



# FAMILY

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## LEGAL CLINIC

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### **SEXUAL OFFENCES ACT**

*Act Number: 17/2014*

*Date: 14-07-1435 H.*

*13-05-2014 M.*

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## SEXUAL OFFENCES ACT

### CHAPTER 1

#### INTRODUCTION AND PURPOSE

*Introduction and short title*

1. (a) This is Act to provide for the sexual offences in the Maldives and the procedures relating to those offences.
- (b) This Act may be cited as “Sexual Offences Act”.

*Purpose*

2. This Act intends to achieve the following objectives:
  - (a) amending and enhancing the legal procedures relating to sexual offences;
  - (b) determination of sexual offences and penalties thereof;
  - (c) Determining the acceptable defenses in relation to sexual offences;
  - (d) Determining the standards for defining consent in relation to sexual offences;
  - (e) Introducing a mechanism for recovery of damages for victims of sexual offences;
  - (f) Enabling the publication of persons convicted for sexual offences.

*Status of this Act*

3. (a) Where an offence prescribed in this Act is an offence under Islamic shariah, and the

elements of the offence prescribed in this Act are similar to that of the offence prescribed under Islamic shariah, the penalty prescribed for that offence under this Act shall be given in addition to the penalty prescribed for it under the Islamic shariah.

- (b) Where an offence prescribed in this Act is an offence under Islamic shariah, and the elements of the offence prescribed in this Act are different from that of the offence prescribed under Islamic shariah, penalty for that offence shall be given under this Act if the elements of the offence are fulfilled under this Act. If the elements of the offence are fulfilled under the Islamic shariah, penalty for that offence shall be given under Islamic shariah.
- (c) It shall not be a bar to impose a punishment for an offence under this Act, by reason of that offence having been punished as prescribed Islamic shariah for being an offence under the Islamic shariah. For the purpose of Article 60 of the Constitution, it shall not be considered double jeopardy to impose a punishment under this Act, in addition to a punishment given under Islamic shariah, for an offence that is prescribed under both Islamic shariah and this Act. Under such circumstances, it shall be considered

obligatory to impose two punishments for one offence.

- (d) The principles stated in this Act shall be applicable where any principles stated in this Act, on its own or by its application conflicts or contradicts with a law in force prior to this Act, including Act number 12/2009 (Special Provision Act to Deal with Sexual Offenders of Children).

*Definitions*

4. (a) The main principles on which this Act is based, is stated in Chapter 2 of this Act.
- (b) The definitions of important words and phrases contained in this Act is given in Section 69 of this Act.

**CHAPTER 2**

**DEFINITIONS AND TERMINOLOGY**

*Basis of the terms*

5. The phrases given in Sections 6 through 13 of this Act are the main principles on which this Act is based. The principles have been provided in those Sections to maintain originality of this Act, and to facilitate fulfilment of the purpose of this Act. Every Section of this Act shall be read in a manner that would not narrow down those principles.

*Rape*

6. “Rape” means the insertion, however minute, of a person’s sexual organ into a sexual organ or an organ which is not a sexual organ of another person without consent, where the two persons are not married, and the exception stated in Section 20 of this Act is applicable.

*Sexual injury*

7. “Sexual Injury” means the insertion of any part of a person’s body into a sexual organ or an organ which is not a sexual organ of another person without consent, and in a manner, which would not constitute it a Rape, where the two persons are not married. Or it is the insertion by a person of an object into a sexual organ or an organ which is not a sexual organ of another person without consent.

*Sexual assault*

8. “Sexual Assault” means the touching of a sexual organ of a person, with or without a sexual intent by another person, with or without the use of an object or a tool, without consent, and in a manner, which would not constitute it a Rape or Sexual Injury, where the two persons are not married. Or it is forcing a person to reveal his sexual organ without his consent. Or causing an injury to a person’s sexual organ without his consent. Or causing any other degrading act on the sexual organ of a person’s sexual organ without his consent.

*Sexual Act*

9. “Sexual Act” means an act of *zinah* or fornication, or

touching a person's sexual organ or committing other form of an act towards a person's sexual organ or any other organ, which by a reasonable standard is believed to have been committed with a sexual intention. Or the circumstances in which a person committed such an act can only be construed as having a sexual intention.

*Sexual intent*

- 10.** "Sexual Intent" means the decision to do a certain act in order to satisfy one's carnal desires. Or an act done to attain a carnal desire.

*Family*

- 11.** "Family" means persons related to another person in one of the following ways:
- (a) children, step children, stepmother or stepfather; or
  - (b) mother, father, grandfather, grandmother, great-grandfather or great-grandmother; or
  - (c) siblings, maternal siblings or paternal siblings; or
  - (d) aunt, great-aunt, uncle or great-uncle; or
  - (e) siblings by virtue of sharing a wet-nurse; or
  - (f) sons-in-law, daughters-in-law, mothers-in-law or fathers-in-law; or
  - (g) any person whose guardianship has been legally assigned.

