

## National Laws

Legislation of Interpol member states on sexual offences against children

# Bahamas

Nassau

## I. Ages for legal purposes

---

Section 2 of the 'Sexual Offences and Domestic Violence Act 1991'

'(...) 'adult' means a person eighteen (18) years of age or more;

'minor' means a person under eighteen (18) years of age (...)'

### Age of simple majority

The legal age of majority (civil legal age) is eighteen (18) years.

### Age of consent for sexual activity

The legal age for consenting to a sexual activity is sixteen (16) years.

### Age of consent for marriage

The legal age for consenting to marriage is eighteen (18) years.

## II. Rape

---

### 'Definition of rape', Section 3 of the 'Sexual Offences and Domestic Violence Act 1991'

'Rape is the act of any person not under fourteen (14) years of age having sexual intercourse with another person who is not his spouse -

- a) without the consent of that other person;
- b) with consent which has been extorted by threats or fear of bodily harm;
- c) with consent obtained by personating the spouse of that other person; or
- d) with consent obtained by false and fraudulent representations as to the nature and quality of the act.'

### **'Rape', Section 6 of the 'Sexual Offences and Domestic Violence Act 1991'**

'(1) Any person who commits rape is guilty of an offence and liable to imprisonment for life, subject to, on a first conviction for the offence, a minimum term of imprisonment of seven years and, in the case of a second or subsequent conviction for the offence, a minimum term of imprisonment of fourteen years unless the court having regard to the exceptional mitigating circumstances of the case sees fit to impose a lesser term of imprisonment than the minimum term.

(2) Any person who attempts to commit rape, or assault any person with intent to commit rape, is guilty of an offence and liable to imprisonment for fourteen years, subject to, in the case of a second or subsequent conviction for the offence being a conviction on information, a minimum term of imprisonment of eight years unless the court having regard to the exceptional mitigating circumstances of the case sees fit to impose a lesser term of imprisonment than the minimum term.'

### **III. Other forms of child sex abuse**

---

#### **'Definition of sexual intercourse', Section 4 of the 'Sexual Offences and Domestic Violence Act 1991'**

'(...) 'sexual intercourse' includes-

a) sexual connection occasioned by any degree of penetration of the vagina of any person or anus of any person, or by the stimulation of the vulva of any person, by or with-

i) any part of the body of another person, or

ii) any object used by another person,

-except where the penetration, or stimulation is carried out for proper medical purposes; and

b) sexual connection occasioned by the introduction of any part of the penis of any person into the mouth of another person;

and any reference in this Act to the act of having sexual intercourse includes a *reference to any stage or continuation of that act.*'

#### **'Definition of abduction', Section 5 of the 'Sexual Offences and Domestic Violence Act 1991'**

'(1) A person is guilty of abduction of another person who, with intent to deprive any person entitled to the custody or control of that other person, of such custody or control, or with intent to cause that other person to be married to, or to co-habit or have sexual intercourse with, any person -

a) unlawfully takes that other person from the lawful custody, care or charge of any person; or

b) detains that other person from returning to the lawful custody, care or charge of any person.

(2) The custody, control, care or charge of a person by a parent, guardian or other person shall be held to continue, notwithstanding that the first-mentioned person is absent from the actual custody, control, care or charge of the parent, guardian or other person if the absence is for a special purpose only, and is not intended by the parent, guardian or other person to exclude or determine such custody, control, care or charge for the time being ; but a person is not guilty of abduction by taking or detaining a person unless he knew or had grounds for believing, that the person so taken or detained was in the custody, control, care or charge of some other person.'

**'Sexual intercourse with a person under fourteen (14) years', Section 10 of the 'Sexual Offences and Domestic Violence Act 1991'**

'(1) Any person who has unlawful sexual intercourse with any person under fourteen (14) years of age, whether with or without the consent of the person with whom he had unlawful sexual intercourse, is guilty of an offence and liable to imprisonment for life subject to, on a first conviction for the offence, a minimum term of imprisonment of seven years and, in the case of a second or subsequent conviction for the offence, a minimum term of imprisonment of fourteen years unless the court having regard to the exceptional mitigating circumstances of the case sees fit to impose a lesser term of imprisonment than the minimum term.

