth. SFC is currently working with the Governments of Namibia, Saint Lucia and Samoa on technical assistance programmes and is a member of the SADC Parliamentary Forum’s Technical Working Group on the development of a Model Law on Gender-Based Violence.

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Design by Bright Design, elaine_craig@hotmail.com
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A. Laws on grooming

1. Australia
2. Botswana
3. Namibia
4. South Africa
5. New Zealand
6. Zimbabwe
A. Laws on grooming

Commonwealth Africa

BOTSWANA

Cybercrime and Computer Related Crimes Act 2018

19. Pornographic or obscene material

(3) A person who, by means of a computer or computer system, communicates with a person who is, or who the accused believes is –
   (a) under the age of 18 years, for the purpose of facilitating the commission of the offence of child pornography under this Act, or the offences of prostitution, rape or indecent assault under the Penal Code;
   (b) under the age of 16 years, for the purpose of facilitating the commission of the offences of abduction or kidnapping of that person under the Penal Code; or
   (c) under the age of 16 years, for the purpose of facilitating the commission of the offence of defilement or any sexual offence against that person under the Penal Code,
   commits an offence and is liable to a fine not exceeding P 100 000 or to a term of imprisonment not exceeding five years, or to both.

(4) Evidence that the person in paragraph (a), (b) or (c) of subsection (3) was represented to the accused as being under the age of 18 years or 16 years, as the case may be, is, in absence of evidence to the contrary, proof that the accused believed that the person was under that age.

(5) It shall not be a defence to a charge under subsection (3) that the accused believed that the person he or she was communicating with was at least 18 or 16 years of age, as the case may be, unless the accused took reasonable steps to ascertain the age of the person.

(6) For the purposes of subsection (3), it does not matter that the person in paragraph (a), (b) or (c) is a fictitious person, represented to the accused as a real person.

SOUTH AFRICA

Criminal Law (Sexual Offences and Related Matters) Amendment Act 2007

18. Sexual grooming of children

(1) A person (‘A’) who –
   (a) manufactures, produces, possesses, distributes or facilitates the manufacture, production or distribution of an article, which is exclusively intended to facilitate the commission of a sexual act with or by a child (‘B’);
   (b) manufactures, produces, possesses, distributes or facilitates the manufacture, production or distribution of a publication or film that promotes or is intended to be used in the commission of a sexual act with or by B;
   (c) supplies, exposes or displays to a third person (‘C’)-
A. Laws on grooming

(i) an article which is intended to be used in the performance of a sexual act;
(ii) child pornography or pornography; or
(iii) a publication or film, with the intention to encourage, enable, instruct or persuade C to perform a sexual act with B; or
(d) arranges or facilitates a meeting or communication between C and B by any means from, to or in any part of the world, with the intention that C will perform a sexual act with B, is guilty of the offence of promoting the sexual grooming of a child.

(2) A person ('A') who –

(a) supplies, exposes or displays to a child complainant ('B') –
   (i) an article which is intended to be used in the performance of a sexual act;
   (ii) child pornography or pornography; or
   (iii) a publication or film, with the intention to encourage, enable, instruct or persuade B to perform a sexual act;
(b) commits any act with or in the presence of B or who describes the commission of any act to or in the presence of B with the intention to encourage or persuade B or to diminish or reduce any resistance or unwillingness on the part of B to –
   (i) perform a sexual act with A or a third person ('C');
   (ii) perform an act of self-masturbation in the presence of A or C while A or C is watching;
   (iii) be in the presence of or watch A or C while A or C performs a sexual act or an act of self-masturbation;
   (iv) be exposed to child pornography or pornography;
   (v) be used for pornographic purposes as contemplated in section 20 (1); or
   (vi) expose his or her body, or parts of his or her body to A or C in a manner or in circumstances which violate or offend the sexual integrity or dignity of B;
(c) arranges or facilitates a meeting or communication with B by any means from, to or in any part of the world, with the intention that A will commit a sexual act with B;
(d) having met or communicated with B by any means from, to or in any part of the world, invites, persuades, seduces, induces, entices or coerces B –
   (i) to travel to any part of the world in order to meet A with the intention to commit a sexual act with B; or
   (ii) during such meeting or communication or any subsequent meeting or communication to –
      (aa) commit a sexual act with A;
      (bb) discuss, explain or describe the commission of a sexual act; or
      (cc) provide A, by means of any form of communication including electronic communication, with any image, publication, depiction, description or sequence of child pornography of B himself or herself or any other person; or
(e) having met or communicated with B by any means from, to or in any part of the world, intentionally travels to meet or meets B with the intention of committing a sexual act with B, is guilty of the offence of sexual grooming of a child.

24. Sexual grooming of persons who are mentally disabled

(1) A person ('A') who –

(a) supplies, exposes or displays to a third person ('C') –
   (i) an article which is intended to be used in the performance of a sexual act;
   (ii) child pornography or pornography; or
   (iii) a publication or film, with the intention to encourage, enable, instruct or persuade C to perform a sexual act with a person who is mentally disabled ('B'); or
(b) arranges or facilitates a meeting or communication between C and B by any means from, to or in any part of the world, with the intention that C will perform a sexual act with B, is guilty of the offence of promoting the sexual grooming of a person who is mentally disabled.
A. Laws on grooming cont

(2) A person (‘A’) who –
   
   (a) supplies, exposes or displays to a person who is mentally disabled (‘B’) –
      
      (i) an article which is intended to be used in the performance of a sexual act;
      
      (ii) child pornography or pornography; or
      
      (iii) a publication or film, with the intention to encourage, enable, instruct or persuade B to perform such sexual act;
   
   (b) commits any act with or in the presence of B or who describes the commission of any act to or in the presence of B with the intention to encourage or persuade B or to reduce or diminish any resistance or unwillingness on the part of B to –
      
      (i) perform a sexual act with A or a third person (‘C’);
      
      (ii) perform an act of self-masturbation in the presence of A or C or while A or C is watching;
      
      (iii) be in the presence of or watch A or C while A or C performs a sexual act or an act of self-masturbation;
      
      (iv) be exposed to child pornography or pornography;
      
      (v) be used for pornographic purposes as contemplated in section 26(1); or
      
      (vi) expose his or her body, or parts of his or her body to A or C in a manner or in circumstances which violate or offend the sexual integrity or dignity of B;
   
   (c) arranges or facilitates a meeting or communication with B by any means from, to or in any part of the world, with the intention that A will commit a sexual act with B;
   
   (d) having met or communicated with B by any means from, to or in any part of the world, invites, persuades, seduces, induces, entices or coerces B –
      
      (i) to travel to any part of the world in order to meet A with the intention to commit a sexual act with B; or
      
      (ii) during such meeting or communication or any subsequent meeting or communication to –
         
         (aa) commit a sexual act with A;
         
         (bb) discuss, explain or describe the commission of a sexual act; or
         
         (cc) provide A, by means of any form of communication including electronic communication, with any image, publication, depiction, description or sequence of pornography of B himself or herself or any other person; or
      
   (e) having met or communicated with B by any means from, to or in any part of the world, intentionally travels to meet or meets B with the intention of committing a sexual act with B, is guilty of the offence of sexual grooming of a person who is mentally disabled.

54. Obligation to report commission of sexual offences against children or persons who are mentally disabled

(1) (a) A person who has knowledge that a sexual offence has been committed against a child must report such knowledge immediately to a police official.

   (b) A person who fails to report such knowledge as contemplated in paragraph (a), is guilty of an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding five years or to both a fine and such imprisonment.

(2) (a) A person who has knowledge, reasonable belief or suspicion that a sexual offence has been committed against a person who is mentally disabled must report such knowledge, reasonable belief or suspicion immediately to a police official.

   (b) A person who fails to report such knowledge, reasonable belief or suspicion as contemplated in paragraph (a), is guilty of an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding five years or to both a fine and such imprisonment.

   (c) A person who in good faith reports such reasonable belief or suspicion shall not be liable to any civil or criminal proceedings by reason of making such report.

ZIMBABWE

Criminal Law (Codification and Reform) Act 2004

70. Sexual intercourse or performing indecent acts with young persons

(1) … any person who-

   (c) solicits or entices a young person to have extra-marital sexual intercourse with him or her or to commit any act with him or her involving physical contact that would be regarded by a reasonable person to be an indecent act; shall be guilty of sexual intercourse or performing an indecent act with a young person, as the case may be, and liable to a fine not exceeding level twelve or imprisonment for a period not exceeding ten years or both.
A. Laws on grooming

Commonwealth Caribbean and Americas

CANADA

FEDERAL LEGISLATION

Criminal Code 1985 (as amended in 2005)

152. Invitation to sexual touching

Every person who, for a sexual purpose, invites, counsels or incites a person under the age of 16 years to touch, directly or indirectly, with a part of the body or with an object, the body of any person, including the body of the person who so invites, counsels or incites and the body of the person under the age of 16 years,

(a) is guilty of an indictable offence and is liable to imprisonment for a term of not more than 14 years and to a minimum punishment of imprisonment for a term of one year; or

(b) is guilty of an offence punishable on summary conviction and is liable to imprisonment for a term of not more than two years less a day and to a minimum punishment of imprisonment for a term of 90 days.

...  

172.1 Luring a child

(1) Every person commits an offence who, by a means of telecommunication, communicates with

(a) a person who is, or who the accused believes is, under the age of 18 years, for the purpose of facilitating the commission of an offence with respect to that person under subsection 153(1) [sexual exploitation], section 155 [incest], 163.1 [obscene materials], 170 [parent or guardian procuring sexual activity], 171 [householder permitting prohibited sexual activity] or 279.011 [trafficking of a person under 18 years] or subsection 279.02(2) [material benefit from trafficking of person under 18 years], 279.03(2) [withholding or destroying documents for the purpose of committing or facilitating trafficking in persons under 18 years], 286.1(2) [obtaining sexual services for consideration from person under 18 years], 286.2(2) [material benefit from sexual services provided by person under 18 years] or 286.3(2) [Procuring of a person under 18 years];

(b) a person who is, or who the accused believes is, under the age of 16 years, for the purpose of facilitating the commission of an offence under section 151 or 152 [sexual interference and invitation to sexual touching], subsection 160(3) [bestiality in the presence of or by a child] or 173(2) [exposure of genitals to a person under age of 16] or section 271 [sexual assault], 272 [sexual assault with a weapon, threats to a third party or causing bodily harm], 273 [aggravated sexual assault] or 280 [abduction of a person under 16] with respect to that person; or

(c) a person who is, or who the accused believes is, under the age of 14 years, for the purpose of facilitating the commission of an offence under section 281 [abduction of a child under the age of 14] with respect to that person.