*Consent*

- 12.** "Consent" means a person having the autonomy to choose what he wants in his own discretion. Or it is the liberty of a person to choose what he wants.

13. “*Mahram*” means a person in a prohibited degree of relationship, with whom one is prohibited from entering into marriage under Islamic Shariah.

### CHAPTER 3

### OFFENCES

*Offence of rape*

14. (a) It shall be an offence to rape a person.
- (b) For the purpose of the offence stated in subsection (a) of this Section, a person may not be deemed to have given consent under the following circumstances:
- (1) consent obtained through violence or with the threat of death or violence against the victim, or consent obtained through threat of death or violence against a person in close relationship with the victim through either family or marriage; or
  - (2) consent obtained based on false facts, by misrepresentation; or
  - (3) consent obtained by deceiving the person as to that act in question; or
  - (4) consent obtained by deceiving the person as to his or her relationship with the offender.
- (c) The offence stipulated in subsection (a) of this

Section shall be punishable with imprisonment for a period between 20 and 25 years where a dangerous weapon was used during commission of the offence. Where the offence was committed in any other manner, it shall be punishable with imprisonment for a period between 15 and 20 years.

*Offence of attempt to rape*

- 15.** (a) Attempting to rape a person, and aiding and abetting in the rape of a person shall be an offence.
- (b) The offence stipulated in subsection (a) of this Section shall be punishable with imprisonment for a period between 10 and 15 years where a dangerous weapon was used during commission of the offence. Where the offence was committed in any other manner, it shall be punishable with imprisonment for a period between 7 and 10 years.

*Offence of sexual injury*

- 16.** (a) It shall be an offence to inflict sexual injury on a person.
- (b) For the purpose of the offence stated in subsection (a) of this Section, a person may not be deemed to have given consent under the following circumstances:
- (1) consent obtained through violence or



with the threat of death or violence against the victim, or consent obtained through threat of death or violence against a person in close relationship with the victim through either family or marriage; or

- (2) consent obtained based on false facts, by misrepresentation; or
- (3) consent obtained by deceiving the person as to that act in question; or
- (4) consent obtained by deceiving the person as to his or her relationship with the offender.

(c) The offence stipulated in subsection (a) of this Section shall be punishable with imprisonment for a period between 10 and 15 years.

*Offence of attempt to cause sexual injury*      **17.** (a) Attempting to inflict sexual injury on a person, and aiding and abetting in inflicting a sexual injury on a person shall be an offence.

(b) The offence stipulated in subsection (a) of this Section shall be punishable with imprisonment for a period between 7 and 10 years.

*Offence of sexual assault*      **18.** (a) It shall be an offence to cause Sexual Assault on a person.

- (b) For the purpose of the offence stated in subsection (a) of this Section, a person may not be deemed to have given consent under the following circumstances:
- (1) consent obtained through violence or with the threat of death or violence against the victim, or consent obtained through threat of death or violence against a person in close relationship with the victim through either family or marriage; or
  - (2) consent obtained based on false facts, by misrepresentation; or
  - (3) consent obtained by deceiving the person as to that act in question; or
  - (4) consent obtained by deceiving the person as to his or her relationship with the offender.
- (c) It shall be an exemption to the offence stipulated in subsection (a) of this Section to conduct a lawful search of a person's body, or for a licensed professional to touch a person's body with the hand or any other tool or device for a medical purpose, under circumstances that would refute existence of a Sexual Intent.
- (d) The offence stipulated in subsection (a) of this Section shall be punishable with imprisonment

for a period between 7 and 10 years where a dangerous weapon was used during commission of the offence. Where the offence was committed in any other manner, it shall be punishable with imprisonment for a period between 3 and 7 years.

*Offence of attempt to cause sexual assault*      **19.** (a) Attempting to cause Sexual Assault on a person, and aiding and abetting in causing Sexual Assault on a person shall be an offence.

(b) The offence stipulated in subsection (a) of this Section shall be punishable with imprisonment for a period between 3 and 7 years where a dangerous weapon was used during commission of the offence. Where the offence was committed in any other manner, it shall be punishable with imprisonment for a period between 1 and 3 years.

*Offense of marital rape*      **20.** (a) A husband having sexual intercourse with his wife without her consent shall be considered marital rape under the following exceptional circumstances, in spite of the fact that the offence of Rape stipulated in Section 14 of this Act is not applicable as between married persons under normal circumstances:

(1) the process of dissolution of marriage or *tafriq* being underway in the court,

- and hearings in the case having been concluded and the case being at the stage of delivering a verdict; or
- (2) an application for divorce by either party pending in court, and hearings in the case having been concluded and the case being at the stage of delivering a verdict; or
  - (3) the husband having sexual intercourse with the wife, while suffering from a dangerous sexually transmitted disease, with the intent of transmitting the disease to the wife; or
  - (4) the husband and wife living separately under an agreement between them, even though they are not divorced.
- (b) For the purpose of the offence stated in subsection (a) of this Section, the wife may not be deemed to have given consent under the following circumstances:
- (1) consent obtained through violence or with the threat of death or violence against the victim, or consent obtained through threat of death or violence against a person in close relationship with the victim through either family or marriage; or
  - (2) consent obtained based on false facts,

by misrepresentation; or

(3) consent obtained by deceiving the person as to that act in question.