(2) Any person who attempts to have unlawful sexual intercourse with any person under fourteen (14) years of age, whether with or without the consent of the person with whom he attempted to have unlawful sexual intercourse, is guilty of an offence and liable to imprisonment for fourteen years subject to, in the case of a second or subsequent conviction for the offence, a minimum term of imprisonment of eight years, unless the court having regard to the exceptional mitigating circumstances of the case sees fit to impose a lesser term of imprisonment than the minimum term.'

**'Sexual intercourse with a person between fourteen (14) and sixteen (16) years', Section 11 of the 'Sexual Offences and Domestic Violence Act 1991'**

'(1) Any person who has unlawful sexual intercourse with any person being of or above fourteen (14) years of age and under sixteen (16) years of age, whether with or without the consent of the person with whom he attempted to have unlawful sexual intercourse, is guilty of an offence and liable to imprisonment for life subject to, on a first conviction for the offence, a minimum term of imprisonment of seven years and, in the case of a second or subsequent conviction for the offence a minimum term of imprisonment of fourteen years.

(2) Any person who attempts to have unlawful sexual intercourse with any person being of or above fourteen (14) years of age and under sixteen (16) years of age, whether with or without the consent of the person with whom he attempted to have unlawful sexual intercourse, is guilty of an offence and liable to imprisonment for fourteen years subject to, in the case of a second or subsequent conviction for the offence, a minimum term of imprisonment of eight years.

(3) It shall be a sufficient defense to any charge under this section if it is made to appear to the court or jury before whom the charge shall be brought that the person so charged, being a person not over the age of eighteen (18) years and not previously convicted of the same offence, had reasonable cause to believe that the person with whom he had sexual intercourse was of or above sixteen (16) years of age.

(4)-(5) (...)'

**'Incest', Section 13 of the 'Sexual Offences and Domestic Violence Act 1991'**

'(1) Any person who, knowing that another person is by blood relationship his or her parent, child brother, sister, grand parent, grandchild, uncle, niece, aunt or nephew, as the case may be, has unlawful sexual intercourse with that other person, whether with or without the consent of that other person, is guilty of the offence of incest and liable to imprisonment-

a) if he is an adult who commits the offence with a minor, for life subject to, on a first conviction for the offence, a minimum term of imprisonment of seven years and, in the case of a second or subsequent conviction for the offence, a minimum term of imprisonment of fourteen years;

b) if he is an adult who commits the offence with another adult, for a term of ten years; and

c) if he is a minor who commits the offence with another minor, for a term of two years.

(2) Any person who, knowing that another person is by blood relationship his or her parent, child, brother, sister, grandparent, grandchild, uncle, niece, aunt, or nephew, as the case may be, attempts to have unlawful sexual intercourse with that other person,, whether with or without the consent of that other person, is guilty of an offence and liable to imprisonment-

a) if he is an adult who commits the offence with a minor, for fourteen years subject to, in the case of a second or subsequent conviction for the offence, a minimum term of imprisonment of eight years unless the court having regard to the exceptional mitigating circumstances of the case sees fit to impose a lesser term of imprisonment than the minimum term;

b) if he is an adult who commits the offence with another adult, for a term of four years; and

c) if he is a minor who commits the offence with another minor, for a term of six months.

(3) Notwithstanding the commission by any person of an act which amounts to an offence under subsection (1) or (2), that person is not guilty of the offence if-

a) he committed the act under restraint, duress or fear;

b) he did not consent to the commission of the act; or

c) at the time of the commission of the act, he was the spouse of the person with whom the act was committed.

(4) In this section, any expression importing a relationship between two persons shall be taken to apply notwithstanding that the relationship is not traced through lawful wedlock; and 'brother' includes 'half-brother' and 'sister' includes 'half-sister'.