(2) Every person who commits an offence under subsection (1)

(a) is guilty of an indictable offence and is liable to imprisonment for a term of not more than 14 years and to a minimum punishment of imprisonment for a term of one year; or

(b) is guilty of an offence punishable on summary conviction and is liable to imprisonment for a term of not more than two years less a day and to a minimum punishment of imprisonment for a term of six months.

(3) Evidence that the person referred to in paragraph (1)(a), (b) or (c) was represented to the accused as being under the age of eighteen years, sixteen years or fourteen years, as the case may be, is, in the absence of evidence to the contrary, proof that the accused believed that the person was under that age.
A. Laws on grooming cont

Commonwealth Europe

UNITED KINGDOM
ENGLAND & WALES
Sexual Offences Act 2003

8. Causing or inciting a child under 13 to engage in sexual activity

(1) A person commits an offence if-
   (a) he intentionally causes or incites another person (B) to engage in an activity,
   (b) the activity is sexual, and
   (c) B is under 13.

(2) A person guilty of an offence under this section, if the activity caused or incited involved-
   (a) penetration of B’s anus or vagina,
   (b) penetration of B’s mouth with a person’s penis,
   (c) penetration of a person’s anus or vagina with a part of B’s body or by B with anything else, or
   (d) penetration of a person’s mouth with B’s penis,
   is liable, on conviction on indictment, to imprisonment for life.

(3) Unless subsection (2) applies, a person guilty of an offence under this section is liable-
   (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum or both;
   (b) on conviction on indictment, to imprisonment for a term not exceeding 14 years.

…

10. Causing or inciting a child to engage in sexual activity

(1) A person aged 18 or over (A) commits an offence if -
   (a) he intentionally causes or incites another person (B) to engage in an activity,
   (b) the activity is sexual, and
   (c) either-
      (i) B is under 16 and A does not reasonably believe that B is 16 or over, or
      (ii) B is under 13.

(2) A person guilty of an offence under this section, if the activity caused or incited involved-
   (a) penetration of B’s anus or vagina,
   (b) penetration of B’s mouth with a person’s penis,
   (c) penetration of a person’s anus or vagina with a part of B’s body or by B with anything else, or
   (d) penetration of a person’s mouth with B’s penis, is liable, on conviction on indictment, to imprisonment for a term not exceeding 14 years.

(3) Unless subsection (2) applies, a person guilty of an offence under this section is liable -
   (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum or both;
   (b) on conviction on indictment, to imprisonment for a term not exceeding 14 years.

…

14. Arranging or facilitating commission of a child sex offence

(1) A person commits an offence if -
   (a) he intentionally arranges or facilitates something that he intends to do, intends another person to do, or believes that another person will do, in any part of the world, and
   (b) doing it will involve the commission of an offence under any of sections 9 to 13.
(2) A person does not commit an offence under this section if-
(a) he arranges or facilitates something that he believes another person will do, but that he does not intend
to do or intend another person to do, and
(b) any offence within subsection (1)(b) would be an offence against a child for whose protection he acts.

(3) For the purposes of subsection (2), a person acts for the protection of a child if he acts for the purpose of-
(a) protecting the child from sexually transmitted infection,
(b) protecting the physical safety of the child,
(c) preventing the child from becoming pregnant, or
(d) promoting the child’s emotional well-being by the giving of advice, and not for the purpose of obtaining sexual
gratification or for the purpose of causing or encouraging the activity constituting the offence within subsection
(1)(b) or the child’s participation in it.

(4) A person guilty of an offence under this section is liable-
(a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory
maximum or both;
(b) on conviction on indictment, to imprisonment for a term not exceeding 14 years.

15. Meeting a child following sexual grooming etc.

(1) A person aged 18 or over (A) commits an offence if-
(a) A has met or communicated with another person (B) on one or more occasions and subsequently-
(i) A intentionally meets B,
(ii) A travels with the intention of meeting B in any part of the world or arranges to meet B in any part of the world, or
(iii) B travels with the intention of meeting A in any part of the world,
(b) A intends to do anything to or in respect of B, during or after the meeting mentioned in paragraph (a)(i) to (iii)
and in any part of the world, which if done will involve the commission by A of a relevant offence,
(c) B is under 16, and
(d) A does not reasonably believe that B is 16 or over.

(2) In subsection (1) -
(a) the reference to A having met or communicated with B is a reference to A having met B in any part of the world
or having communicated with B by any means from, to or in any part of the world;
(b) “relevant offence” means-
(i) an offence under this Part,
(ii) [deleted]
(iii) anything done outside England and Wales... which is not an offence within sub-paragraph (i)... but would
be an offence within sub-paragraph (i) if done in England and Wales.

(3) [repealed]

(4) A person guilty of an offence under this section is liable -
(a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory
maximum or both;
(b) on conviction on indictment, to imprisonment for a term not exceeding 10 years.

15A. Sexual communication with a child

(1) A person aged 18 or over (A) commits an offence if—
(a) for the purpose of obtaining sexual gratification, A intentionally communicates with another person (B),
(b) the communication is sexual or is intended to encourage B to make (whether to A or to another) a communication
that is sexual, and
(c) B is under 16 and A does not reasonably believe that B is 16 or over.

(2) For the purposes of this section, a communication is sexual if-
(a) any part of it relates to sexual activity, or
(b) a reasonable person would, in all the circumstances but regardless of any person’s purpose, consider any part of
the communication to be sexual; and in paragraph (a) “sexual activity” means an activity that a reasonable person
would, in all the circumstances but regardless of any person’s purpose, consider to be sexual.
A. Laws on grooming cont

(3) A person guilty of an offence under this section is liable -
(a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine or both;
(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years.

…

17. Abuse of position of trust: causing or inciting a child to engage in sexual activity

(1) A person aged 18 or over (A) commits an offence if -
(a) he intentionally causes or incites another person (B) to engage in an activity,
(b) the activity is sexual,
(c) A is in a position of trust in relation to B,
(d) where subsection (2) applies, A knows or could reasonably be expected to know of the circumstances by virtue of which he is in a position of trust in relation to B, and
(e) either -
   i. B is under 18 and A does not reasonably believe that B is 18 or over, or
   ii. B is under 13.

(2) This subsection applies where A -
(a) is in a position of trust in relation to B by virtue of circumstances within section 21(2), (3), (4) or (5), and
(b) is not in such a position of trust by virtue of other circumstances.

(3) Where in proceedings for an offence under this section it is proved that the other person was under 18, the defendant is to be taken not to have reasonably believed that that person was 18 or over unless sufficient evidence is adduced to raise an issue as to whether he reasonably believed it.

(4) Where in proceedings for an offence under this section -
(a) it is proved that the defendant was in a position of trust in relation to the other person by virtue of circumstances within section 21(2), (3), (4) or (5), and
(b) it is not proved that he was in such a position of trust by virtue of other circumstances, it is to be taken that the defendant knew or could reasonably have been expected to know of the circumstances by virtue of which he was in such a position of trust unless sufficient evidence is adduced to raise an issue as to whether he knew or could reasonably have been expected to know of those circumstances.

(5) A person guilty of an offence under this section is liable -
(a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
(b) on conviction on indictment, to imprisonment for a term not exceeding 5 years.

…

26. Inciting a child family member to engage in sexual activity

(1) A person (A) commits an offence if -
(a) he intentionally incites another person (B) to touch, or allow himself to be touched by, A,
(b) the touching is sexual,
(c) the relation of A to B is within section 27,
(d) A knows or could reasonably be expected to know that his relation to B is of a description falling within that section, and
(e) either -
   i. B is under 18 and A does not reasonably believe that B is 18 or over, or
   ii. B is under 13.

(2) Where in proceedings for an offence under this section it is proved that the other person was under 18, the defendant is to be taken not to have reasonably believed that that person was 18 or over unless sufficient evidence is adduced to raise an issue as to whether he reasonably believed it.

(3) Where in proceedings for an offence under this section it is proved that the relation of the defendant to the other person was of a description falling within section 27, it is to be taken that the defendant knew or could reasonably have been expected to know that his relation to the other person was of that description unless sufficient evidence is adduced to raise an issue as to whether he knew or could reasonably have been expected to know that it was.
(4) A person guilty of an offence under this section, if he was aged 18 or over at the time of the offence, is liable -
(a) where subsection (6) applies, on conviction on indictment to imprisonment for a term not exceeding 14 years;
(b) in any other case -
(i) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
(ii) on conviction on indictment, to imprisonment for a term not exceeding 14 years.
(5) Unless subsection (4) applies, a person guilty of an offence under this section is liable -
(a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
(b) on conviction on indictment, to imprisonment for a term not exceeding 5 years.
(6) This subsection applies where the touching to which the incitement related involved -
(a) penetration of B’s anus or vagina with a part of A’s body or anything else,
(b) penetration of B’s mouth with A’s penis,
(c) penetration of A’s anus or vagina with a part of B’s body, or
(d) penetration of A’s mouth with B’s penis.

48. Causing or inciting sexual exploitation of a child
(1) A person (A) commits an offence if -
(a) he intentionally causes or incites another person (B) to be sexually exploited in any part of the world, and
(b) either -
(i) B is under 18, and A does not reasonably believe that B is 18 or over, or
(ii) B is under 13.
(2) A person guilty of an offence under this section is liable -
(a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
(b) on conviction on indictment, to imprisonment for a term not exceeding 14 years.

49. Controlling a child in relation to sexual exploitation
(1) A person (A) commits an offence if -
(a) he intentionally controls any of the activities of another person (B) relating to B’s sexual exploitation in any part of the world, and
(b) either -
(i) B is under 18, and A does not reasonably believe that B is 18 or over, or
(ii) B is under 13.
(2) A person guilty of an offence under this section is liable -
(a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
(b) on conviction on indictment, to imprisonment for a term not exceeding 14 years.

