



PENAL CODE (AMENDMENT) ACT, 2012

(Act 5 of 2012)

I assent

A handwritten signature in black ink, appearing to read 'Michel'.

J. A. Michel
President

30th July, 2012



AN ACT to amend the Penal Code (Cap 158).

ENACTED by the President and the National Assembly.

1. This Act may be cited as the Penal Code Short title
(Amendment) Act, 2012.

Amendment of
Cap 158 as last
amended by
Act 20 of 2010

2. The Penal Code is amended as follows —

(a) in section 27 —

(i) by repealing subsection (1) and substituting therefor the following new subsection —

“(1) Notwithstanding Section 26 and any other written law and subject to subsection (2), a person who is convicted of an offence in Chapter XXVI, Chapter XXVIII or Chapter XXIX shall —

(a) where the offence is punishable with imprisonment for 7 years or more but not more than 8 years and —

(i) it is the first conviction of the person for such an offence, be sentenced to imprisonment for a period of not less than 5 years; or

(ii) the person had within 5 years prior to the date of the conviction, been convicted of the same or a similar offence, be sentenced to imprisonment for a period of not less than 10 years.

(b) where the offence is punishable with imprisonment for more than 8 years but not more than 10 years and —

(i) it is the first conviction of the person for such an offence, be sentenced to imprisonment for a period of not less than 8 years; or

(ii) the person had within 5 years prior to the date of conviction, been convicted of the same or a similar offence, be sentenced to imprisonment for a period of not less than 12 years.

(c) where the offence is punishable with imprisonment for more than 10 years or with imprisonment for life and —

(i) it is the first conviction of the person for such an offence, be sentenced to imprisonment for a period of not less than 15 years; or

(ii) the person had, within five years prior to the date of the conviction, been convicted of the same or of a similar offence, be sentenced to imprisonment for not less than 25 years.”;

(ii) by inserting after the new subsection (1), the following new subsection —

“(2) A court shall not impose the minimum mandatory sentence provided under section 27(1)(a)(i),

- 27(1)(b)(i) and 27(1)(c)(i) if the Court is satisfied that—
- (a) the person did not use or threaten violence or was not in possession of dangerous weapons or did not aid and abet the commission of the offence, and
 - (b) the offence did not result in the death of, or serious bodily injury to, another person,
 - (c) the offence did not consist in, include or involve stealing from another person,
 - (d) the offence did not consist in, include or involve stealing from a building, dwelling house, vessel, or vehicle, and
 - (e) the offence did not consist in, include or involve breaking into or entering into a building, dwelling house, vessel or vehicle.
- (iii) by renumbering subsections (2) and (3) as subsections (3) and (4) respectively.”;
- (b) in section 65—
- (i) in subsection (2), by inserting after the word “piracy” the words “or an offence referred to under subsection (3).”;
 - (ii) in subsection (3), by inserting after the figures and brackets “65(1)” the words “within Seychelles or elsewhere”;
- (c) in section 130(1)—

- (i) in the first proviso, by repealing the figure “7” and substituting therefor the figure “14”;
 - (ii) in the second proviso, by repealing the figures and words “14 years and not more than 20 years.” and substituting therefor the figure and word “28 years.”;
 - (iii) by adding after the second proviso, the following new proviso—

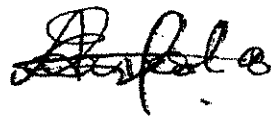
“Provided further that where it is the second or a subsequent conviction of the person for an assault referred to in subsection (2)(d) on a victim under 15 years within a period of ten years from the date of the conviction, the person shall be liable to imprisonment for life.”;
- (d) in section 135(1)—
- (i) in the first proviso, by repealing the figure “7” and substituting therefor the figure “14”;
 - (ii) in the second proviso, by repealing the figures and words “14 years and not more than 20 years” and substituting therefor the figure and word “28 years.”;
- (e) in section 136(1)—
- (i) in the first proviso, by repealing the figure “7” and substituting therefor the figure “14”;
 - (ii) in the second proviso, by repealing the figures and words “14 years and not

more than 20 years.” and substituting therefor the figure and word “28 years.”;

- (iii) by adding after the second proviso, the following new proviso —

“Provided further that where it is the second or a subsequent conviction of the person for the sexual interference referred to in subsection (2)(d) within a period of ten years from the date of the conviction, the person shall be liable to imprisonment for life.”;

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 24th July, 2012.



Azarel Ernesta
Clerk to the National Assembly