(c) The offence stipulated in subsection (a) of this Section shall be punishable with imprisonment for a period between 3 and 5 years where a dangerous weapon was used during commission of the offence. Where the offence was committed in any other manner, it shall be punishable with imprisonment for a period between 1 and 3 years.

(d) The marriage between two persons, its legal status, their children, or children that have been conceived, and their status, or their matrimonial property or its status shall not be affected for the sole reason of the husband being convicted for the offence stipulated in subsection (a) of this Section during the subsistence of their marriage.

*Offence of sexual act with a Mahram*

**21.** (a) Where a person performs a Sexual Act with a Mahram with the consent of both parties, both parties have committed an offence.

(b) A person commits an offence where he performs a Sexual Act with a Mahram without the consent of that Mahram.

(c) The offence stipulated in subsection (a) of this Section shall be punishable with imprisonment for a period between 10 and 15 years.

(d) The offence stipulated in subsection (b) of this Section shall be punishable with imprisonment for a period between 15 and 25 years.

*Offence of attempt to perform sexual act with a Mahram*

**22.** (a) Attempting to perform a Sexual Act with a Mahram, and aiding and abetting in performing a Sexual Act on a Mahram shall be an offence.

(b) The offence stipulated in subsection (a) of this Section shall be punishable with imprisonment for a period between 7 and 10 years.

*Offence of failure to report*

**23.** (a) It shall be an offence to not to report to the Police or Family Protection Authority of a person who committed, commits or has committed a Sexual Act with a Mahram, while having knowledge of it.

(b) The offence stipulated in subsection (a) of this Section shall be punishable with imprisonment for a period not exceeding 6 months.

*Offence of sodomy*

**24.** (a) Where a person performs a Sexual Act with a

person of the same gender, with the consent of both parties, both parties have committed an offence.

- (b) A person commits an offence where he performs a Sexual Act with a person of the same gender without the consent of that other person.
- (c) The offence stipulated in subsection (a) of this Section shall be punishable with imprisonment for a period between 5 and 7 years.
- (d) The offence stipulated in subsection (b) of this Section shall be punishable with imprisonment for a period between 7 and 10 years.

*Offence of sexual act with an animal*

- 25. (a) A person commits an offence if he commits a Sexual Act with an animal which is alive or dead.
- (b) The offence stipulated in subsection (a) of this Section shall be punishable with imprisonment for a period between 5 and 7 years.

*Offence of sexual act with a cadaver*

- 26. (a) A person commits an offence if he performs a Sexual Act with a cadaver.
- (b) The offence stipulated in subsection (a) of this

Section shall be punishable with imprisonment for a period between 20 and 25 years.

*Offence of zinah*

**27.** (a) A person commits an offence if he performs sexual intercourse out of wedlock.

(b) The offence stipulated in subsection (a) of this Section shall be punishable with flogging of 100 lashes, and imprisonment for a period between 1 and 3 years.

*Offence of sexual act with a person with disability*

**28.** (a) A person commits an offence if he performs a Sexual Act with a person with mental disability, with the knowledge that the other person is incapable of giving consent to the act, or understanding the nature of the act being carried out, or that the other person has no means of giving consent to a sexual act by reason of the mental disability.

(b) For the purpose of this Act, a person with mental disability shall not be deemed capable of doing the following:

- (1) understanding the nature of the act being carried out;
- (2) making an autonomous decision whether or not to do an act;
- (3) the ability to relate what happened to another person.



- (c) The offence stipulated in subsection (a) of this Section shall be punishable with imprisonment for a period between 15 and 20 years.

*Offense of prostitution*

- 29.** (a) It shall be an offence for a person to engage in prostitution in the Maldives, or for a Maldivian to engage in prostitution abroad.
- (b) It shall be an offence for a person to engage another person in prostitution in the Maldives, or for a Maldivian to engage another person in prostitution abroad or aiding and abetment thereof.
- (c) The offence stipulated in subsection (a) of this Section shall be punishable with imprisonment for a period not exceeding 7 years.
- (d) The offence stipulated in subsection (b) of this Section shall be punishable with imprisonment for a period between 7 and 15 years.

*Engaging a person for prostitution*

- 30.** (a) It shall be an offence for a person in Maldives, or for a Maldivian abroad to look after or provide for a person to and with the intent of offering that person for prostitution.
- (b) The offence stipulated in subsection (a) of this Section shall be punishable with imprisonment

for a period between 7 and 15 years.