50. Arranging or facilitating sexual exploitation of a child
(1) A person (A) commits an offence if -
(a) he intentionally arranges or facilitates the sexual exploitation in any part of the world of another person (B), and
(b) either -
(i) B is under 18, and A does not reasonably believe that B is 18 or over, or
(ii) B is under 13.
(2) A person guilty of an offence under this section is liable -
(a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
(b) on conviction on indictment, to imprisonment for a term not exceeding 14 years.
A. Laws on grooming cont

NORTHERN IRELAND

Sexual Offences (Northern Ireland) Order 2008

22. Meeting a child following sexual grooming etc.

(1) A person aged 18 or over (A) commits an offence if -
   (a) A has met or communicated with another person (B) on one or more occasions, and subsequently-
      (i) A intentionally meets B, or
      (ii) A travels with the intention of meeting B in any part of the world or arranges to meet B in any part of the world, or
      (iii) B travels with the intention of meeting A in any part of the world,
   (b) A intends to do anything to or in respect of B, during or after the meeting mentioned in sub-paragraph (a)(i) to (iii) and in any part of the world, which if done will involve the commission by A of a relevant offence,
   (c) B is under 16, and
   (d) A does not reasonably believe that B is 16 or over.

(2) In paragraph (1) -
   (a) the reference to A having met or communicated with B is a reference to A having met B in any part of the world or having communicated with B by any means from, to or in any part of the world;
   (b) “relevant offence” means—
      (i) an offence under this Order, or
      (ii) an offence under section 2 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (human trafficking) committed with a view to exploitation that consists of or includes behaviour within section 3(3) of that Act (sexual exploitation), or
      (iii) anything done outside Northern Ireland which is not an offence under paragraph (i) or (ii) but would be an offence within paragraph (i) or (ii) if done in Northern Ireland.

(3) A person guilty of an offence under this Article is liable—
   (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
   (b) on conviction on indictment, to imprisonment for a term not exceeding 10 years.

22A. Sexual communication with a child

(1) A person aged 18 or over (A) commits an offence if -
   (a) for the purpose of obtaining sexual gratification, A intentionally communicates with another person (B),
   (b) the communication is sexual or is intended to encourage B to make (whether to A or to another) a communication that is sexual, and
   (c) B is under 16 and A does not reasonably believe that B is 16 or over.

(2) For the purposes of this Article, a communication is sexual if -
   (a) any part of it relates to sexual activity, or
   (b) a reasonable person would, in all the circumstances but regardless of any person’s purpose, consider any part of the communication to be sexual;
      and in sub-paragraph (a) “sexual activity” means an activity that a reasonable person would, in all the circumstances but regardless of any person’s purpose, consider to be sexual.

(3) A person guilty of an offence under this Article is liable -
   (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
   (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years.
SCOTLAND

Sexual Offences Act (Scotland) 2009

24. Communicating indecently with a young child etc.

(1) If a person (“A”), intentionally and for a purpose mentioned in subsection (3) -
   (a) sends, by whatever means, a sexual written communication to, or
   (b) directs, by whatever means, a sexual verbal communication at,
   a child (“B”) who has not attained the age of 13 years, then A commits an offence,
   to be known as the offence of communicating indecently with a young child.

(2) If, in circumstances other than as are mentioned in subsection (1), a person (“A”), intentionally and for a
   purpose mentioned in subsection (3) causes a child (“B”) who has not attained the age of 13 years to see or hear,
   by whatever means, a sexual written communication or sexual verbal communication, then A commits an offence,
   to be known as the offence of causing a young child to see or hear an indecent communication.

(3) The purposes are—
   (a) obtaining sexual gratification,
   (b) humiliating, distressing or alarming B.

(4) In this section—
   “written communication” means a communication in whatever written form, and without prejudice to that generality
   includes a communication which comprises writings of a person other than A (as for example a passage in a book
   or magazine), and
   “verbal communication” means a communication in whatever verbal form, and without prejudice to that generality
   includes—
   (a) a communication which comprises sounds of sexual activity (whether actual or simulated), and
   (b) a communication by means of sign language.

34. Communicating indecently with an older child etc.

(1) If a person (“A”), who has attained the age of 16 years, intentionally and for a purpose mentioned in subsection
   (3), sends, by whatever means, a sexual written communication to or directs, by whatever means, a sexual verbal
   communication at, a child (“B”) who-
       (a) has attained the age of 13 years, but
       (b) has not attained the age of 16 years, then A commits an offence, to be known as the offence of communicating
           indecently with an older child.

(2) If, in circumstances other than as are mentioned in subsection (1), a person (“A”), who has attained the age
   of 16 years, intentionally and for a purpose mentioned in subsection (3) causes another person (“B”) who is a
   child described in paragraphs (a) and (b) of subsection (1) to see or hear, by whatever means, a sexual written
   communication or sexual verbal communication, then A commits an offence, to be known as the offence
   of causing an older child to see or hear an indecent communication.

(3) The purposes are -
   (a) obtaining sexual gratification,
   (b) humiliating, distressing or alarming B.

(4) In this section-
   “written communication” means a communication in whatever written form, and without prejudice to that generality
   includes a communication which comprises writings of a person other than A (as for example a passage in a book
   or magazine), and
   “verbal communication” means a communication in whatever verbal form, and without prejudice to that generality
   includes—
   (a) a communication which comprises sounds of sexual activity (whether actual or simulated), and
   (b) a communication by means of sign language.
A. Laws on grooming cont

Commonwealth Pacific

AUSTRALIA
FEDERAL LEGISLATION

Criminal Code 1985 (as amended by Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010)

272.14 Procuring child to engage in sexual activity outside Australia

(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 (whether or not with the person) outside Australia; and
(c) the child is someone:
(i) who is under 16; or
(ii) who the person believes to be under 16; and
(d) one or more of the following apply:
(i) the conduct referred to in paragraph (a) occurs wholly or partly outside Australia;
(ii) the child is outside Australia when the conduct referred to in paragraph (a) occurs;
(iii) the conduct referred to in paragraph (a) occurs wholly in Australia and the child is in Australia when that conduct occurs.

Penalty: Imprisonment for 15 years.

(2) Absolute liability applies to subparagraph (1)(c)(i) and paragraph (1)(d).

Note 1: For absolute liability, see section 6.2.
Note 2: For a defence based on belief about age, see section 272.16.

(3) A person may be found guilty of an offence against subsection (1) even if it is impossible for the sexual activity referred to in that subsection to take place.

(4) For the purposes of subsection (1), it does not matter that the child is a fictitious person represented to the person as a real person.

272.15 “Grooming” child to engage in sexual activity outside Australia

(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 (whether or not with the person) outside Australia; and
(c) the child is someone:
(i) who is under 16; or
(ii) who the person believes to be under 16; and
(d) one or more of the following apply:
(i) the conduct referred to in paragraph (a) occurs wholly or partly outside Australia;
(ii) the child is outside Australia when the conduct referred to in paragraph (a) occurs;
(iii) the conduct referred to in paragraph (a) occurs wholly in Australia and the child is in Australia when that conduct occurs.

Penalty: Imprisonment for 12 years.

(3) A person may be found guilty of an offence against subsection (1) even if it is impossible for the sexual activity referred to in that subsection to take place.

(4) For the purposes of subsection (1), it does not matter that the child is a fictitious person represented to the person as a real person.

…
471.24 Using a postal or similar service to procure persons under 16

(1) A person (the *sender*) commits an offence if:
(a) the sender causes an article to be carried by a postal or similar service to another person (the *recipient*); and
(b) the sender does this with the intention of procuring the recipient to engage in sexual activity with the sender; and
(c) the recipient is someone who is, or who the sender believes to be, under 16; and
(d) the sender is at least 18.
*Penalty: Imprisonment for 15 years.*

(2) A person (the *sender*) commits an offence if:
(a) the sender causes an article to be carried by a postal or similar service to another person (the *recipient*); and
(b) the sender does this with the intention of procuring the recipient to engage in sexual activity with another person (the *participant*); and
(c) the recipient is someone who is, or who the sender believes to be, under 16; and
(d) the participant is someone who is, or who the sender believes to be, at least 18.
*Penalty: Imprisonment for 15 years.*

(3) A person (the *sender*) commits an offence if:
(a) the sender causes an article to be carried by a postal or similar service to another person (the *recipient*); and
(b) the sender does this with the intention of procuring the recipient to engage in sexual activity with another person; and
(c) the recipient is someone who is, or who the sender believes to be, under 16; and
(d) the other person referred to in paragraph (b) is someone who is, or who the sender believes to be, under 18; and
(e) the sender intends that the sexual activity referred to in paragraph (b) will take place in the presence of:
   (i) the sender; or
   (ii) another person (the *participant*) who is, or who the sender believes to be, at least 18.
*Penalty: Imprisonment for 15 years.*

471.25 Using a postal or similar service to “groom” persons under 16

(1) A person (the *sender*) commits an offence if:
(a) the sender causes an article to be carried by a postal or similar service to another person (the *recipient*); and
(b) the sender does this with the intention of procuring the recipient to engage in sexual activity with the sender; and
(c) the recipient is someone who is, or who the sender believes to be, under 16; and
(d) the sender is at least 18.
*Penalty: Imprisonment for 12 years.*

(2) A person (the *sender*) commits an offence if:
(a) the sender causes an article to be carried by a postal or similar service to another person (the *recipient*); and
(b) the sender does this with the intention of procuring the recipient to engage in sexual activity with another person (the *participant*); and
(c) the recipient is someone who is, or who the sender believes to be, under 16; and
(d) the participant is someone who is, or who the sender believes to be, at least 18.
*Penalty: Imprisonment for 12 years.*

(3) A person (the *sender*) commits an offence if:
(a) the sender causes an article to be carried by a postal or similar service to another person (the *recipient*); and
(b) the sender does this with the intention of procuring the recipient to engage in sexual activity with another person; and
(c) the recipient is someone who is, or who the sender believes to be, under 16; and
(d) the other person referred to in paragraph (b) is someone who is, or who the sender believes to be, under 18; and
(e) the sender intends that the sexual activity referred to in paragraph (b) will take place in the presence of:
   (i) the sender; or
   (ii) another person (the *participant*) who is, or who the sender believes to be, at least 18.
*Penalty: Imprisonment for 15 years.*
A. Laws on grooming

474.26 Using a carriage service to procure persons under 16 years of age

(1) A person (the *sender*) commits an offence if:
(a) the sender uses a carriage service to transmit a communication to another person (the *recipient*); and
(b) the sender does this with the intention of procuring the recipient to engage in sexual activity with the sender; and
(c) the recipient is someone who is, or who the sender believes to be, under 16 years of age; and
(d) the sender is at least 18 years of age.
Penalty: Imprisonment for 15 years.

