

### **321A. Child under 16, sexual relationship with**

- (1) For the purposes of this section a person has a sexual relationship with a child under the age of 16 years if that person, on 3 or more occasions each of which is on a different day, does an act in relation to the child which would constitute a prescribed offence.
- (2) In subsection (1) the act referred to need not be the same act, or constitute the same offence on each of the 3 or more occasions.
- (3) A person who has a sexual relationship with a child under the age of 16 years is guilty of a crime and is liable to imprisonment for 20 years.
- (4) An indictment under subsection (3) shall specify the period during which it is alleged that the sexual relationship occurred and the accused shall not be charged in the same indictment with any other offence under this Chapter alleged to have been committed against the child during that period.
- (5) In proceedings on an indictment charging an offence under subsection (3) it is not necessary to specify the dates, or in any other way to particularize the circumstances, of the alleged acts.
- (6) An indictment for an offence under this section is to be signed by the Director of Public Prosecutions or the Deputy Director of Public Prosecutions.
- (7) It is a defence to a charge under subsection (3) to prove the accused person —
  - (a) believed on reasonable grounds that the child was of or over the age of 16 years; and
  - (b) was not more than 3 years older than the child.
- (8) It is a defence to a charge under subsection (3) to prove the accused person was lawfully married to the child.
- (9) Upon an indictment charging a person with an offence under subsection (3), if the jury is not satisfied the accused person is guilty of that offence, the accused person may be convicted of one or more prescribed offences if the offence or offences are established by the evidence.
- (10) If a person has been tried and convicted or acquitted on an indictment alleging the commission of an offence under subsection (3), that fact is a defence to any charge of an offence under this Chapter alleged to have been committed against the same child during the period when it was alleged the sexual relationship with the child occurred.
- (11) In this section, “**prescribed offence**” means —
  - (a) an offence under section 320(2) or (4) or 321(2) or (4); or
  - (b) an offence under section 320(3) or 321(3) where the child in fact engages in sexual behaviour.

*[Section 321A inserted by No. 14 of 1992 s. 6(1); amended by No. 3 of 2002 s. 39.]*