

Carnal Knowledge s 215

The prosecution must prove that:

1 The defendant had carnal knowledge of the complainant.¹

Carnal knowledge means the insertion of the defendant's penis into the genitalia (or anus) of the complainant;

- a. the offence is complete upon penetration;**
- b. penetration to the slightest degree is sufficient;**
- c. ejaculation is not necessary.**

2 The carnal knowledge was unlawful. I.e. not authorised, justified or excused by law.²

3 That the complainant was under 16.³

4 Refer to any circumstances of aggravation.⁴

Consent to carnal knowledge by the complainant is irrelevant.

¹ The term "carnal knowledge" is defined in s 6(2) *Criminal Code* as including anal intercourse.

² Section 215(5) *Criminal Code* provides that if the offence is alleged to have been committed in respect of a child of or above the age of 12 years, it is a defence to prove that the accused person believed, on reasonable grounds, that the child was of or above the age of 16 years. If the circumstance of aggravation in s 215(4A) is alleged, it is a defence to the circumstance of aggravation to prove that the accused believed on reasonable grounds that the child was not a person with an impairment of the mind: s 215(5A).

³ As at footnote 2 above. See also s 229 *Criminal Code* which provides that, "[e]xcept as otherwise expressly stated, it is immaterial...that the accused did not know the person was under [the specified age] or believed that the person was not under that age."

⁴ Section 215(3),(4) and (4A) *Criminal Code*. See also Circumstances of Aggravation in Sexual Offences. The offence is a prescribed offence under s 161Q *Penalties and Sentences Act 1992* so a serious organised crime circumstance of aggravation is applicable.