(2) A person (the *sender*) commits an offence if:
(a) the sender uses a carriage service to transmit a communication to another person (the *recipient*); and
(b) the sender does this with the intention of procuring the recipient to engage in sexual activity with another person (the *participant*); and
(c) the recipient is someone who is, or who the sender believes to be, under 16 years of age; and
(d) the participant is someone who is, or who the sender believes to be, at least 18 years of age.
Penalty: Imprisonment for 15 years.

(3) A person (the *sender*) commits an offence if:
(a) the sender uses a carriage service to transmit a communication to another person (the *recipient*); and
(b) the sender does this with the intention of procuring the recipient to engage in sexual activity with another person; and
(c) the other person referred to in paragraph (b) is someone who is, or who the sender believes to be, under 18 years of age; and
(d) the sender intends that the sexual activity referred to in paragraph (b) will take place in the presence of:
(i) the sender; or
(ii) another person (the *participant*) who is, or who the sender believes to be, at least 18 years of age.
Penalty: Imprisonment for 15 years.

474.27 Using a carriage service to “groom” persons under 16 years of age

(1) A person (the *sender*) commits an offence if:
(a) the sender uses a carriage service to transmit a communication to another person (the *recipient*); and
(b) the sender does this with the intention of making it easier to procure the recipient to engage in sexual activity with the sender; and
(c) the recipient is someone who is, or who the sender believes to be, under 16 years of age; and
(d) the sender is at least 18 years of age.
Penalty: Imprisonment for 12 years.

(2) A person (the *sender*) commits an offence if:
(a) the sender uses a carriage service to transmit a communication to another person (the *recipient*); and
(b) the sender does this with the intention of making it easier to procure the recipient to engage in sexual activity with another person (the *participant*); and
(c) the recipient is someone who is, or who the sender believes to be, under 16 years of age; and
(d) the participant is someone who is, or who the sender believes to be, at least 18 years of age.
Penalty: Imprisonment for 12 years.

(3) A person (the *sender*) commits an offence if:
(a) the sender uses a carriage service to transmit a communication to another person (the *recipient*); and
(b) the sender does this with the intention of making it easier to procure the recipient to engage in sexual activity with another person; and
(c) the other person referred to in paragraph (b) is someone who is, or who the sender believes to be, under 18 years of age; and
(d) the sender intends that the sexual activity referred to in paragraph (c) will take place in the presence of:
(i) the sender; or
(ii) another person (the *participant*) who is, or who the sender believes to be, at least 18 years of age.
Penalty: Imprisonment for 15 years.

Author’s Note The Act specifies that “carriage service” has the same meaning as in the Telecommunications Act 1997, which is “a service for carrying communications by means of guided and/or unguided electromagnetic energy” s.7.
QUEENSLAND

Criminal Code Act 1899 (as amended by the Sexual Offences (Protection of Children) Act 2003)

218A Using internet etc. to procure children under 16

(1) Any adult who uses electronic communication with intent to procure a person under the age of 16 years, or a person the adult believes is under the age of 16 years, to engage in a sexual act, either in Queensland or elsewhere, commits a crime. Maximum penalty—10 years imprisonment.

(2) The adult is liable to 14 years imprisonment if-
   (a) the person is-
       (i) a person under 12 years; or
       (ii) a person the adult believes is under 12 years; or
   (b) the offence involves the adult-
       (i) intentionally meeting the person; or
       (ii) going to a place with the intention of meeting the person.

(2A) The Penalties and Sentences Act 1992, section 161Q also states a circumstance of aggravation for an offence against this section [serious organised crime].

(2B) An indictment charging an offence against this section with the circumstance of aggravation stated in the Penalties and Sentences Act 1992, section 161Q may not be presented without the consent of a Crown Law Officer.

(3) For subsection (1)(a), a person engages in a sexual act if the person-
   (a) allows a sexual act to be done to the person’s body; or
   (b) does a sexual act to the person’s own body or the body of another person; or
   (c) otherwise engages in an act of an indecent nature.

(4) Subsection (3) is not limited to sexual intercourse or acts involving physical contact.

(5) For subsection (1), it is not necessary to prove that the adult intended to procure the person to engage in any particular sexual act.

(6) Also, for subsection (1), it does not matter that, by reason of circumstances not known to the adult, it is impossible in fact for the person to engage in the sexual act.

(7) For subsection (1), it does not matter that the person is a fictitious person represented to the adult as a real person.

(8) Evidence that the person was represented to the adult as being under the age of 16 years, or 12 years, as the case may be, is, in the absence of evidence to the contrary, proof that the adult believed the person was under that age.

(9) It is a defence to a charge under this section to prove the adult believed on reasonable grounds that the person was at least 16 years.

(9A) For an offence defined in subsection (1) alleged to have been committed with the circumstance of aggravation mentioned in subsection (2)(a)(i), it is a defence to the circumstance of aggravation to prove that the adult believed on reasonable grounds that the person was at least 12 years.

(10) In this section-
    electronic communication means email, internet chat rooms, SMS messages, real time audio/video or other similar communication.
    meeting means meeting in person.
    procure means knowingly entice or recruit for the purposes of sexual exploitation.

218B Grooming children under 16

(1) Any adult who engages in any conduct in relation to a person under the age of 16 years, or a person the adult believes is under the age of 16 years, with intent to-
   (a) facilitate the procurement of the person to engage in a sexual act, either in Queensland or elsewhere; or
   (b) expose, without legitimate reason, the person to any indecent matter [which according to s. 1 includes indecent film, videotape, audiocassette, picture, photograph or printed or written matter], either in Queensland or elsewhere; commits a crime. Maximum penalty—5 years imprisonment.
A. Laws on grooming cont

(2) The adult is liable to 10 years imprisonment if the person is-
(a) a person under 12 years; or
(b) a person the adult believes is under 12 years.

(2A) The Penalties and Sentences Act 1992, section 161Q also states a circumstance of aggravation for an offence against this section [serious organised crime].

(2B) An indictment charging an offence against this section with the circumstance of aggravation stated in the Penalties and Sentences Act 1992, section 161Q may not be presented without the consent of a Crown Law Officer.

(3) For subsection (1)(a), a person engages in a sexual act if the person-
(a) allows a sexual act to be done to the person’s body; or
(b) does a sexual act to the person’s own body or the body of another person; or
(c) otherwise engages in an act of an indecent nature.

(4) Subsection (3) is not limited to sexual intercourse or acts involving physical contact.

(5) For subsection (1)(a)-
(a) it is not necessary to prove that the adult intended to facilitate the procurement of the person to engage in any particular sexual act; and
(b) it does not matter that, by reason of circumstances not known to the adult, it is impossible in fact for the person to engage in the sexual act; and
(c) it does not matter when the adult intended the person would be procured to engage in a sexual act.

(6) For subsection (1), it does not matter that the person is a fictitious person represented to the adult as a real person.

(7) Evidence that the person was represented to the adult as being under the age of 16 years, or 12 years, as the case may be, is, in the absence of evidence to the contrary, proof that the adult believed the person was under that age.

(8) It is a defence to a charge under this section to prove the adult believed on reasonable grounds that the person was at least 16 years.

(9) For an offence defined in subsection (1) alleged to have been committed with the circumstance of aggravation mentioned in subsection (2)(a), it is a defence to the circumstance of aggravation to prove that the adult believed on reasonable grounds that the person was at least 12 years.

(10) In this section-
*procure* means knowingly entice or recruit for the purposes of sexual exploitation.

**SOUTH AUSTRALIA**

*Criminal Law Consolidation Act 1935* (as amended by the *Criminal Law Consolidation (Dishonest Communication with Children) Amendment Act 2018*)

**139A. Dishonest communication with children**

(1) A person of or over the age of 18 years who -
(a) knowingly communicates with a child; and
(b) makes a false representation in such communication that -
   (i) the person is younger than they are; or
   (ii) the person is someone other than who they are; and
(c) meets or arranges to meet with the child, is guilty of an offence.
*Maximum penalty: Imprisonment for 5 years.*

(2) A person of or over the age of 18 years who -
(a) knowingly communicates with a child; and
(b) makes a false representation in such communication that -
   (i) the person is younger than they are; or
   (ii) the person is someone other than who they are,
   with intent to commit an offence against the child is guilty of an offence.
*Maximum penalty: Imprisonment for 10 years.*
VICTORIA

Crimes Act 1958 (as amended by the Crimes Amendment (Sexual Offences) Act 2016)

47M. Grooming for sexual conduct with a child under the age of 16

(1) A person (A) commits an offence if-
   (a) A is 18 years of age or more; and
   (b) A communicates, by words or conduct (whether or not a response is made to the communication), with-
      (i) another person (B) who is a child under the age of 16 years; or
      (ii) another person (C) under whose care, supervision or authority B is; and
   (c) A intends that the communication facilitate B engaging or being involved in the commission of a sexual offence
      by A or by another person who is 18 years of age or more.

(2) A person who commits an offence against subsection (1) is liable to level 5 imprisonment (10 years maximum).

(3) A does not intend to facilitate B engaging or being involved in the commission of a sexual offence by A or by another
   person who is 18 years of age or more if, were the conduct constituting the sexual offence to occur, A or the other
   person would satisfy an exception, or have a defence, to that sexual offence.

(4) It is immaterial that some or all of the conduct constituting an offence against subsection (1) occurred outside Victoria,
   so long as B or C was, or B and C were, in Victoria at the time at which that conduct occurred.

(5) It is immaterial that B or C was, or B and C were, outside Victoria at the time at which some or all of the conduct
   constituting an offence against subsection (1) occurred, so long as A was in Victoria at the time that conduct occurred.

(6) It is immaterial that A, B and C were all outside Victoria at the time at which some or all of the conduct constituting
   an offence against subsection (1) occurred, so long as A intended that the sexual offence would occur in Victoria.

(7) In this section-
   “communication” includes an electronic communication within the meaning of the Electronic Transactions (Victoria)
   Act 2000;
   “sexual offence” means-
   (a) an offence against a provision of Subdivision (8A), this Subdivision (other than section 49K(1) or this section),
       (8C), (8D), (8E), (8F) or (8FA); or
   (b) an attempt to commit an offence covered by paragraph (a); or
   (c) an assault with intent to commit an offence referred to in paragraph (a).

NEW ZEALAND

Crimes Act 1961 (as amended by the Crimes (Indecency) Amendment Act 2015)

124A Indecent communication with young person under 16

(1) A person of or over the age of 16 years is liable to imprisonment for a term not exceeding 3 years if he or she
   intentionally exposes a person under the age of 16 years (the young person) to indecent material (whether written,
   spoken, visual, or otherwise, alone or in combination) in communicating in any manner, directly or indirectly, with
   the young person.