**'Sexual intercourse with a dependant', Section 14 of the 'Sexual Offences and Domestic Violence Act 1991'**

'(1) Any adult who has unlawful sexual intercourse with a dependant child of the adult, whether with or without the consent of the child, is guilty of an offence and liable to imprisonment for life subject to, on a first conviction for the offence, a minimum term of imprisonment of seven years and, in the case of a second or subsequent conviction for the offence, a minimum term of imprisonment of fourteen years, unless the court having regard to the exceptional mitigating circumstances of the case sees fit to impose a lesser term of imprisonment than the minimum term prescribed hereunder.

(2) Any adult who attempts to have unlawful sexual intercourse with a dependant child of the adult, whether with or without the consent of the child, is guilty of an offence and liable to imprisonment for fourteen years subject to, in the case of a second or subsequent conviction for the offence, a minimum term of imprisonment of eight years.

(3) In this section, 'dependant child of the adult' means a minor who is not related by blood to the adult but-

a) is the adopted child, step-child, foster child or ward of the adult;

b) has been treated by the adult as a child of the family of the adult;

c) is being maintained, either wholly or partly, by the adult;

d) is in the actual custody, charge or control of the adult; or

*e) in relation to whom the adult holds a position of trust.'*

**'Unnatural Crime', Section 16 of the 'Sexual Offences and Domestic Violence Act 1991'**

'(1) Any person who commits an act of unnatural connection with any animal is guilty of a sexual offence and liable to imprisonment for twenty years: and an offence under this subsection is complete upon penetration.

(2) Any adult male who-

a) has sexual intercourse with another male who is a minor; or

b) has sexual intercourse, in a public place, with another male,

- whether with or without the consent of that other male, is guilty of a sexual offence and liable to imprisonment for twenty years.

(3) Any female adult who-

a) has sexual intercourse with another female who is a minor; or

b) has sexual intercourse, in a public place, with another female,

- whether with or without the consent of that other female, is guilty of a sexual offence and liable to imprisonment for twenty years.

(4) Notwithstanding the commission by any person of an act which amounts to an offence under this section, that person is not guilty of the offence if he committed the act under restraint, duress or fear.'

**'Indecent assault', Section 17 of the 'Sexual Offences and Domestic Violence Act 1991'**

(1) Any person who-

a) indecently assaults any other person;

b) does anything to any other person with the consent of that other person which, but for such consent, would be an indecent assault, such consent being obtained by false and fraudulent representation as to the nature and quality of the act,

-is guilty of an offence and liable to imprisonment for eight years.

(2) It is no defense to a charge of an indecent assault committed on a person under fourteen (14) years of age, to prove that that person consented to the act of indecency.'

**'Unlawful detention with intent to have sexual intercourse', Section 21 of the 'Sexual Offences and Domestic Violence Act 1991'**

(1) Any person who detains any other person against his will-

a) in or upon premises with intent that that other person may co-habit or have unlawful sexual intercourse with another person, whether any particular person or generally; or

b) in a brothel,

- is guilty of an offence and liable to imprisonment for two years.

(2) Where any person is in or upon premises for the purpose of co-habiting or having any unlawful sexual intercourse, or is in any brothel, another person shall be deemed

to detain him in or upon the premises or in the brothel, if with intent to compel or induce him to remain therein that other person withholds from him any wearing apparel or other property belonging to him, or, where wearing apparel has been lent or otherwise supplied to him or by the direction of that other person, that other person threatens him with legal proceedings if he takes away with him the wearing apparel so lent or supplied.

(3) No legal proceedings whether civil or criminal shall be taken against a person who was in or upon any premises or brothel as mentioned in subsection (2) for taking away or being found in possession of any such wearing apparel as was necessary to enable him to leave the premises or brothel.'

**'Abduction of an unmarried person under sixteen (16)', Section 22 of the 'Sexual Offences and Domestic Violence Act 1991'**

'Any person who is guilty of an abduction of any unmarried person under sixteen (16) years of age is guilty of an offence and liable to imprisonment for two years.'

**'Abduction of an unmarried person between sixteen (16) and eighteen (18)', Section 23 of the 'Sexual Offences and Domestic Violence Act 1991'**

'Any person who is guilty of an abduction of any unmarried person being of or above sixteen (16) years of age and under eighteen (18) years of age is guilty of an offence and liable to imprisonment for two years;

Provided that it shall be a sufficient defense to any charge under this section if it shall be made to appear to the court or jury that the person so charged had reasonable cause to believe that such unmarried person was of or above eighteen (18) years of age.'

