

Promoting or Engaging in Acts of Child Prostitution

s.91D (NSW) Crimes Act

s.91D(1) (a) by any means causes or induces a child to participate in act of child prostitution, or

(b) participates as a client with child in act of child prostitution

s.91C 'child' means person under the age of 18 years

Maximum sentence: 10 years
14 years where child aged under 14y

Commenced: 12.2.1989

Note: the effect of recent statutory provisions relating to the application of sentencing patterns and practices:

s.25AA(1) (NSW) Crimes (Sentencing Procedure) Act applied to sentences imposed on or after 31.8.2018. It required a court to sentence an offender for a child sexual offence in accordance with the sentencing patterns and practices at the time of sentencing, not at the time of the offence. 'Child sexual offence' is defined as a prescribed offence where the person against whom the offence was committed was then under the age of 16 years: (5)

This provision was replaced by s.21B(1) (NSW) Crimes (Sentencing Procedure) Act on 18.10.2022. The requirement that a court sentences an offender in accordance with the sentencing patterns and practices at the time of sentencing applies to all offences unless the offence is not a child sexual offence and the offender establishes exceptional circumstances. 'Child sexual offence' remains defined under s.25AA(5) as an offence committed against a person who was then under the age of 16 years.

	Case (age if known)	Offence	Plea	Sentence	Appeal	Priors	Facts
1.	Peckover (32) (2002) 135 A Crim R 400 [2002] NSWCCA 468	Att s91D(1)(a) – child under 14y	PG (20%)	4y NPP 2y	AD		Met with female prostitute – indicated interest in meeting her 10y daughter (offender believed daughter 8y) and having sexual contact for payment of money – made arrangements but mother notified police – offender arrested upon attending for planned meeting with child

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	Case (age if known)	Offence	Plea	Sentence	Appeal	Priors	Facts
2.	A (19) [2003] NSWCCA 157 Co-offender: ROMANO	5 x s91D(1)(a) – child under 14y 5 x s91D(1)(a) Sched: 9 similar offences	VG	3y NPP 15m	AD Crown AD	Armed robbery, assault, dishonesty, driving – breached conditional liberty.	Assisted father by taking 13y and 15y complainants to various brothels and street locations and acting as “lookout” – complainants forced to work as prostitutes – complainants living away from home and had met offender through friends and offender’s father. Discount for assistance - dominating violent father – dysfunctional family life.
3.	Romano (35) [2004] NSWCCA 380 Co-offender: A	s.91D(1)(a) – child under 14y 3 x s.91D(1)(a) – child under 14y 3 x s91D(1)(a) s66C(3) 2 x solicit person to injure / kidnap 7 x receive money derived from child prostitution s91E Sched: 37 offences	PG (25%)	9y NPP 6y 3m FT 6y FT 6y FT 1y 6m FT 3y 6m FT 3y <u>Total:</u> 13y 9m NPP 11y	AA 9y NPP 5y 9m FT 6y FT 6y FT 1y 1m FT 2y 9m <u>Total:</u> 11y 3m NPP 8y	nil	Met 13y complainant through son – told complainant she owed offender money and forced complainant to work in brothels to repay him – brothel manager paid offender money from earnings – met 15y complainant and told her she owed him money – forced complainant to work as prostitute on streets and in brothel – digital penetration of 15y complainant – engaged undercover operative to “get rid of” complainants - highly organised operation – manipulative and threatening toward complainants. Qualified accountant – investment property destroyed by fire – living in garage at time of offences. SJ erred in not taking into account effect of accumulation.
4.	Salvatore (23) [2009] NSWCCA 104	s91D(1)(a) s66C(3) Sched: 4 x sexual intercourse with complainant	PG	5y 7m NPP 3y 3y NPP 1y <u>Total:</u> 6y NPP 4y	AA 4y 4m NPP 2y 6m FT 10m <u>Total:</u> 4y 10m NPP 3y	Dishonesty, B&E.	(2002) - 15y complainant left home after argument with mother – met with offender who she had known for a month – sexual relationship developed – persuaded complainant to work as prostitute on street to pay for food – complainant distressed and unwilling. After offences offender moved to WA and married – had committed no criminal offences since leaving NSW – had left NSW to get away from “bad elements”. Sentence manifestly excessive - SJ did not take into account significant delay in sentencing and remarkable rehabilitation.

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	Case (age if known)	Offence	Plea	Sentence	Appeal	Priors	Facts
5.	Glover (42-46 at offence - 57 at sentence) [2016] NSWCCA 316	7 x s.91D(1)(a) 2 x s.91F s.66C	VG	<u>Indicative</u> 4y 3y 3y 6m <u>Aggregate:</u> 10y NPP 6y	AD		(2000 – 2004) - managed prostitution of two girls aged 14y and 15y - invited clients to his house or hired motel room - organised complainants' payment and took 40% cut - did not cause complainants to commence such activity but took financial advantage – mid-range objective seriousness - gross exploitation of two very young, troubled, vulnerable females. On autistic spectrum
6.	Toma (53 at offence - 61 at sentence) [2018] NSWCCA 45	2 x s 91D(1)(b)	VG	<u>Aggregate:</u> 1y 8m ICO	Crown AD (residual discretion)	Nil	(2009) - Penile-vaginal intercourse with 14-15y female – meetings arranged by payment to a woman who had procured services of complainant - instructed to tell offender she was 17y. Good character. On appeal - extraordinary delay - onerous conditions of very lengthy period on bail – employed - disruption that custodial sentence would cause to rehabilitation.
7.	Darwich (57) [2018] NSWCCA 46	5 x s 91D(1)(b) (one offence child under 14y)	VG	<u>Aggregate:</u> 3y 6m NPP 1y 8m	Crown AA <u>Aggregate:</u> 5y NPP 3y	Nil	(2010-2011) – offender one of eight persons charged in relation to child prostitution syndicate operated by two women - offences involved three female children aged 12y, 15y and 15-16y – penile-vaginal penetration, cunnilingus, fellatio. Employed – family and community support

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