



New South Wales

# Crimes Amendment (Aggravated Sexual Assault in Company) Act 2001 No 62

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New South Wales

# **Crimes Amendment (Aggravated Sexual Assault in Company) Act 2001 No 62**

Act No 62, 2001

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An Act to amend the *Crimes Act 1900* to provide for a maximum penalty of life imprisonment for aggravated sexual assault in company; and for related purposes.  
[Assented to 21 September 2001]

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Crimes Amendment (Aggravated Sexual Assault in Company) Act 2001*.

**2 Commencement**

This Act commences on a day or days to be appointed by proclamation.

**3 Amendment of Crimes Act 1900 No 40**

The *Crimes Act 1900* is amended as set out in Schedule 1.

**4 Consequential amendment of other Acts**

Each Act referred to in Schedule 2 is amended as set out in that Schedule.

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## Schedule 1 Amendment of Crimes Act 1900

(Section 3)

### [1] Section 4 Definitions

Insert “, 61JA” after “61J” in the definition of *Personal violence offence* in section 4 (1).

### [2] Section 61JA

Insert after section 61J:

#### **61JA Aggravated sexual assault in company**

(1) A person:

- (a) who has sexual intercourse with another person without the consent of the other person and who knows that the other person does not consent to the sexual intercourse, and
- (b) who is in the company of another person or persons, and
- (c) who:
  - (i) at the time of, or immediately before or after, the commission of the offence, maliciously inflicts actual bodily harm on the alleged victim or any other person who is present or nearby, or
  - (ii) at the time of, or immediately before or after, the commission of the offence, threatens to inflict actual bodily harm on the alleged victim or any other person who is present or nearby by means of an offensive weapon or instrument, or
  - (iii) deprives the alleged victim of his or her liberty for a period before or after the commission of the offence,

is liable to imprisonment for life.

- (2) A person sentenced to imprisonment for life for an offence under this section is to serve that sentence for the term of the person’s natural life.

(3) Nothing in this section affects the operation of section 21 of the *Crimes (Sentencing Procedure) Act 1999* (which authorises the passing of a lesser sentence than imprisonment for life).

(4) Nothing in this section affects the prerogative of mercy.

**[3] Section 61P Attempt to commit offence under sections 61I–61O**

Insert “, 61JA” after “61J”.

**[4] Section 61Q Alternative verdicts**

Insert after section 61Q (1):

(1A) **Question of aggravation in company.** If on the trial of a person for an offence under section 61JA the jury is not satisfied that the accused is guilty of the offence charged, but is satisfied on the evidence that the accused is guilty of an offence under section 61I or 61J, it may find the person not guilty of the offence charged but guilty of the latter offence, and the accused is liable to punishment accordingly.

**[5] Section 61Q (3)**

Insert “or 61JA” after “61J”.

**[6] Section 61R Consent**

Omit “61I and 61J” wherever occurring.

Insert instead “61I, 61J and 61JA”.

**[7] Section 61T Offender married to victim**

Insert “, 61JA” after “61J”.

**[8] Section 61U Circumstances of certain sexual offences to be considered in passing sentence**

Insert at the end of section 61U (b):

or

(c) both an offence under section 61JA and an offence under section 61K,

**[9] Section 66EA Persistent sexual abuse of a child**

Insert “, 61JA” after “61J” in the definition of *sexual offence* in section 66EA (12).

**[10] Section 431A Life sentences**

Insert “, for an offence under 61JA” after “ for the offence of murder” in section 431A (2).

## **Schedule 2 Consequential amendment of other Acts**

(Section 4)

### **2.1 Bail Act 1978 No 161**

#### **Section 9 Presumption in favour of bail for certain offences—exceptions**

Insert “, 61JA” after “61J” in section 9 (1) (c).

### **2.2 Children (Care and Protection) Act 1987 No 54**

#### **Section 3 Definitions**

Insert “, 61JA” after “61J” in section 3 (9).

### **2.3 Crimes (Sentencing Procedure) Act 1999 No 92**

#### **Schedule 1 Existing life sentences**

Insert “or 61JA” after “19A” in the definition of *existing life sentence* in clause 1.

Crimes Amendment (Aggravated Sexual Assault in Company) Act 2001  
No 62

Consequential amendment of other Acts

Schedule 2

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## **2.4 Criminal Procedure Act 1986 No 209**

### **Section 3 Definitions**

Insert “, 61JA” after “61J” in the definition of *prescribed sexual offence* in section 3 (1).

[Minister's second reading speech made in—  
Legislative Assembly on 4 September 2001  
Legislative Council on 11 September 2001]

BY AUTHORITY

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