(2) A reference in subsection (1) to a person under the age of 16 years, or to the young person, includes a reference to
   a constable (as defined in section 2(1)) who pretends to be a person under the age of 16 years (the fictitious young
   person) if the person charged with an offence against subsection (1), when communicating with the fictitious young
   person and exposing the fictitious young person to indecent material, believed that the fictitious young person was
   a person under the age of 16 years.

(3) It is a defence to a charge under subsection (1) if the person charged proves that,—
   (a) before communicating with the young person and exposing the young person to the indecent material, the person
       charged had taken reasonable steps to find out whether the young person was of or over the age of 16 years; and
   (b) at the time of communicating with the young person and exposing the young person to the indecent material, the
       person charged believed on reasonable grounds that the young person was of or over the age of 16 years.
A. Laws on grooming cont

(4) It is no defence to a charge under subsection (1) that the person charged did not know that the material to which the charge relates was indecent, unless the person charged also proves-
(a) that the person charged had no reasonable opportunity of knowing it; and
(b) that in the circumstances the ignorance of the person charged was excusable.

(5) No private prosecution (as defined in section 5 of the Criminal Procedure Act 2011) for an offence against this section can be commenced without the Attorney-General’s consent.

…

131B Meeting young person following sexual grooming, etc.

(1) Every person is liable to imprisonment for a term not exceeding 7 years if,-
(a) having met or communicated with a person under the age of 16 years (the young person) on an earlier occasion, he or she takes one of the following actions:
   (i) intentionally meets the young person:
   (ii) travels with the intention of meeting the young person:
   (iii) arranges for or persuades the young person to travel with the intention of meeting him or her; and
(b) at the time of taking the action, he or she intends-
   (i) to take in respect of the young person an action that, if taken in New Zealand, would be an offence against this Part, or against any of paragraphs (a)(i), (d)(i), (e)(i), (f)(i), of section 98AA(1); or
   (ii) that the young person should do on him or her an act the doing of which would, if he or she permitted it to be done in New Zealand, be an offence against this Part on his or her part.

(1A) A reference in this section to a young person under the age of 16 years or the young person includes a reference to a constable who pretends to be a young person under the age of 16 years (the fictitious young person) if the offender, when taking any of the actions described in subsection (1), believed that the fictitious young person was a young person under the age of 16 years.

(2) It is a defence to a charge under subsection (1) if the person charged proves that,-
(a) before the time he or she took the action concerned, he or she had taken reasonable steps to find out whether the young person was of or over the age of 16 years; and
(b) at the time he or she took the action concerned, he or she believed on reasonable grounds that the young person was of or over the age of 16 years.

Non-Commonwealth Countries

UNITED STATES OF AMERICA
FEDERAL LEGISLATION

United States Code 1955 (as amended in 2006)

2422. Coercion and enticement

…

(b) Whoever, using the mail or any facility or means of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States knowingly persuades, induces, entices, or coerces any individual who has not attained the age of 18 years, to engage in prostitution or any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title and imprisoned not less than 10 years or for life.
A. Laws on grooming

LOUISIANA

Louisiana Revised Statutes 1950 (as amended in 2017)

14:81.3 Computer-aided solicitation of a minor

A.1 Computer-aided solicitation of a minor is committed when a person seventeen years of age or older knowingly contacts or communicates, through the use of electronic textual communication, with a person who has not yet attained the age of seventeen where there is an age difference of greater than two years, or a person reasonably believed to have not yet attained the age of seventeen and reasonably believed to be at least two years younger, for the purpose of or with the intent to persuade, induce entice, or coerce the person to engage or participate in sexual conduct or a crime of violence as defined by R.S. 14:2 (b), or with the intent to engage or participate in sexual conduct in the presence of the person who has not yet attained the age of seventeen, or person reasonably believed to have not yet attained the age of seventeen.

A.4 It shall also be a violation of the provision of this Section when the contact or communication is initially made through the use of electronic textual communication and subsequent communication is made through the use of any other form of communication.

OREGON

Oregon Revised Statutes 1940 (as amended in 2018)

163.432 Online sexual corruption of a child in the second degree

(1) A person commits the crime of online sexual corruption of a child in the second degree if the person is 18 years of age or older and:
   (a) For the purpose of arousing or gratifying sexual desire of the person or another person, knowingly uses an online communication to solicit a child to engage in sexual contact or sexually explicit conduct; and
   (b) Offers or agrees to physically meet with the child.

163.433 Online sexual corruption of a child in the first degree

(1) A person commits the crime of online sexual corruption of a child in the first degree if the person violated ORS 163.432 and intentionally takes a substantial step towards physically meeting with or encountering the child.

VERMONT

Vermont Statutes 1894 (as amended in 2005)

2828. Luring a child

(a) No person shall knowingly solicit, lure, or entice, or to attempt to solicit, lure, or entice, a child under the age of 16 or another person believed by the person to be a child under the age of 16, to engage in a sexual act as defined in section 3251 of this title or engage in lewd and lascivious conduct as defined in section 2602 of this title.

(b) This section applies to solicitation, luring, or enticement by any means, including in person, through written or telephonic correspondence or electronic communication.

(c) This section shall not apply if the person is less than 19 years old, the child is at least 15 years old, and the conduct is consensual.
B. Laws on sexual exploitation of children

Commonwealth Pacific
AUSTRALIA
VICTORIA

Crimes Act 1958 (as amended by the Crimes Amendment (Sexual Offences) Act 2016)

49F. Sexual activity in the presence of a child under the age of 16

(1) A person (A) commits an offence if -
   (a) A intentionally engages in an activity; and
   (b) the activity is sexual; and
   (c) another person (B) is present when A engages in the activity; and
   (d) A knows that B is, or probably is, present when A engages in the activity; and
   (e) B is a child under the age of 16 years; and
   (f) engaging in the activity in the presence of B is contrary to community standards of acceptable conduct.

(2) A person who commits an offence against subsection (1) is liable to level 5 imprisonment (10 years maximum).

(2A) The standard sentence for an offence against subsection (1) is 4 years.

(3) Whether or not engaging in the activity in the presence of B is contrary to community standards of acceptable conduct depends on the circumstances.

(4) For the purposes of subsection (3) -
   (a) the circumstances include -
      (i) the purpose of the activity; and
      (ii) whether A seeks or gets sexual arousal or sexual gratification from engaging in the activity or from the presence of B;
   (b) the circumstances do not include -
      (i) whether B consents -
         (A) to being present when A engages in the activity; or
         (B) to A engaging in the activity; or
      (ii) whether A believes that B consents -
         (A) to being present when A engages in the activity; or
         (B) to A engaging in the activity.

(5) For the purposes of subsection (1), when A engages in an activity, B may be present -
   (a) in person; or
   (b) by means of an electronic communication within the meaning of the Electronic Transactions (Victoria) Act 2000 that is received by B in real time or close to real time.

(6) It is immaterial that some or all of the conduct constituting an offence against subsection (1) occurred outside Victoria, so long as B was in Victoria at the time at which that conduct occurred.

(7) It is immaterial that B was outside Victoria at the time at which some or all of the conduct constituting an offence against subsection (1) occurred, so long as A was in Victoria at the time at which that conduct occurred.

49G. Sexual activity in the presence of a child aged 16 or 17 under care, supervision or authority

(1) A person (A) commits an offence if -
   (a) A intentionally engages in an activity; and
   (b) the activity is sexual; and
   (c) another person (B) is present when A engages in the activity; and
   (d) A knows that B is, or probably is, present when A engages in the activity; and
(e) B is:
   (i) a child aged 16 or 17 years; and
   (ii) under A’s care, supervision or authority; and
(f) engaging in the activity in the presence of B is contrary to community standards of acceptable conduct.

(2) A person who commits an offence against subsection (1) is liable to level 6 imprisonment (5 years maximum).

(3) Whether or not engaging in the activity in the presence of B is contrary to community standards of acceptable conduct depends on the circumstances.

(4) For the purposes of subsection (3):
   (a) the circumstances include -
      (i) the purpose of the activity; and
      (ii) whether A seeks or gets sexual arousal or sexual gratification from engaging in the activity or from the presence of B;
   (b) the circumstances do not include -
      (i) whether B consents -
         (A) to being present when A engages in the activity; or
         (B) to A engaging in the activity; or
      (ii) whether A believes that B consents -
         (A) to being present when A engages in the activity; or
         (B) to A engaging in the activity.

(5) For the purposes of subsection (1), when A engages in an activity, B may be present -
   (a) in person; or
   (b) by means of an electronic communication within the meaning of the Electronic Transactions (Victoria) Act 2000 that is received by B in real time or close to real time.

(6) It is immaterial that some or all of the conduct constituting an offence against subsection (1) occurred outside Victoria, so long as B was in Victoria at the time at which that conduct occurred.

(7) It is immaterial that B was outside Victoria at the time at which some or all of the conduct constituting an offence against subsection (1) occurred, so long as A was in Victoria at the time at which that conduct occurred.

49H. Causing a child under the age of 16 to be present during sexual activity

(1) A person (A) commits an offence if -
   (a) another person (B) engages in an activity; and
   (b) the activity is sexual; and
   (c) another person (C) is present when B engages in the activity; and
   (d) A intentionally causes or allows C to be present when B engages in the activity; and
   (e) C is a child under the age of 16 years; and
   (f) A’s causing or allowing C to be present when B engages in the activity is contrary to community standards of acceptable conduct.

(2) A person who commits an offence against subsection (1) is liable to level 5 imprisonment (10 years maximum).

(2A) The standard sentence for an offence against subsection (1) is 4 years.

(3) Whether or not causing or allowing C to be present when B engages in the activity is contrary to community standards of acceptable conduct depends on the circumstances.

(4) For the purposes of subsection (3):
   (a) the circumstances include -
      (i) the purpose of the activity; and
      (ii) whether A seeks or gets sexual arousal or sexual gratification from B engaging in the activity or from the presence of C;
B. Laws on sexual exploitation of children cont

(b) the circumstances do not include -
   (i) whether C consents -
       (A) to being present when B engages in the activity; or
       (B) to B engaging in the activity; or
   (ii) whether A believes that C consents -
       (A) to being present when B engages in the activity; or
       (B) to B engaging in the activity.

