

TASMANIA

**CRIMINAL CODE AMENDMENT (SEXUAL
OFFENCES AGAINST YOUNG PEOPLE) BILL 2013**

CONTENTS

1. Short title
2. Commencement
3. Principal Act
4. Schedule 1 amended (*Criminal Code*)
5. Repeal of Act

CRIMINAL CODE AMENDMENT (SEXUAL OFFENCES AGAINST YOUNG PEOPLE) BILL 2013

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

P. R. ALCOCK, *Clerk of the House*
20 August 2013

*(Brought in by the Minister for Justice, the Honourable Brian
Neal Wightman)*

A BILL FOR

An Act to amend the *Criminal Code Act 1924*

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Criminal Code Amendment (Sexual Offences against Young People) Act 2013*.

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

*Criminal Code Amendment (Sexual Offences against Young
People) Act 2013*
Act No. of

s. 3

3. Principal Act

In this Act, the *Criminal Code Act 1924** is referred to as the Principal Act.

4. Schedule 1 amended (*Criminal Code*)

Schedule 1 to the Principal Act is amended as follows:

- (a) by inserting the following section after section 14A:

14B. Mistake as to age of victim in relation to certain sexual offences

- (1) In this section –

relevant offence means –

- (a) an offence against section 124, 125B, 125C, 125D, 127 or 127A; and
- (b) an offence of attempting to commit an offence against section 124, 125B, 125C, 125D, 127 or 127A.

*No. 69 of 1924

*Criminal Code Amendment (Sexual Offences against Young
People) Act 2013*
Act No. of

s. 4

- (2) In proceedings for a relevant offence, by an accused, in respect of a person who is under the age of 13 years, a mistaken belief by the accused as to the age of the person does not excuse the accused from criminal responsibility for any act or omission done or made under such a mistaken belief.
- (3) In proceedings for a relevant offence, by an accused, in respect of a person who is under the age of 17 years, a mistaken belief by the accused as to the age of the person is not honest or reasonable if –
 - (a) the accused did not take all reasonable steps to ascertain the age of the person; or
 - (b) the accused was in a state of self-induced intoxication and the mistake was not one which the accused would have made if not intoxicated.
- (4) For the avoidance of doubt, in proceedings for a relevant offence, by an accused, in respect

*Criminal Code Amendment (Sexual Offences against Young
People) Act 2013*
Act No. of

s. 4

of a person who is under the age of 17 years but not under the age of 13 years, an honest and reasonable but mistaken belief by the accused as to the age of the person may be relied on for the purpose of a defence referred to in section 124(3), section 125B(3), section 125C(4), section 125D(5), section 127(2) or section 127A(2).

- (b) by omitting subsection (2) from section 124;
- (c) by omitting subsection (5) from section 124;
- (d) by omitting subsection (5) from section 125A;
- (e) by inserting the following subsection after subsection (6) in section 125A:

(6A) A reference in this section to an unlawful sexual act that is committed by a person in relation to a young person includes a reference to conduct that was, in relation to the young person, committed by the person outside the State if –

- (a) the conduct was unlawful in the State, territory or country in which it was

*Criminal Code Amendment (Sexual Offences against Young
People) Act 2013*
Act No. of

s. 4

committed and, if it had
been committed in this
State by the person in
relation to the young
person, would have been
an unlawful sexual act;
and

- (b) at least one unlawful
sexual act in relation to
the young person was
committed by the person
in this State.
- (f) by omitting subsection (2) from section
125B;
- (g) by omitting subsection (5) from section
125C;
- (h) by omitting from section 125D(5)(b)
“person; or” and substituting “person.”;
- (i) by omitting paragraph (c) from section
125D(5);
- (j) by inserting the following section after
section 459:

**460. Application of *Criminal Code
Amendment (Sexual Offences against
Young People) Act 2013***

The amendments to this Act
made by the *Criminal Code
Amendment (Sexual Offences*

*Criminal Code Amendment (Sexual Offences against Young
People) Act 2013*
Act No. of

s. 5

against Young People) Act 2013
do not apply in relation to an
offence committed before the
amendments commence.

5. Repeal of Act

This Act is repealed on the three hundred and
sixty fifth day from the day on which it
commences.