- 31.** (a) Trafficking a person into the Maldives with the knowledge that the person is coming or is being brought for the purpose of prostitution or aiding and abetment thereof is an offence.
- (b) Trafficking a person from one island to another within the Maldives with the knowledge that the person is being trafficked for the purpose of prostitution or aiding and abetment thereof is an offence.

*Trafficking a person for prostitution*

- (c) Trafficking a person out of the Maldives with the knowledge that the person is going or is being sent for the purpose of prostitution or aiding and abetment thereof is an offence.
- (d) The offences stipulated in subsections (a), (b) and (c) of this Section shall be punishable with imprisonment for a period between 7 and 10 years.

*Offence of using revenue from prostitution*

- 32.** (a) It shall be an offence for a person who engages another person in prostitution to live off of the revenue generated from engaging another person in prostitution.
- (b) It shall be an offence for a person to use the

revenue generated from prostitution, with the knowledge that he is living off of revenue generated from engaging another person in prostitution.

- (c) It shall be an offence to continue living in a place without informing the relevant State institution, with the knowledge that the house, place or a part thereof is being used to operate a brothel.
- (d) The offences stipulated in subsections (a), (b) and (c) of this Section shall be punishable with a fine of an amount between 25,000 Rufiyaa and 75,000 Rufiyaa, or imprisonment for a period not exceeding 3 years.
- (e) Where the court determines that any money or property have been acquired through commission of an offence stipulated in subsections (a) or (b) of this Section, such money or property will be acquired by the State.

*Offence of setting up a brothel*

- 33.** (a) It shall be an offence to set-up, maintain, manage a brothel or take part in any such activity.
- (b) The offence stipulated in subsections (a) of

this Section shall be punishable with imprisonment for a period not exceeding 5 years.

*Offence of intimidation*

- 34.** (a) It shall be an offence for a person in Maldives, or for a Maldivian abroad to force a person to perform a Sexual Act with him or with another person by threat or intimidation. Aiding and abetting a person to commit such an act shall also be an offence.
- (b) The offence stipulated in subsection (a) of this Section shall be punishable with imprisonment for a period between 5 and 7 years.

*Offence of blackmail*

- 35.** (a) It shall be an offence to blackmail a victim or a family member of a victim pursuant to rape, sexual injury, sexual assault, or a sexual act.
- (b) The offence stipulated in subsection (a) of this Section shall be punishable with imprisonment for a period between 3 and 5 years.

*Offence of misrepresentation*

- 36.** (a) It shall be an offence for a person in Maldives, or for a Maldivian abroad to compel a person to perform sexual act with him or with another person by misrepresentation or by omission of facts.
- (b) The offence stipulated in subsection (a) of this

Section shall be punishable with imprisonment for a period between 5 and 7 years.

*Offence of forced intoxication*

- 37.** (a) Intoxicating a person with any substance amounting to liquor or drugs as prescribed in Law No 17/2011 (Drugs Act) so as to inhibit the person's own control of body or to make a person to go into a state of unawareness so as to enable or to make the person perform a sexual act shall be an offence.
- (b) The offence stipulated in subsection (a) of this Section shall be punishable with imprisonment for a period between 10 and 15 years.

*Forcing upon another person to perform a sexual act*

- 38.** (a) It shall be an offence to perform a sexual act with a person by forcing oneself on to the other person where the other person has lost his mental faculties, is in a state of insanity, or has no power to physically defend himself.
- (b) The offence stipulated in subsection (a) of this Section shall be punishable with imprisonment for a period between 10 and 15 years.

*Offence of abduction*

- 39.** (a) It shall be an offence to abduct a person from his guardians, or family members, or husband, or wife, or people with who he lives, and take him to another place, or place him elsewhere, or detain him without his consent, with the

intent of doing any of the following:

- (1) rape; or
- (2) cause a sexual injury; or
- (3) cause a sexual assault; or
- (4) perform a sexual act; or
- (5) force him to have sexual intercourse out of wedlock with another person; or
- (6) cause him a sexual injury by another person; or
- (7) cause him a sexual assault by another person.

- (b) The offence stipulated in subsection (a) of this Section shall be punishable with imprisonment for a period between 7 and 10 years.

*Offence of detention*

- 40.** (a) It shall be an offence to keep a person in a certain place or to detain a person by prohibiting his movements without his consent, for the purpose of rape, causing him sexual injury or sexual assault.
- (b) The offence stipulated in subsection (a) of this Section shall be punishable with imprisonment for a period between 7 and 10 years.
- (c) For the purpose of subsection (a) of this Section, a person under the following circumstances shall be considered as being kept in a place against his will:
- (1) being detained in a place; or

- (2) being kept in a place in a manner that will not allow him to make any movements; or
  - (3) there being no freedom for him to go out of the place on his own volition; or
  - (4) there is the possibility for him to free himself from the place of detention upon the fulfillment of condition of either removing and leaving his clothes behind or leaving behind his property or any other thing he has with him; or
  - (5) where he is given the choice to leave only upon leaving something behind without which he cannot leave.
- (d) Where an offence provided in subsection (a) of this Section takes place, it shall not be a reason to bring any criminal or civil charges against the person detained, for using someone else's clothes or using something that belongs to someone else to cover his body in order to escape to safeguard himself.
- 41.** (a) A person commits an offence if he compels another person to take part in a sexual act with him, without the other person's consent.
- (b) The offence stipulated in subsection (a) of this Section shall be punishable with imprisonment for a period between 3 and 5 years.