(5) For the purposes of subsection (1), when B engages in an activity, C may be present -
   (a) in person; or
   (b) by means of an electronic communication within the meaning of the Electronic Transactions (Victoria) Act 2000 that is received by C in real time or close to real time.

(6) It is immaterial that some or all of the conduct constituting an offence against subsection (1) occurred outside Victoria, so long as C was in Victoria at the time at which that conduct occurred.

(7) It is immaterial that C was outside Victoria at the time at which some or all of the conduct constituting an offence against subsection (1) occurred, so long as A was in Victoria at the time at which that conduct occurred.

49I. Causing a child aged 16 or 17 under care, supervision or authority to be present during sexual activity

(1) A person (A) commits an offence if -
   (a) another person (B) engages in an activity; and
   (b) the activity is sexual; and
   (c) another person (C) is present when B engages in the activity; and
   (d) A intentionally causes or allows C to be present when B engages in the activity; and
   (e) C is -
       (i) a child aged 16 or 17 years; and
       (ii) under A’s care, supervision or authority; and
   (f) A’s causing or allowing C to be present when B engages in the activity is contrary to community standards of acceptable conduct.

(2) A person who commits an offence against subsection (1) is liable to level 6 imprisonment (5 years maximum).

(3) Whether or not causing or allowing C to be present when B engages in the activity is contrary to community standards of acceptable conduct depends on the circumstances.

(4) For the purposes of subsection (3) -
   (a) the circumstances include -
       (i) the purpose of the activity; and
       (ii) whether A seeks or gets sexual arousal or sexual gratification from B engaging in the activity or from the presence of C;
   (b) the circumstances do not include -
       (i) whether C consents -
           (A) to being present when B engages in the activity; or
           (B) to B engaging in the activity; or
       (ii) whether A believes that C consents -
           (A) to being present when B engages in the activity; or
           (B) to B engaging in the activity.

(5) For the purposes of subsection (1), when B engages in an activity, C may be present -
   (a) in person; or
   (b) by means of an electronic communication within the meaning of the Electronic Transactions (Victoria) Act 2000 that is received by C in real time or close to real time.

(6) It is immaterial that some or all of the conduct constituting an offence against subsection (1) occurred outside Victoria, so long as C was in Victoria at the time at which that conduct occurred.

(7) It is immaterial that C was outside Victoria at the time at which some or all of the conduct constituting an offence against subsection (1) occurred, so long as A was in Victoria at the time at which that conduct occurred.
52D. Sexual activity in the presence of a person with a cognitive impairment or mental illness

(1) A person (A) commits an offence if -
   (a) A intentionally engages in an activity; and
   (b) the activity is sexual; and
   (c) another person (B) is present when A engages in the activity; and
   (d) A knows that B is, or probably is, present when A engages in the activity; and
   (e) B has a cognitive impairment or mental illness; and
   (f) A -
      (i) provides treatment or support services to B; or
      (ii) is a worker for a service provider that provides treatment or support services to B; and
   (g) engaging in the activity in the presence of B is contrary to community standards of acceptable conduct.

(2) A person who commits an offence against subsection (1) is liable to level 6 imprisonment (5 years maximum).

(3) Whether or not engaging in the activity in the presence of B is contrary to community standards of acceptable conduct depends on the circumstances.

(4) For the purposes of subsection (3) -
   (a) the circumstances include -
      (i) the purpose of the activity; and
      (ii) whether A seeks or gets sexual arousal or sexual gratification from engaging in the activity or from the presence of B;
   (b) the circumstances do not include -
      (i) whether B consents -
         (A) to being present when A engages in the activity; or
         (B) to A engaging in the activity; or
      (ii) whether A believes that B consents -
         (A) to being present when A engages in the activity; or
         (B) to A engaging in the activity.

52E. Causing a person with a cognitive impairment or mental illness to be present during sexual activity

(1) A person (A) commits an offence if -
   (a) another person (B) engages in an activity; and
   (b) the activity is sexual; and
   (c) another person (C) is present when B engages in the activity; and
   (d) A intentionally causes or allows C to be present when B engages in the activity; and
   (e) C has a cognitive impairment or mental illness; and
   (f) A -
      (i) provides treatment or support services to C; or
      (ii) is a worker for a service provider that provides treatment or support services to C; and
   (g) A's causing or allowing C to be present when B engages in the activity is contrary to community standards of acceptable conduct.

(2) A person who commits an offence against subsection (1) is liable to level 6 imprisonment (5 years maximum).

(3) Whether or not causing or allowing C to be present when B engages in the activity is contrary to community standards of acceptable conduct depends on the circumstances.

(4) For the purposes of subsection (3) -
   (a) the circumstances include -
      (i) the purpose of the activity; and
      (ii) A seeks or gets sexual arousal or sexual gratification from B engaging in the activity
          or from the presence of C;
   (b) the circumstances do not include -
      (i) whether C consents -
         (A) to being present when B engages in the activity; or
         (B) to C engaging in the activity; or
      (ii) whether A believes that C consents -
         (A) to being present when B engages in the activity; or
         (B) to C engaging in the activity.
B. Laws on sexual exploitation of children cont

Commonwealth Caribbean and Americas

CANADA

FEDERAL LEGISLATION

Criminal Code 1985 (as amended in 2005)

153 Sexual exploitation

(1) Every person commits an offence who is in a position of trust or authority towards a young person, who is a person with whom the young person is in a relationship of dependency or who is in a relationship with a young person that is exploitative of the young person, and who

(a) for a sexual purpose, touches, directly or indirectly, with a part of the body or with an object, any part of the body of the young person; or

(b) for a sexual purpose, invites, counsels or incites a young person to touch, directly or indirectly, with a part of the body or with an object, the body of any person, including the body of the person who so invites, counsels or incites and the body of the young person.

Punishment

(1.1) Every person who commits an offence under subsection (1)

(a) is guilty of an indictable offence and is liable to imprisonment for a term of not more than 14 years and to a minimum punishment of imprisonment for a term of one year; or

(b) is guilty of an offence punishable on summary conviction and is liable to imprisonment for a term of not more than two years less a day and to a minimum punishment of imprisonment for a term of 90 days.

Inference of sexual exploitation

(1.2) A judge may infer that a person is in a relationship with a young person that is exploitative of the young person from the nature and circumstances of the relationship, including

(a) the age of the young person;

(b) the age difference between the person and the young person;

(c) the evolution of the relationship; and

(d) the degree of control or influence by the person over the young person.

Definition of young person

(2) In this section, young person means a person 16 years of age or more but under the age of eighteen years.

153.1 Sexual exploitation of person with disability

(1) Every person who is in a position of trust or authority towards a person with a mental or physical disability or who is a person with whom a person with a mental or physical disability is in a relationship of dependency and who, for a sexual purpose, counsels or incites that person to touch, without that person’s consent, his or her own body, the body of the person who so counsels or incites, or the body of any other person, directly or indirectly, with a part of the body or with an object, is guilty of

(a) an indictable offence and liable to imprisonment for a term not exceeding five years; or

(b) an offence punishable on summary conviction and liable to imprisonment for a term not exceeding eighteen months.
Definition of consent

(2) Subject to subsection (3), consent means, for the purposes of this section, the voluntary agreement of the complainant to engage in the sexual activity in question.

Consent

(2.1) Consent must be present at the time the sexual activity in question takes place.

Question of law

(2.2) The question of whether no consent is obtained under subsection (3) or (4) or 265(3) is a question of law.

When no consent obtained

(3) For the purposes of this section, no consent is obtained if

(a) the agreement is expressed by the words or conduct of a person other than the complainant;
   (a.1) the complainant is unconscious;
   (b) the complainant is incapable of consenting to the activity for any reason other than the one referred to in paragraph (a.1);
   (c) the accused counsels or incites the complainant to engage in the activity by abusing a position of trust, power or authority;
   (d) the complainant expresses, by words or conduct, a lack of agreement to engage in the activity; or
   (e) the complainant, having consented to engage in sexual activity, expresses, by words or conduct, a lack of agreement to continue to engage in the activity.

Subsection (3) not limiting

(4) Nothing in subsection (3) shall be construed as limiting the circumstances in which no consent is obtained.

When belief in consent not a defence

(5) It is not a defence to a charge under this section that the accused believed that the complainant consented to the activity that forms the subject-matter of the charge if

(a) the accused’s belief arose from
   (i) the accused’s self-induced intoxication,
   (ii) the accused’s recklessness or wilful blindness, or
   (iii) any circumstance referred to in subsection (3) or (4) or 265(3) in which no consent is obtained;
   (b) the accused did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain that the complainant was consenting; or
   (c) there is no evidence that the complainant’s voluntary agreement to the activity was affirmatively expressed by words or actively expressed by conduct.

Accused’s belief as to consent

(6) If an accused alleges that he or she believed that the complainant consented to the conduct that is the subject-matter of the charge, a judge, if satisfied that there is sufficient evidence and that, if believed by the jury, the evidence would constitute a defence, shall instruct the jury, when reviewing all the evidence relating to the determination of the honesty of the accused’s belief, to consider the presence or absence of reasonable grounds for that belief.

160. Bestiality

Bestiality in presence of or by child

(3) ... every person who commits bestiality in the presence of a person under the age of 16 years, or who incites a person under the age of 16 years to commit bestiality,
   (a) is guilty of an indictable offence and is liable to imprisonment for a term of not more than 14 years and to a minimum punishment of imprisonment for a term of one year; or
   (b) is guilty of an offence punishable on summary conviction and is liable to imprisonment for a term of not more than two years less a day and to a minimum punishment of imprisonment for a term of six months.
B. Laws on sexual exploitation of children cont

Commonwealth Africa

NAMIBIA


5. Procuration

Any person who -
(a) procure or attempts to procure any female to have unlawful carnal intercourse with any person other than the procurer or in any way assists in bringing about such unlawful carnal intercourse; or
(b) inveigles or entices any female to a brothel for the purpose of unlawful carnal intercourse or prostitution or conceals any female so inveigled or enticed in a brothel; or
(c) procures or attempts to procure any female to become a prostitute; or
(d) procures or attempts to procure any female to become an inmate of a brothel; or
(e) applies, administers to or causes to be taken by any female any drug, intoxicating liquor, matter or thing with intent to stupefy or overpower her so as thereby to enable any person other than the procurer to have unlawful carnal intercourse with such female,
shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding five years.