**'Special provisions as to abduction', Section 25 of the 'Sexual Offences and Domestic Violence Act 1991'**

'For the purposes of the sections of this Part relating to abduction -

a) it is not necessary that the taking or detaining should be without the consent of the person taken or detained, and it suffices if the person is persuaded, aided or encouraged to depart or not to return;

b) it is not necessary that there should be an intent permanently to deprive any person of the custody or control of the person taken or detained;

c) a taking or detention is unlawful unless some person entitled to give consent to the taking or detention of the person taken or detained, for the purposes for which he is taken or detained, gives consent to the taking or detention for those purposes;

d) a person having the temporary custody, care or charge of another person for a special purpose, as his attendant, employer or schoolmaster or in any other capacity, can be guilty of abduction of that person by acts which he is not authorized to do for such special purpose, and he cannot give consent to any act by another person which would be inconsistent with such special purpose; and

e) notwithstanding the application of the general provisions of Book I of the Penal Code with respect to mistake of law, a person is not guilty of abduction of another person by anything which he does in the belief that he is entitled by law as a parent or guardian, or by virtue of any other legal right, to take or detain the other person for the purposes for which he takes or detains him ; but this rule shall not be construed to exempt a person from liability to punishment on the plea that he did not know or believe or had not the means of knowing, that the other person was under sixteen (16) or eighteen (18) years of age, as the case may be, not to exempt a person from liability to punishment for abduction if he took or detained the other person for any immoral purpose.'

#### **IV. Child prostitution**

---

##### **'Procuration', Section 7 of the 'Sexual Offences and Domestic Violence Act 1991'**

'Any person who -

a) procures or attempts to procure any person under eighteen (18) years of age to have unlawful sexual intercourse, either in or outside The Bahamas, with any other person;

b) procures or attempts to procure any person to become, either in or outside The Bahamas, a common prostitute;

c) procures or attempts to procure any person to leave The Bahamas with intent that he may become an inmate of or frequent a brothel elsewhere;

d) procures or attempts to procure any person to leave his usual place of abode in The Bahamas with intent that he may, for the purposes of prostitution, become an inmate of or frequent a brothel either in or outside The Bahamas;

e) by threats or intimidation, procures or attempts to procure any person to have unlawful sexual intercourse either in or outside The Bahamas;

f) by false pretences or false representations, procures any person to have any unlawful sexual intercourse either in or outside The Bahamas; or

g) applies, administers or causes to be taken by any person any drug, matter or thing with intent to stupefy or overpower, so as thereby to enable any other person to have sexual intercourse with such first-mentioned person,

is guilty of an offence and liable to imprisonment for eight years.'

##### **'Prostitution and disclosure of AIDS', Section 8 of the 'Sexual Offences and Domestic Violence Act 1991'**

'(1) Any person who-

a) knowingly lives wholly or in part on the earnings of prostitution; or

b) in any public place persistently solicits or importunes for immoral purposes,

-is guilty of an offence and liable to imprisonment for five years.

(2) Any person who knows that he is infected with a virus causing, or known to cause, acquired immune deficiency syndrome (commonly known as 'AIDS') and who has sexual intercourse with any other person, with the consent of that other person but without disclosing the fact of the infection to that other person, is guilty of an offence and liable to be detained for a term of five years in such place and under such conditions as may be specified by the court before which he is convicted ; and, while so detained, he shall be deemed to be in legal custody.

(3) It shall be a sufficient defense to any charge under subsection (2), if it is made to appear to the court before which the charge shall be brought that the person with whom the person so charged had sexual intercourse knew, or had reasonable cause to believe, before sexual connection was occasioned, that the person so charged was so infected.'

## **V. Child pornography**

---

All Pornography is prohibited in the Bahamas. The offence of Pornography is defined in the penal code of the Bahamas as 'obscene publication', in **section 510, title XXXI** and punished by two years of prison.