*Offence of compelling a person to participate in a sexual act*

*Forcing a person to watch a sexual act*

- 42.** (a) A person commits an offence if he forces another person to watch a sexual act being performed, or shows another person a picture, video, image of a video, film, or an image of a film depicting a sexual act or listen to the sound of such an act being performed.
- (b) The offence stipulated in subsection (a) of this Section shall be punishable with imprisonment for a period between 1 and 3 years.

*Production of pornography*

- 43.** (a) A person commits an offence if he produces pornography.
- (b) It shall be an offence for a person to publish through any medium, the pornography produced pursuant to the offence stipulated in subsection (a) of this Section.
- (c) The offence stipulated in subsection (a) of this Section shall be punishable with imprisonment for a period between 1 and 3 years.
- (d) The offence stipulated in subsection (b) of this Section shall be punishable with imprisonment for a period between 3 and 5 years.

*Offence of forcing to produce pornography*

- 44.** (a) A person commits an offence if he compels another person to participate in production of



pornography without his consent, or if he produces pornography that shows a sexual organ of the other person.

- (b) It shall be an offence for a person to publish through any medium, the pornography produced pursuant to the offence stipulated in subsection (a) of this Section.
- (c) The offence stipulated in subsection (a) of this Section shall be punishable with imprisonment for a period between 5 and 7 years.
- (d) The offence stipulated in subsection (b) of this Section shall be punishable with imprisonment for a period between 15 and 20 years.

*Offence of forcing to produce pornography*

- 45.** (a) It shall be an offence to produce pornography of a person by forcing or controlling him, or by forcing him to participate in production of pornography.
- (b) It shall be an offence for a person to publish through any medium, the pornography produced pursuant to the offence stipulated in subsection (a) of this Section.
  - (c) The offence stipulated in subsection (a) of this Section shall be punishable with imprisonment

for a period between 7 and 10 years.

- (d) The offence stipulated in subsection (b) of this Section shall be punishable with imprisonment for a period between 20 and 25 years.

*Multiple perpetrators*

- 46.** Where an offence stipulated in this Act was perpetrated against a person by more than one perpetrator conspiring with the same intent and purpose, every perpetrator involved shall be deemed to have committed offence individually. Each perpetrator shall be individually subjected to the punishment stipulated in this Act for such an offence, despite the fact that their roles in commission of the offence may vary.

**CHAPTER 4**

**REGISTRY**

*Sex offenders' registry*

- 47.** (a) Family Protection Authority, under the guidance of the Minister shall keep and maintain a registry entitled "Registry of Sex Offenders" consisting of details of offenders who have been convicted of the following offences out of the offences stipulated in this Act:
- (1) offence of Rape stipulated in Section 14 of this Act;
  - (2) offence of attempt to Rape stipulated

- in Section 15 of this Act;
- (3) offence of Sexual Injury stipulated in Section 16 of this Act;
  - (4) offence of attempt to cause Sexual Injury stipulated in Section 17 of this Act;
  - (5) offence of Sexual Assault stipulated in Section 18 of this Act;
  - (6) offence of performing a Sexual Act with a Mahram as stipulated in Section 21 of this Act;
  - (7) offence of performing a Sexual Act with a person of the same gender as stipulated in Section 24 of this Act;
  - (8) offence of performing a Sexual Act with an animal as stipulated in Section 25 of this Act;
  - (9) offence of performing a Sexual Act with a cadaver as stipulated in Section 26 of this Act;
  - (10) offence of performing a Sexual Act with a person with disability as stipulated in Section 28 of this Act;
  - (11) offence of prostitution stipulated in Section 29 of this Act;
  - (12) offence of maintaining a person for prostitution as stipulated in Section 30 of this Act;
  - (13) offence of trafficking a person in and

out of Maldives for prostitution as stipulated in Section 31 of this Act;

- (14) offence of using revenue generated from prostitution as stipulated in Section 32 of this Act;
- (15) offence of setting-up a brothel as stipulated in Section 33 of this Act;
- (16) offence of blackmail as stipulated in Section 35 of this Act;
- (17) offence of causing intoxication as stipulated in Section 37 of this Act;
- (18) offence of forcing on to a person as stipulated in Section 38 of this Act;
- (19) offence of abduction as stipulated in Section 39 of this Act;
- (20) offence of production of pornography as stipulated in Section 43 of this Act;
- (21) offence of forcing a person to produce pornography as stipulated in Section 45 of this Act.

