



## Factsheet 4: Class 1 and Class 2 Offences

### Class 1 Offences

A “Class 1 Offence” is an offence against any of the following provisions:-

<u>Enactment</u>	<u>Description of Offence</u>
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#### ***The Criminal Code***

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| s. 186(1) | Occupier or owner allowing a child to be on premises for unlawful carnal knowledge (if the child in relation to whom the offence is committed is under 13)                            |
| s. 320(2) | Sexually penetrating child under 13   |
| s. 320(3) | Procuring, inciting or encouraging child under 13 to engage in sexual behaviour   |
| s. 321A   | Persistent sexual conduct with child under 16 (if the offence includes a sexual act on at least one occasion when the child against whom the offence is committed is under 13)        |
| s. 325    | Sexual penetration without consent (if the person against whom the offence is committed is a child under 13)  |
| s. 326    | Aggravated sexual penetration without consent (if the person against whom the offence is committed is a child under 13)   |
| s. 327    | Sexual coercion (if the person against whom the offence is committed is a child under 13)   |
| s. 328    | Aggravated sexual coercion (if the person against whom the offence is committed is a child under 13)  |
| s. 329(2) | Sexually penetrating child known to be lineal relative or de facto child (if the child against whom the offence is committed is under 13)   |
| s. 329(3) | Procuring, inciting or encouraging child known to be lineal relative or de facto child to engage in sexual behaviour (if the child against whom the offence is committed is under 13) |

#### ***Crimes Act 1914 of the Commonwealth***

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|---------|--|
| s. 50BA | Sexual intercourse with child under 16 (if the child against whom the offence is committed is under 13)                  |
| s. 50BB | Inducing child under 16 to engage in sexual intercourse (if the child against whom the offence is committed is under 13) |

## **Class 1 Offences (continued)**

### ***Criminal Code Act 1995 (Commonwealth)***

- s. 272.8(1) Engaging in sexual intercourse with child outside Australia (if the child against whom the offence is committed is under 13)
- s. 272.8(2) Causing child to engage in sexual intercourse in presence of accused person outside Australia (if the child against whom the offence is committed is under 13)

An offence under a law of another state, territory or jurisdiction of a similar kind to these Class 1 Offences is also a Class 1 Offence.

An old offence that, at the time it was committed, was an offence of a similar kind to these Class 1 Offences is also a Class 1 Offence.

Offences under a law of another jurisdiction that are prescribed by the Regulations to be Class 1 Offences are also Class 1 Offences.

Some offences have already been prescribed as Class 1 Offences in Regulations and are included above.

## **Class 2 Offences**

A “**Class 2 Offence**” is an offence against any of the following provisions:-

<b><u>Enactment</u></b>	<b><u>Description of Offence</u></b>
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### ***The Criminal Code***

s. 181	Carnal knowledge of animal
s. 186(1)	Occupier or owner allowing a child to be on premises for unlawful carnal knowledge (if the child in relation to whom the offence is committed is 13 or over)
s. 187	Facilitating sexual offences against children outside Western Australia
s. 204B	Using electronic communication to procure or expose to indecent matter, children under 16
s. 217	Involving child in child exploitation
s. 218	Production of child exploitation material
s. 219	Distribution of child exploitation material
s. 220	Possession of child exploitation material
s.279	Murder
s.280	Manslaughter