6. Assistance for purposes of unlawful carnal intercourse

Any person who, with intent that any male may have unlawful carnal intercourse with a female, whether a particular female or not, performs any act or does anything or furnishes any information which is calculated or likely to enable such male to communicate with or to establish the whereabouts of or to trace any such female, shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding five years...

14. Sexual offences with youths

Any person who –
(a) commits or attempts to commit a sexual act with a child under the age of sixteen years; or
(b) commits or attempts to commit an indecent or immoral act with such a child; or
(c) solicits or entices such a child to the commission of a sexual act or an indecent or immoral act, and who –
   (i) is more than three years older than such a child; and
   (ii) is not married to such a child (whether under the general law or customary law),
shall be guilty of an offence and liable on conviction to a fine not exceeding N$40 000 or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment.

15. Sexual offences with female idiots or imbeciles

Any person who -
(a) has or attempts to have unlawful carnal intercourse with any female idiot or imbecile in circumstances which do not amount to rape; or
(b) commits or attempts to commit with such a female any immoral or indecent act; or
(c) solicits or entices such a female to the commission of any immoral or indecent act, shall, if it be proved that such person knew such female was an idiot or imbecile, be guilty of an offence and liable on conviction to imprisonment for a period not exceeding six years with or without a fine not exceeding three thousand rand in addition to such imprisonment.
2. **Combating of Trafficking in Persons Act 2018**

1. **Definitions**

   (1) In this Act, unless the context otherwise indicates…

   "electronic communications" means an emission, transmission or reception of information, including pictures, voice, sound, data, text, video, visual images, moving images and pictures, signals or a combination by means of magnetism, radio or other electromagnetic waves, optical, electromagnetic systems or an agency of a like nature, whether with or without the aid of tangible conductor;

   "electronic communications service" means a service provided to the public, the State or to the subscribers to the service, which consists wholly or mainly of conveyance by any means of electronic communications over an electronic communication network;

   "electronic communication service provider" means a person who provides an electronic communications service;

   "exploitation" includes, but is not limited to -

   (a) prostitution or any form of sexual exploitation;

   (b) forced labour or forced services, prohibited child labour or other economic exploitation;

   (c) slavery or practices similar to slavery, including debt bondage or a forced marriage;

   (d) involuntary servitude;

   (e) criminal exploitation;

   (f) removal of organs or body parts; or

   (g) the impregnation of a female person against her will for the purpose of selling the child when the child is born;

   …

2. **Prohibition of trafficking in persons**

   (1) A person commits an offence of trafficking in persons if he or she intentionally recruits, transports, delivers, transfers, harbours, sells, exchanges, leases or receives a person by means of-

   - (a) threat;
   - (b) use of force or other forms of coercion;
   - (c) abduction;
   - (d) fraud;
   - (e) deception;
   - (f) kidnapping;
   - (g) abuse of power or abuse of position of vulnerability; or
   - (h) giving or receiving of payments or benefits to obtain the consent of a person who has control over another person, for the purposes of exploitation.

   (2) The recruitment, transportation, transfer, harbouring or receiving of a child for the purposes of exploitation is trafficking in persons even if this does not involve any of the means set out in paragraph (a), (b), (c), (e), (f), (g) or (h) of subsection (1).

   (3) A person who facilitates or secures the adoption of a child, for the purpose of exploiting that child, commits an offence.

   (4) A person convicted of an offence under subsection (1), (2) or (3) -

   - (a) in the case of a first conviction, is liable to a fine not exceeding N$1 000 000 or to imprisonment for a period not exceeding 30 years or to both such fine and such imprisonment; and
   - (b) in the case of a second or subsequent conviction, is liable to a fine not exceeding N$2 500 000 or to imprisonment for a period not exceeding 50 years or to both such fine and such imprisonment.
B. Laws on sexual exploitation of children cont

4. Facilitating trafficking in persons

(1) A person commits an offence if he or she -
   (a) leases, subleases, uses or allows to be used any room, house, premises, building or structure for the purpose of facilitating or promoting trafficking in persons;
   (b) subsequent to the lease or sublease of any room, house, premises, building or structure, becomes aware or ought reasonably to have known or suspected that it is being used to facilitate or promote trafficking in persons and fails to report that knowledge to a police officer;
   (c) intentionally advertises, publishes, prints, broadcasts, distributes or causes the advertisement, publication, printing, broadcasting or distribution of information that facilitates or promotes trafficking in persons by any means, including the use of electronic communications; or
   (d) finances, controls or organises the commission of an offence under this subsection.

(2) Every electronic communications service provider operating in Namibia who becomes aware or is aware that any electronic communications, stored on or transmitted over its electronic communications system contains information in contravention of subsection (1)(c), must -
   (a) report the particulars relating to any such communication to a police officer;
   (b) take such reasonable steps as are necessary to preserve evidence as may be required by the relevant investigative and prosecuting authorities, for purposes of investigation and prosecution by the relevant authorities; and
   (c) without delay take such reasonable steps as are necessary to prevent continued access to those electronic communications by any -
      (i) of the customers of that electronic communications service provider; or
      (ii) person if the electronic communications are stored on the electronic communications system of the electronic communications service provider.

(3) An electronic communications service provider, who fails to comply with the provisions of paragraphs (a), (b) or (c) of subsection 2, commits an offence.

(4) A person who is convicted of an offence under subsection (1) or (3) is liable to a fine not exceeding N$1 000 000 or to imprisonment for a period not exceeding 30 years or to both such fine and such imprisonment.

3. Child Care and Protection Act 2015

…

234. Child labour and exploitation of children

(1) A person may not-

   (c) use, procure, offer or employ a child for purposes of commercial sexual exploitation;

   (d) induce, procure, offer, allow or cause a child to be used for purposes of creating child pornography,

   whether for reward or not;

…

(6) A person who becomes aware of a contravention of the provisions of subsection (1) must immediately report such contravention to a member of the police who must, within 24 hours, refer the child concerned to a designated social worker for an investigation in terms of section 139.

(7) A person who contravenes a provision of subsection (1) commits an offence and is liable on conviction to a fine not exceeding N$50 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.

(8) A person who is the owner, lessor, manager, tenant or occupier of any premises on which any exploitative form of child labour has occurred commits an offence if that person, on gaining information of that occurrence, fails to take reasonable steps to report the occurrence to a member of the police promptly and is liable on conviction to a fine not exceeding N$20 000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.
Models of laws on grooming and sexual exploitation of children

15. Acts of consensual sexual penetration with certain children (statutory rape)

16. Acts of consensual sexual violation with certain children (statutory sexual assault)

17. Sexual exploitation of children

(1) A person (‘A’) who unlawfully and intentionally engages the services of a child complainant (‘B’), with or without the consent of B, for financial or other reward, favour or compensation to B or to a third person (‘C’) -
   (a) for the purpose of engaging in a sexual act with B, irrespective of whether the sexual act is committed or not; or
   (b) by committing a sexual act with B,
   is, in addition to any other offence which he or she may be convicted of, guilty of the offence of sexual exploitation of a child.

(2) A person (‘A’) who unlawfully and intentionally offers the services of a child complainant (‘B’) to a third person (‘C’), with or without the consent of B, for financial or other reward, favour or compensation to A, B or to another person (‘D’) -
   (a) for purposes of the commission of a sexual act with B by C;
   (b) by inviting, persuading or inducing B to allow C to commit a sexual act with B;
   (c) by participating in, being involved in, promoting, encouraging or facilitating the commission of a sexual act with B by C;
   (d) by making available, offering or engaging B for purposes of the commission of a sexual act with B by C; or
   (e) by detaining B, whether under threat, force, coercion, deception, abuse of power or authority, for purposes of the commission of a sexual act with B by C,
   is guilty of an offence of being involved in the sexual exploitation of a child.

(3) A person (‘A’) who-
   (a) intentionally allows or knowingly permits the commission of a sexual act by a third person (‘C’) with a child complainant (‘B’), with or without the consent of B, while being a primary care-giver defined in section 1 of the Social Assistance Act, 2004 (Act 13 of 2004), parent or guardian of B; or
   (b) owns, leases, rents, manages, occupies or has control of any movable or immovable property and intentionally allows or knowingly permits such movable or immovable property to be used for purposes of the commission of a sexual act with B by C, with or without the consent of B,
   is guilty of the offence of furthering the sexual exploitation of a child.

(4) A person (‘A’) who intentionally receives financial or other reward, favour or compensation from the commission of a sexual act with a child complainant (‘B’), with or without the consent of B, by a third person (‘C’), is guilty of an offence of benefiting from the sexual exploitation of a child.

(5) A person (‘A’) who intentionally lives wholly or in part on rewards, favours or compensation for the commission of a sexual act with a child complainant (‘B’), with or without the consent of B, by a third person (‘C’), is guilty of an offence of living from the earnings of the sexual exploitation of a child.

(6) A person (‘A’), including a juristic person, who-
   (a) makes or organises any travel arrangements for or on behalf of a third person (‘C’), whether that other person is resident within or outside the borders of the Republic, with the intention of facilitating the commission of any sexual act with a child complainant (‘B’), with or without the consent of B, irrespective of whether that act is committed or not; or
   (b) prints or publishes, in any manner, any information that is intended to promote or facilitate conduct that would constitute a sexual act with B,
   is guilty of an offence of promoting child sex tours.
B. Laws on sexual exploitation of children cont

18. Grooming ...

19. Exposure or display of or causing exposure or display of child pornography or pornography to children

A person ('A') who unlawfully and intentionally exposes or displays or causes the exposure or display of-

(a) any image, publication, depiction, description or sequence of child pornography or pornography;

(b) any image, publication, depiction, description or sequence containing a visual presentation, description or representation of a sexual nature of a child, which may be disturbing or harmful to, or age-inappropriate for children, as contemplated in the Films and Publications Act, 1996 (Act 65 of 1996), or in terms of any other legislation; or

(c) any image, publication, depiction, description or sequence containing a visual presentation, description or representation of pornography or an act of an explicit sexual nature of a person 18 years or older, which may be disturbing or harmful to, or age-inappropriate, for children, as contemplated in the Films and Publications Act, 1996, or in terms of any other law,

to a child ('B'), with or without the consent of B, is guilty of the offence of exposing or displaying or causing the exposure or display of child pornography or pornography to a child.

...

20. Using children for or benefiting from child pornography ...

21. Compelling or causing children to witness sexual offences, sexual acts or self-masturbation

(1) A person ('A') who unlawfully and intentionally, whether for the sexual gratification of A or of a third person ('C') or not, compels or causes a child complainant ('B'), without the consent of B, to be in the presence of or watch A or C while he, she or they commit a sexual offence, is guilty of the offence of compelling or causing a child to witness a sexual offence.