(b) The principles to be followed when including the information required under subsection (d) of this Section in the Sex Offenders' Registry, and amending the information in the registry, shall be stated in a regulation to be made by the Minister pursuant to this Section.

(c) The Sex Offender's Registry shall not be

published publicly. Notwithstanding the foregoing, this Section does not bar from having a policy to share information in the registry within the purview of subsection (b) of this Section, with a third party.

- (d) The following information shall be included in the Sex Offenders' Registry:
- (1) details of the convicted person (including the name, address and identity card number);
  - (2) offence committed;
  - (3) sentence passed on him;
  - (4) judgement of the appellate court, where the sentence against him was appealed;
  - (5) number of times he was convicted under this Act;
  - (6) whether he is under detention or free.

*Removal from registry*

**48.** (a) A person who has the locus standi may make an application to the court to remove a person's name from the registry of sex offenders.

- (b) The court may make an order on the Minister to remove person's name from the registry of sex offenders, based an application made under subsection (a) of this Section, after having regard to the following:

- (1) the offence being the first offence of the offender; or
- (2) the offence not being one of rape, or sexual injury or sexual assault, or a sexual act; or
- (3) the offender being a child; or
- (4) punishment given for the offence was set at the minimum; or
- (5) conviction having been overturned on appeal.

(c) The Ministry shall be notified if a person serving a sentence for an offence specified in Section 47 (a) of this Act is released from custody.

(d) The minister shall specify in the regulation stipulated in Section 47 (b) of this Act, the guidelines through which a notice under subsection (c) of this Section shall be made.

*Registry*

**49.** The Minister shall make arrangements for updating the Sex Offenders' Registry and shall ensure that it is being maintained accordingly.

*Notifying of a change in information*

**50.** (a) A person whose name is included in the Sex Offenders' Registry shall inform the Family Protection Authority of changes to the following information within the period specified below:

- (1) within 14 days, if there is change to his name, address, or Maldivian national identity card number;
  - (2) before travelling, if he is travelling abroad;
  - (3) within 7 days from his return to Maldives;
  - (4) within 7 days from the date of change of his address;
  - (5) within 7 days from the date his parents or legal guardians change;
  - (6) within 7 days if he is living in an address other than his registered address.
- (b) It shall be an offence for a person whose name is included in the Sex Offenders' Registry, not to do something that is required of him under subsection (a) of this Act.
- (c) The offence stipulated in subsection (b) of this Act shall be punishable with a fine not exceeding Maldivian Rufiyaa 5,000, and in multiples of the number of times the offence is repeated with Maldivian Rufiyaa 5,000 for each time the offence is repeated.

## **CHAPTER 5**

### **EVIDENCE**

*Probative value*

**51.** Except for a hearing relating to an offence specified in Section 52 of this Act, the standard of proof for all other offences specified in this Act shall be in relation to the probative value of evidence in any other criminal offence, for the purpose of Article 51 (h) of the Constitution. In addition, the same type of evidence shall be admissible for all other criminal cases shall be admissible in such cases.

*Evidence in favour of the victim*

**52.** (a) Notwithstanding the fact that a different standard of proof or rules for admission of evidence may be specified in another law, for the purpose of this Act, the following types of evidence shall be sufficient in favour of the victim to prove an offence of rape, sexual injury, or sexual assault, beyond a reasonable doubt as specified in Article 51 (h) of the Constitution:

- (1) Results of a scientific test;
- (2) Evidence of eye witnesses;
- (3) Results of forensic tests and impressions;
- (4) Statement given by the parents, husband, wife, relative, friend, doctor, health professional, psychologist, psychiatrist or investigating police officer as related to them by the victim within a short period of time from occurrence of the incident, where there



are no probabilities of the victim fabricating the story;

- (5) Statement of the victim as to his version of events that occurred to him;
  - (6) Corroboration of the victim's narrative from the physical injuries sustained or the findings of forensic tests;
  - (7) Material evidence.
- (b) Where at least 5 types of evidence specified in subsection (a) of this Section is available, and a circumstance specified in Section 53 of this Act has not occurred, this Act admits the evidence to be sufficient for the purpose of Article 51 (h) of the Constitution, to prove beyond a reasonable doubt that suspected act has taken place.

*Evidence against the victim*

- 53.** Notwithstanding Section 52 of this Act, occurrence of any of the following circumstances shall be evidence that may be used to deny the accusations in relation to the offence of rape, or sexual injury or sexual assault:
- (a) The accused proving that an independent review or evidence of a witness does not support a basic point among those used to narrate the occurrence of the event;
  - (b) Long time period having elapsed between the occurrence of the event and the date on

- which the complaint was made, and the incident not having been narrated to any other person within that period;
- (c) The court making a finding that there is a possibility of false testimony being supplied by the victim, having regard to the facts relating to dignity and discipline of the victim;
  - (d) The court being of the opinion that the likelihood of the event not having taken place is more likely than not, after having regard to the both parties' account of events;
  - (e) The court being of the opinion that the relationship between the parties, and transactions that have taken place between them prior to the accusation of the offence makes it improbable that the offence accused of would have taken place.