<b><u>Enactment</u></b>	<b><u>Description of Offence</u></b>
s.281	Unlawful assault causing death
s. 290	Killing unborn child
s. 297	Grievous bodily harm
s. 320(4)	Indecent dealing with child under 13
s. 320(5)	Procuring, inciting or encouraging child under 13 to do indecent act
s. 320(6)	Indecently recording child under 13
s. 321	Sexual offences against child of or over 13 and under 16
s. 321A	Persistent sexual conduct with child under 16 (if the offence does not include a sexual act on any occasion when the child against whom the offence is committed is under 13)
s. 322	Sexual offences against child of or over 16 by person in authority etc.
s. 323	Indecent assault
s. 324	Aggravated indecent assault
s. 325	Sexual penetration without consent
s. 326	Aggravated sexual penetration without consent
s. 327	Sexual coercion
s. 328	Aggravated sexual coercion
s. 329(2)	Sexually penetrating child known to be lineal relative or de facto child (if the child against whom the offence is committed is 13 or over)
s. 329(3)	Procuring, inciting or encouraging child known to be lineal relative or de facto child to engage in sexual behaviour (if the child against whom the offence is committed is 13 or over)
s. 329(4)	Indecent dealing with child known to be lineal relative or de facto child
s. 329(5)	Procuring, inciting or encouraging child known to be lineal relative or de facto child to do indecent act.
s. 329(6)	Indecently recording child known to be lineal relative or de facto child
s. 330	Sexual offences against incapable person
s. 331B	Sexual servitude
s. 331C	Conducting business involving sexual servitude
s. 331D	Deceptive recruiting for commercial sexual services
s. 332	Kidnapping

<b><u>Enactment</u></b>	<b><u>Description of Offence</u></b>
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s. 343	Child stealing
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***Classification (Publications, Films and Computer Games) Enforcement Act 1996***

The deleted s. 60	Child pornography
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s. 101	Objectionable material offences (if the objectionable material is child pornography)
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***Misuse of Drugs Act 1981***

s. 7B(4)	Selling drug paraphernalia to a child
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s. 19B(2)	Selling, or offering to sell, ice pipe to child
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***Prostitution Act 2000***

s. 16	Causing, permitting or seeking to induce child to act as prostitute
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s. 17	Obtaining payment for prostitution by child
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s. 18	Agreement for prostitution by child
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***Children and Community Services Act 2004***

s. 101	Failing to protect child from significant harm
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s. 102	Leaving child unsupervised in vehicle
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s. 192	Employing child, or permitting child to be employed, to perform in indecent, obscene or pornographic manner
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***Crimes Act 1914 of the Commonwealth***

s. 50BA	Sexual intercourse with child under 16 (if the child against whom the offence is committed is 13 or over)
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s. 50BB	Inducing child under 16 to engage in sexual intercourse (if the child against whom the offence is committed is 13 or over)
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s. 50BC	Sexual conduct involving a child under 16
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s. 50BD	Inducing child under 16 to be involved in sexual conduct
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s. 50DA	Benefiting from offence against Part IIIA
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s. 50DB	Encouraging offence against Part IIIA
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<b><u>Enactment</u></b>	<b><u>Description of Offence</u></b>
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***Customs Act 1901 of the Commonwealth***

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| s. 233BAB | Special offences relating to tier 2 goods (if the offence involves items of child pornography or of child abuse material) |
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***Criminal Code Act 1995 (Commonwealth)***

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| s. 271.4     | Trafficking in children  |
| s. 271.7     | Domestic trafficking in children   |
| s. 272.8(1)  | Engaging in sexual intercourse with child outside Australia (if the child against whom the offence is committed is 13 or over)                                   |
| s. 272.8(2)  | Causing child to engage in sexual intercourse in presence of accused person outside Australia (if the child against whom the offence is committed is 13 or over) |
| s. 272.9(1)  | Engaging in sexual activity with child outside Australia   |
| s. 272.9(2)  | Causing child to engage in sexual activity in presence of accused person outside Australia   |
| s. 272.10    | Aggravated offence – child with mental impairment or under care, supervision or authority of accused person  |
| s. 272.11    | Persistent sexual abuse of child outside Australia   |
| s. 272.12(1) | Engaging in sexual intercourse with young person outside Australia – accused person in position of trust or authority  |
| s. 272.12(2) | Causing young person to engage in sexual intercourse in presence of accused person outside Australia – accused person in position of trust or authority          |
| s. 272.13(1) | Engaging in sexual activity with young person outside Australia – accused person in position of trust or authority   |
| s. 272.13(2) | Causing young person to engage in sexual activity in presence of accused person outside Australia – accused person in position of trust or authority             |
| s. 272.14    | Procuring child to engage in sexual activity outside Australia   |
| s. 272.15    | “Grooming” child to engage in sexual activity outside Australia  |
| s. 272.18    | Benefiting from offence against Division 272   |
| s. 272.19    | Encouraging offence against Division 272   |

