What does the “age of consent” mean?

The age of consent refers to the age at which the criminal law recognizes the legal capacity of a young person to consent to sexual activity. However, all non-consensual sexual activity, regardless of age, is a sexual assault.

What kind of sexual activity does this apply to?

The age of consent laws apply to all forms of sexual activity ranging from sexual touching such as kissing to sexual intercourse.

What is Canada’s age of consent?

The age of consent is 18 years where the sexual activity involves exploitative activity, such as prostitution, pornography or where there is a relationship of trust, authority or dependency. The age of consent to engage in sexual activity with an adult five or more years older in Canada is 16. Among the exemptions, sex between peers under 16 is okay, as long as neither is in a position of authority and they are 12 or older. Likewise, under a "close-in-age" provision, if a person under 16 (and 12 or older) has sex with someone less than five years older, they can be considered to have consented unless the older person is in a position of authority. According to The Code, a person under the age of 12 can never consent to any kind of sexual activity.

Are there exceptions to this?

The Criminal Code provides what is often referred to as a “close in age” or “peer group” exception. Among the exemptions, sex between peers under 16 is okay, as long as neither is in a position of authority and they are 12 or older. Likewise, under a "close-in-age" provision, if a person under 16 (and 12 or older) has sex with someone less than five years older, they can be considered to have consented unless the older person is in a position of authority. According to The Code, a person under the age of 12 can never consent to any kind of sexual activity.

How does Bill C-2 (Protection of children and other vulnerable persons), which was passed by Parliament in July 2005, address the age of consent?

Bill C-2 provides increased protection against exploitative sexual activity. It creates a new offence against the sexual exploitation of youth under 18 years where the relationship is exploitative of the young person, as evidenced by the nature and circumstances of the relationship, including the age of the young person, the difference in
age between the youth and the other person, how the relationship evolved, and the degree of control or influence exercised over the young person.

Accordingly, this new offence provides youth with better protection against sexual exploitation by focusing on the wrongful conduct of the other person who exploits their vulnerability and not on whether they “consented” to be exploited.

**How will Bill C-2 better protect young persons from sexual predators?**

Bill C-2’s new offence against the sexual exploitation of youth under 18 years age recognizes that sexual predators - whether they are much older or close in age - seek to exploit the particular circumstances or vulnerabilities of young persons. Bill C-2 recognizes that the age of a person can be an indicator of vulnerability; however, Bill C-2 also recognizes that there are other indicators, including:

- **age difference**: is the other person much older than the young person?
- **evolution of the relationship**: how did the relationship develop? For example, did it develop quickly and secretly over the Internet?
- **control or influence over the young person**: what degree of control or influence did the other person have over the young person?

Under Bill C-2, all of these factors are relevant with the result that all youth under 18 will be better protected against those who seek to prey on their vulnerability.

**Fourteen-year olds are too young to appreciate the consequences of engaging in any sexual activity, even with another person who is close in age. Why won’t the government raise the age to 16 years for non-exploitative activity?**

Although there are many views on what is an appropriate age to begin to engage in sexual activity, the fact is that young persons do engage in sexual activity. The *Canadian Youth, Sexual Health and HIV/AIDS* Study 2003 report by the Canadian Council of Ministers of Education reported that the average age of first sexual intercourse was 14.1 years for boys and 14.5 years for girls. Educating youth to make informed choices that are right for them is better addressed through parental guidance and sexual health education than by using the *Criminal Code* to criminalize youth for engaging in such activity.

**Isn’t Canada’s age of consent law lower than that of other countries?**

Comparisons between Canada’s age of consent laws to those in other countries often do not differentiate between those that apply to “exploitative” sexual activity and those that apply to other activity. A complete comparison, including the significantly broadened protection against exploitative sexual activity provided by Bill C-2, shows that Canada’s criminal law framework of protection against the sexual exploitation and abuse of children and youth is amongst the most comprehensive anywhere.