## **CHAPTER 6**

### **DAMAGES**

#### *Recovery of damages*

- 54.** The victim of the offence of rape, or sexual injury or sexual assault shall have the right to recover the following two types of damages for injuries sustained as a direct result of the offence:
- (1) financial damages;
  - (2) non-financial damages.

#### *Financial damages*

- 55.** Financial damages shall be recoverable under

Section 54 (a) of this Act by the victim of the offence of rape, or sexual injury or sexual assault for costs incurred to obtain health services and the health services that will need to be obtained for injuries sustained as a result of the offence.

*Non-financial damages*

- 56.** The following types of damages may be recovered as non-financial damages under Section 54 (b) of this Act:
- (a) damages to the body of the victim as a direct result of injuries sustained for the offence of rape, or sexual injury or sexual assault;
  - (b) loss of an organ the victim as a direct result of injuries sustained for the offence of rape, or sexual injury or sexual assault;
  - (c) damages due to non-functioning organ of the victim as a direct result of injuries sustained for the offence of rape, or sexual injury or sexual assault;
  - (d) damages for loss of lifestyle for having lost an organ, or use of an organ as a direct result of injuries sustained for the offence of rape, or sexual injury or sexual assault;
  - (e) damages for pain and suffering the victim has to undergo as a direct result of injuries sustained for the offence of rape, or sexual injury or sexual assault;
  - (f) damages for loss of employment prospects of the victim as a direct result of injuries

sustained for the offence of rape, or sexual injury or sexual assault;

(g) legal fees.

*Quantum of damage*

57. (a) The court shall determine, in accordance with the standard set forth by the court, the type and quantum of damages to be recovered for the victim of the offence of rape, sexual injury or sexual assault, having regard to the facts of the case.

(b) The court may determine any of the following means in recovering damages, for the purpose of ensuring justice:

- (1) recovery of damages for matters sought;
- (2) recovery of damages for some of the matters determined by the court;
- (3) recovery of damages similar to a previous case if the facts of the cases are similar.

## CHAPTER 7

### GENERAL PROVISIONS

*Closed proceedings*

58. (a) Of the offences specified in this Act, court hearings related to the offences of sexual acts without consent shall be conducted *in camera*. Such hearings shall be conducted as closed proceedings in a manner that will protect the identity of the victim.

- (b) Persons who may be permitted to the hearings stated in subsection (a) of this Section shall be determined based on a regulation published by the court well in advance.

*Identity of the victim not to be revealed*

- 59.** (a) This Act does not permit revealing any information that may give a hint as to the identity of the victim, in reporting or publishing reports on investigation and trials relating to an offence of rape, sexual injury or sexual assault.

- (b) The Minister shall have the power to submit to the court, the case of any person who acts in contravention of subsection (a) of this Section. The court shall have the power to impose a fine between Maldivian Rufiyaa 10,000 and 15,000 on persons found guilty of such an offence.

*Protection order*

- 60.** The court may order the accused person to do or not to do any of the following until the conclusion of his trial, where criminal investigation under this Act is being carried out without holding the accused in remand:
- (a) restricting the accused from entering and exiting victim's private dwelling, place of work, employment, teaching, learning or any other

- commonly visited place;
- (b) stalking, going to the same place, stopping, bothering or verbally assaulting the victim;
  - (c) entering or staying at the private dwelling of the victim or other place where such person is present, without the express permission of such person;
  - (d) carrying out any interactions with the victim using phones, letters, electronic mail, short message service (SMS) text messages or any other form;
  - (e) cause any physical, sexual or psychological injury to the victim;
  - (f) threaten to cause any physical, sexual or psychological injury to the victim;
  - (g) cause or threaten to cause damage to the property of the victim;
  - (h) commit or threaten to commit any act to intimidate, humiliate or cause psychological trauma on the victim;
  - (i) the accused committing any of the prohibited acts against the victim through an intermediary.

*Reviewing this Act*

- 61.** (a) This Act shall be reviewed by the Minister every 5 years from the date this Act comes into force.
- (b) It shall be the responsibility of the

Government to introduce a bill to the People's Majlis where an amendment is required after reviewing this Act according to subsection (a) of this Section.

*Exemption of liability*

**62.** No person shall be held responsible for civil or criminal liability for an act or omission to act when such an act or omission to act occurred in enforcing this law in accordance with this Act, without bad faith or intention to harm a specific performance.