<b><u>Enactment</u></b>	<b><u>Description of Offence</u></b>
s. 272.20(1)	Preparing for or planning offence involving sexual intercourse or other sexual activity with child
s. 272.20(2)	Preparing for or planning offence involving sexual intercourse or other sexual activity with young person
s. 273.5	Possessing, controlling, producing, distributing or obtaining child pornography material outside Australia
s.273.6	Possessing, controlling, producing, distributing or obtaining child abuse material outside Australia
s. 273.7	Aggravated offence – offence involving conduct on 3 or more occasions and 2 or more people
s. 309.2	Supplying controlled drug to child
s. 309.3	Supplying marketable quantity of controlled drug to child for trafficking
s. 309.4	Supplying controlled drug to child for trafficking
s. 309.7	Procuring child for trafficking marketable quantity of controlled drug
s. 309.8	Procuring child for trafficking controlled drug
s. 309.10	Procuring child for pre-trafficking marketable quantity of controlled precursor
s. 309.11	Procuring child for pre-trafficking controlled precursor
s. 309.12	Procuring child for importing or exporting marketable quantity of border controlled drug or border controlled plant
s. 309.13	Procuring child for importing or exporting border controlled drug or border controlled plant
s. 309.14	Procuring child for importing or exporting marketable quantity of border controlled precursor
s. 309.15	Procuring child for importing or exporting border controlled precursor
s. 310.2	Creating danger to child under 14 from exposure to unlawful manufacturing
s. 310.3	Causing harm to child under 14 from exposure to unlawful manufacturing
s. 310.4	Aggravated offences – manufacturing controlled drugs and controlled precursors
s. 471.16(1)	Causing child pornography material to be carried by a postal or similar service

<b><u>Enactment</u></b>	<b><u>Description of Offence</u></b>
s. 471.16(2)	Requesting person to cause child pornography material to be carried by a postal or similar service
s. 471.17	Possessing, controlling, producing, supplying or obtaining child pornography material for use through a postal or similar service
s. 471.19(1)	Causing child abuse material to be carried by a postal or similar service
s. 471.19(2)	Requesting person to cause child abuse material to be carried by a postal or similar service
s. 471.20	Possessing, controlling, producing, supplying or obtaining child abuse material for use through a postal or similar service
s. 471.22	Aggravated offence – offence involving conduct on 3 or more occasions and 2 or more people
s. 471.24	Using a postal or similar service to procure child under 16 to engage in sexual activity
s. 471.25	Using a postal or similar service to "groom" child under 16
s. 471.26	Using postal or similar service to send indecent material to child under 16
s. 474.19	Using a carriage service for child pornography material
s. 474.20	Possessing, controlling, producing, supplying or obtaining child pornography material for use through a carriage service
s. 474.22	Using a carriage service for child abuse material
s. 474.23	Possessing, controlling, producing, supplying or obtaining child abuse material for use through a carriage service
s. 474.24A	Aggravated offence – offence involving conduct on 3 or more occasions and 2 or more people
s. 474.25A(1)	Engaging in sexual activity with child under 16 using a carriage service
s. 474.25A(2)	Causing child under 16 to engage in sexual activity with another person using a carriage service
s. 474.25B	Aggravated offence – child with mental impairment or under care, supervision or authority of accused person
s. 474.26	Using a carriage service to procure persons under 16
s. 474.27	Using a carriage service to "groom" persons under 16
s. 474.27A	Using a carriage service to transmit indecent communication to child under 16

## **Class 2 Offences (continued)**

An offence under a law of another state, territory or jurisdiction of a similar kind to these Class 2 Offences is also a Class 2 Offence.

An old offence that, at the time it was committed, was an offence of a similar kind to these Class 2 Offences is also a Class 2 Offence.

An offence of attempting, or of conspiracy or incitement to commit an offence that is a Class 1 or Class 2 offence.

Offences under a law of another jurisdiction that are prescribed by the Regulations to be Class 2 Offences are also Class 2 Offences.

Some offences have already been prescribed as Class 2 Offences in regulations and are included above.

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