(2) A person ('A') who unlawfully and intentionally, whether for the sexual gratification of A or of a third person ('C') or not, compels or causes a child complainant ('B'), without the consent of B, to be in the presence of or watch-

(a) A while he or she engages in a sexual act with C or another person ('D'); or

(b) C while he or she engages in a sexual act with D,

is guilty of the offence of compelling or causing a child to witness a sexual act.

(3) A person ('A') who unlawfully and intentionally, whether for the sexual gratification of A or of a third person ('C') or not, compels or causes a child complainant ('B'), without the consent of B, to be in the presence of or watch A or C while he or she engages in an act of self-masturbation, is guilty of the offence of compelling or causing a child to witness self-masturbation.

22. Exposure or display of or causing exposure or display of genital organs, anus or female breasts to children ('flashing')

A person ('A') who unlawfully and intentionally, whether for the sexual gratification of A or of a third person ('C') or not, exposes or displays or causes the exposure or display of the genital organs, anus or female breasts of A or C to a child complainant ('B'), with or without the consent of B, is guilty of the offence of exposing or displaying or causing the exposure or display of genital organs, anus or female breasts to a child.
CHAPTER 4

SEXUAL OFFENCES AGAINST PERSONS WHO ARE MENTALLY DISABLED

23. Sexual exploitation of persons who are mentally disabled

(1) A person ('A') who unlawfully and intentionally engages the services of a complainant who is mentally disabled ('B'), for financial or other reward, favour or compensation to B or to a third person ('C')-
   (a) for the purpose of engaging in a sexual act with B, irrespective of whether the sexual act is committed or not; or
   (b) by committing a sexual act with B,
   is, in addition to any other offence which he or she may be convicted of, guilty of the offence of sexual exploitation of a person who is mentally disabled.

(2) A person ('A') who unlawfully and intentionally offers the services of a person who is mentally disabled ('B') to a third person ('C'), for financial or other reward, favour or compensation to A, B or to another person ('D')-
   (a) for purposes of the commission of a sexual act with B by C;
   (b) by inviting, persuading or inducing B to allow C to commit a sexual act with B;
   (c) by participating in, being involved in, promoting, encouraging or facilitating the commission of a sexual act with B by C;
   (d) by making available, offering or engaging B for purposes of the commission of a sexual act with B by C; or
   (e) by detaining B, whether under threat, force, coercion, deception, abuse of power or authority, for purposes of the commission of a sexual act with B by C,
   is guilty of an offence of being involved in the sexual exploitation of a person who is mentally disabled.

(3) A person ('A') who-
   (a) intentionally allows or knowingly permits the commission of a sexual act by a third person ('C') with a person who is mentally disabled ('B') while being a care-giver, parent, guardian, curator or teacher of B; or
   (b) owns, leases, rents, manages, occupies or has control of any movable or immovable property and intentionally allows or knowingly permits such movable or immovable property to be used for purposes of the commission of a sexual act with B by C,
   is guilty of the offence of furthering the sexual exploitation of a person who is mentally disabled.

(4) A person ('A') who intentionally receives financial or other reward, favour or compensation from the commission of a sexual act with a person who is mentally disabled ('B') by a third person ('C'), is guilty of an offence of benefiting from the sexual exploitation of a person who is mentally disabled.

(5) A person ('A') who intentionally lives wholly or in part on rewards, favours or compensation for the commission of a sexual act with a person who is mentally disabled ('B') by a third person ('C'), is guilty of an offence of living from the earnings of the sexual exploitation of a person who is mentally disabled.

(6) A person ('A'), including a juristic person, who-
   (a) makes or organises any travel arrangements for or on behalf of a third person ('C'), whether that other person is resident within or outside the borders of the Republic, with the intention of facilitating the commission of any sexual act with a person who is mentally disabled ('B'), irrespective of whether that act is committed or not; or
   (b) prints or publishes, in any manner, any information that is intended to promote or facilitate conduct that would constitute a sexual act with B,
   is guilty of an offence of promoting sex tours with persons who are mentally disabled.

24. Sexual grooming of persons who are mentally disabled

25. Exposure or display of or causing exposure or display of child pornography or pornography to persons who are mentally disabled

A person ('A') who unlawfully and intentionally exposes or displays or causes the exposure or display of any image, publication, depiction, description or sequence of child pornography or pornography to a complainant who is mentally disabled ('B'), is guilty of the offence of exposing or displaying or causing the exposure or display of child pornography or pornography to a person who is mentally disabled.

26. Using persons who are mentally disabled for pornographic purposes or benefiting therefrom
B. Laws on sexual exploitation of children cont

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Commonwealth Europe

UNITED KINGDOM
ENGLAND & WALES

Sexual Offences Act 2003

11. Engaging in sexual activity in the presence of a child

(1) A person aged 18 or over (A) commits an offence if-
   (a) he intentionally engages in an activity,
   (b) the activity is sexual,
   (c) for the purpose of obtaining sexual gratification, he engages in it-
      (i) when another person (B) is present or is in a place from which A can be observed, and
      (ii) knowing or believing that B is aware, or intending that B should be aware, that he is engaging in it, and
   (d) either-
      (i) B is under 16 and A does not reasonably believe that B is 16 or over, or
      (ii) B is under 13.

(2) A person guilty of an offence under this section is liable-
   (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
   (b) on conviction on indictment, to imprisonment for a term not exceeding 10 years.

12. Causing a child to watch a sexual act

(1) A person aged 18 or over (A) commits an offence if-
   (a) for the purpose of obtaining sexual gratification, he intentionally causes another person (B) to watch a third person engaging in an activity, or to look at an image of any person engaging in an activity,
   (b) the activity is sexual, and
   (c) either—
      (i) B is under 16 and A does not reasonably believe that B is 16 or over, or
      (ii) B is under 13.

(2) A person guilty of an offence under this section is liable-
   (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
   (b) on conviction on indictment, to imprisonment for a term not exceeding 10 years.

13. Child sex offences committed by children or young persons

(1) A person under 18 commits an offence if he does anything which would be an offence under any of sections 9 to 12 if he were aged 18.

(2) A person guilty of an offence under this section is liable—
   (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
   (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years.
C. International and Regional Conventions

**Convention on the Rights of the Child 1989**

...  

**Article 34**  
States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

(a) The inducement or coercion of a child to engage in any unlawful sexual activity;
(b) The exploitative use of children in prostitution or other unlawful sexual practices;
(c) The exploitative use of children in pornographic performances and materials.

**Article 35**  
States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

**Article 36**  
States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child’s welfare.

**Council of Europe Protection of Children against Sexual Exploitation and Sexual Abuse Convention 2007 (Lanzarote Convention)**

...  

**Article 12 – Reporting suspicion of sexual exploitation or sexual abuse**  
1. Each Party shall take the necessary legislative or other measures to ensure that the confidentiality rules imposed by internal law on certain professionals called upon to work in contact with children do not constitute an obstacle to the possibility, for those professionals, of their reporting to the services responsible for child protection any situation where they have reasonable grounds for believing that a child is the victim of sexual exploitation or sexual abuse.

2. Each Party shall take the necessary legislative or other measures to encourage any person who knows about or suspects, in good faith, sexual exploitation or sexual abuse of children to report these facts to the competent services.

**Article 13 – Helplines**  
Each Party shall take the necessary legislative or other measures to encourage and support the setting up of information services, such as telephone or Internet helplines, to provide advice to callers, even confidentially or with due regard for their anonymity.

**Article 14 – Assistance to victims**  
1. Each Party shall take the necessary legislative or other measures to assist victims, in the short and long term, in their physical and psycho-social recovery. Measures taken pursuant to this paragraph shall take due account of the child’s views, needs and concerns.

2. Each Party shall take measures, under the conditions provided for by its internal law, to cooperate with non-governmental organisations, other relevant organisations or other elements of civil society engaged in assistance to victims.

3. When the parents or persons who have care of the child are involved in his or her sexual exploitation or sexual abuse, the intervention procedures taken in application of Article 11, paragraph 1, shall include:
   – the possibility of removing the alleged perpetrator;
   – the possibility of removing the victim from his or her family environment. The conditions and duration of such removal shall be determined in accordance with the best interests of the child.
4. Each Party shall take the necessary legislative or other measures to ensure that the persons who are close to the victim may benefit, where appropriate, from therapeutic assistance, notably emergency psychological care.

... 

**Article 18 – Sexual abuse**

1. Each Party shall take the necessary legislative or other measures to ensure that the following intentional conduct is criminalised:
   a. engaging in sexual activities with a child who, according to the relevant provisions of national law, has not reached the legal age for sexual activities;
   b. engaging in sexual activities with a child where:
      – use is made of coercion, force or threats; or
      – abuse is made of a recognised position of trust, authority or influence over the child, including within the family; or
      – abuse is made of a particularly vulnerable situation of the child, notably because of a mental or physical disability or a situation of dependence.

2. For the purpose of paragraph 1 above, each Party shall decide the age below which it is prohibited to engage in sexual activities with a child.

3. The provisions of paragraph 1.a are not intended to govern consensual sexual activities between minors.

... 

**Article 22 – Corruption of children**

Each Party shall take the necessary legislative or other measures to criminalise the intentional causing, for sexual purposes, of a child who has not reached the age set in application of Article 18, paragraph 2, to witness sexual abuse or sexual activities, even without having to participate.

**Article 23 – Solicitation of children for sexual purposes**

Each Party shall take the necessary legislative or other measures to criminalise the intentional proposal, through information and communication technologies, of an adult to meet a child who has not reached the age set in application of Article 18, paragraph 2 [the age of sexual consent], for the purpose of committing any of the offences established in accordance with Article 18, paragraph 1.a [engaging in sexual activities with a child below the age of sexual consent], or Article 20, paragraph 1.a, [producing child pornography] against him or her, where this proposal has been followed by material acts leading to such a meeting.

... 


... 

**Article 6(1)**

Member States shall take the necessary measures to ensure that the following intentional conduct is punishable: the proposal, by means of information and communication technology, by an adult to meet a child who has not reached the age of sexual consent, for the purpose of committing any of the offences referred to in Article 3(4) [engaging in sexual activities with a child who has not reached the age of sexual consent] and Article 5(6) [production of child pornography], where that proposal was followed by material acts leading to such a meeting, shall be punishable.