*Penalties for children between the ages of 16 to 18 years*

**63.** Where a child between the ages of 16 (sixteen) years and 18 (eighteen) years commits the offence of rape, sexual injury, sexual assault or sexual act provided in this Act, the penalty of such a child shall be two-thirds of the penalty prescribed for the offence in this Act. Unless otherwise provided in this Act, where persons who have reached 18 (eighteen) years of age and above 18 (eighteen) years of age commit an offence provided in this Act, such persons shall be given the full penalty prescribed in this Act.

*Provision of counseling*

**64.** For the purpose of providing psychological relief and to reintegrate victims to lead a dignified life, the Family Protection Authority shall arrange counseling for persons who become a victim of an offence provided in this Act, at its own expense and in accordance with a procedure formulated by the Authority at a place or in coordination with professionals determined by the Authority.

*Provision of financial support*

**65.** Where a parent or guardian of a person who becomes a victim of an offence provided in this Act requires financial support to provide care for such a person, the Family Protection Authority shall provide such support in accordance with relevant policy of the Government.

*Enacting regulation*

**66.** (a) Except for the regulations required to be enacted by the courts under this Act, all other regulations shall be enacted and regulated by the Minister.

(b) Where regulations under this Act require to be enacted by the courts, such regulations shall be enacted and regulated by the relevant courts.

(c) The regulations required to be enacted under this Act shall be formulated and published within 3 (three) months from this Act becoming effective.

*Commencement of Act*

**67.** This Act shall become effective, upon passing, ratification and within 6 (six) months from the date of publication of this Act on Government Gazette.

*Repealing*

**68.** Upon this Act becoming effective, notwithstanding any other law or regulation which provides for an offence provided in this Act, this Act shall prevail for the offences provided in this Act.

*Definitions*

**69.** Unless otherwise provided in this Act, the following words and terms shall have the meaning prescribed below.

(a) “prostitution” means committing a sexual act



- or offering to commit a sexual act in exchange for money or any other thing which has a monetary value.
- (b) “brothel” means a building or any other place which is used or prepared for the purpose of prostitution.
  - (c) “blackmail” means forcing a person to do a specific thing against his will by threatening otherwise to cause harm or loss or any other act that victimizes a person. Or to use information of a crime committed by a person without reporting to the relevant authorities against him to receive a benefit or to continue to receive such a benefit against the will of such a person.
  - (d) “assault” means to physically harm or injure a person’s life or body. Or to cause psychological harm to a person.
  - (e) “Minister” means the minister entrusted with the responsibility of protection, strengthening and enforcement of role of women and family affairs at a national level.
  - (f) “Ministry” means the ministry of which the Minister who is entrusted with the responsibility of protection, strengthening and enforcement of role of women and family affairs at a national level is the senior most official.
  - (g) “Person” means, notwithstanding any other

law, including boys and girls between the ages of 16 (sixteen) years and 18 (eighteen) years. It also includes all men and women who have reached 18 (eighteen) years of age and are above 18 (eighteen) years of age. Both Maldivian citizens and foreign nationals include within the meaning of a person.

- (h) “Family Protection Authority” means the national authority run under the Ministry or Minister entrusted with responsibility of protection, strengthening and enforcement of family affairs at a national level.
- (i) “Register” means the Sex Offenders Registry.
- (j) “Mental disability” means any condition or situation in which a person’s sound mind is affected by reason of unsound mind or by a condition that causes damage to the brain which impairs judgment, reasoning and memory functions of the brain.
- (k) “Zinah” means the penetration, whether completely or in part, of a male sexual organ into a female sexual organ between two persons who are not married to each other.
- (l) “Animal” means any form of living being, except for human beings, which live on land or under water.
- (m) “Sex offenders” mean any person whose name is required to be on the Registry of Sex Offenders as determined under this Act.

- (n) “Sexual organ” means, where it is a man, to his genital parts. Where it is a woman, the term means, female genital parts and breasts. For the purposes of offences of rape, sexual injury or sexual assault provided in this Act, the context shall include the anus or rectum of men and women.
- (o) “Organs other than sexual organs” means a person’s mouth or anus or rectum.
- (p) “Dangerous weapon” means, any object if used as a weapon, can cause harm to a person’s property or to life or to body, arsenic materials, flammable materials, or any such things that can be used as a weapon.
- (1) Any form of knife;
  - (2) Dagger or sword;
  - (3) Razor blade, cutter knife and its blade;
  - (4) Axe, title knife;
  - (5) Sharpened iron rods, wood or any such material;
  - (6) Any other sharpened objects which may cause injury to a person.
- (q) “Pornography” means, photo and films which portrays a sexual organ or sexual organs, sounds which depict sexual acts, stories, films that depict sexual acts, photos, images, sounds and stories which depicts or shows sexual acts which are recorded on CDs, discs, tapes or any such medium and objects which

are created to depict sexual organs. Education material and books which are used for the purpose of education as permissible under the laws and regulation do not constitute within the meaning of pornography.

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