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Tough New Child Pornography Laws

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Minister for Justice

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People who use children to produce child pornography will face maximum jail terms of 14 years for an individual or maximum fines of $1.65 million for a corporation, under tough new laws to be introduced in the October parliamentary sittings.

The Criminal Code Amendment (Child Abuse Material) Bill also provides for maximum fines of $1.1 million for companies possessing, distributing or selling child pornography and maximum imprisonment of 10 years for individuals.

Minister for Justice Dr Peter Toyne said under current legislation, offences in this area attract fines of $20,000 to $100,000.

“The significant increase in the penalties recognises the link between the production, distribution and possession of material depicting children in a sexual manner and the abuse of children,” Dr Toyne said.

“These are heinous crimes and we’re serious about penalising them as such.”

The Minister said it was appropriate to overhaul the Criminal Code because of changes in the way child pornography is promoted and distributed.

“Most of the material is now accessed via the internet or email and stored on computers or CDs or DVDs,” Dr Toyne said.

“The existing offences were drafted prior to the everyday use of computers and the internet – these amendments address that.

“It also recognises that as well as harming children in the production of the material, child pornography is also used to promote and support sexual interest in children and to ‘prepare’ them so they can be abused.

“As well, the new definition of child abuse material will also capture illicit material which represents children in cartoons as well as computer generated images of children.”

Other changes include:

- A new definition of child abuse material to replace child pornography that includes material depicting children who appear to be under the age of 18 years and material that depicts a child who appears to be the victim of torture, cruelty and abuse where it is likely to offend a reasonable person. Currently child pornography covers children up to the age of 16 years.
- The repeal of existing child pornography offences, replacing them with a single offence covering possession, distribution, and sale of child abuse material.
• Allowance for unclassified material to be used in a prosecution. Currently, a prosecution cannot start until the material which is the subject of the case has been classified. The new definition of child abuse material doesn’t require a classification.
• A presumption that a person is in possession of child abuse material when it is found at a place occupied by the person;
• The repeal of some defences currently available to child pornography offences. One such defence is currently available where an accused claims that the person depicted in the material is not actually a child.

“In that case, the actual age of whoever is in the film, video or magazine is immaterial because it is the appearance of that person as a child that is of prime importance to offenders,” Dr Toyne said.

“Let me be absolutely clear. This government will not tolerate, in any circumstance, the production, possession, distribution or sale of any material that depicts children in an inappropriate sexual or demeaning manner.

“This is material of the most depraved kind and offenders under the new legislation can expect to be dealt with to the full extent of the law,” Dr Toyne said.

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