

## 161B. Producing or supplying child abuse object: s 228I

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### 161B.1 Legislation

[Last reviewed: March 2025]

*Criminal Code*

[Section 228I](#) – Producing or supplying child abuse object

[Section 228K](#) – Defence for ss 228I and 228J

### 161B.2 Commentary

[Last reviewed: March 2025]

The offence of supplying or producing a child abuse object was inserted by the *Criminal Code (Child Sexual Offences Reform) and Other Legislation Amendment Act 2020* (Qld) and commenced on 15 September 2020.

To be guilty of the offence under s 228I, the Defendant must have:

- (1) Produced or supplied;
- (2) A child abuse object.

‘Child abuse object’ is defined in s 207A. Definitions of ‘supply’ and ‘produce’ are included in s 228I(4).

Section 228K states a defence for a Defendant charged with an offence against s 228I, which requires them to prove that-

- (a) The Defendant engaged in the conduct that is alleged to constitute the offence for a genuine artistic, educational, legal, medical, scientific, or public benefit purpose; and
- (b) The Defendant’s conduct was, in the circumstances, reasonable for that purpose.

Whether conduct was engaged in for a genuine artistic, educational, legal, medical, scientific, or public benefit purpose is a question of fact.

It is a circumstance of aggravation that the production or supply is for a commercial purpose. Section 161Q of the *Penalties and Sentences Act 1992* (Qld) also states a circumstance of aggravation for this offence.

### 161B.3 Suggested Direction

[Last reviewed: March 2025]

The elements of the offence that the prosecution must prove beyond a reasonable doubt are –

**First**, the object is a child abuse object.

A child abuse object means a doll, robot or other object if—

(a) A reasonable adult would consider—

- (i) the doll, robot or other object is a representation or portrayal of a person, or part of a person, who is a child under 16 years; or
- (ii) the predominant impression conveyed by the doll, robot or other object is that it is a representation or portrayal of a person, or part of a person, who is a child under 16 years, irrespective of whether it has adult characteristics;

and,

(b) the doll, robot or other object has been used, or a reasonable adult would consider it is intended for use, in an indecent or sexual context including, for example, engaging in a sexual activity.

**Secondly**, the Defendant [produced or supplied] it.

(Refer to the definitions of 'produce' and 'supply' as relevant):

To produce includes-

- (a) prepare, manufacture or package;
- (b) offer to produce; and
- (c) do or offer to do any act in preparation for or furtherance of, or for the purpose of, an act of producing.

To supply includes-

- (a) give, distribute, sell or transport;
- (b) offer to supply; and
- (c) do or offer to do any act in preparation for or furtherance of, or for the purpose of, an act of supply.

(Where relevant, direct on circumstances of aggravation).