

# CRIMINAL CODE (AMENDMENT) ACT 2003

Act No. 12 of 2003

I assent

KARL AUGUSTE OFFMANN  
President of the Republic

11<sup>th</sup> June 2003

## ARRANGEMENT OF SECTIONS

### *Section*

1. Short title
2. Interpretation
3. Section 77 amended
4. New section 78 inserted in principal Act

-----

### **An Act To amend the Criminal Code**

ENACTED by the Parliament of Mauritius, as follows -

#### **1. Short title**

This Act may be cited as the **Criminal Code (Amendment) Act 2003**.

#### **2. Interpretation**

In this Act -

“principal Act” means the Criminal Code.

#### **3. Section 77 amended**

Section 77 is amended by deleting the words "Where a public functionary" and replacing them by the words "Subject to section 78, where a public functionary".

#### **4. New section 78 inserted in principal Act**

The principal Act is amended by inserting immediately after section 77, the following new section -

#### **78. Torture by public official**

- (1) Subject to subsection (3), where –

(a) any person who is a public official, or is otherwise acting in an official capacity; or

(b) any person, at the instigation of, or with the acquiescence of, a public official or a person otherwise acting in an official capacity

intentionally inflicts severe pain or suffering, whether physical or mental, on any other person-

(i) to obtain a confession or other information from that other person, or a third person;

(ii) to punish that other person for an act which that other person or a third person has committed, or is suspected of having committed;

(iii) to intimidate or coerce that order or a third person; or

(iv) for any reason based on discrimination of any kind,

he shall commit the offence of torture and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 5 years.

(2) Where the act constituting an offence under subsection (1) has been committed outside Mauritius and -

(a) the victim is a citizen of Mauritius;

(b) the alleged offender is in Mauritius; or

(c) the alleged offender is in Mauritius, and Mauritius does not extradite him,

a Court shall have jurisdiction to try the offence and inflict the penalties specified in subsection (1).

(3) Subsection (1) shall not apply to any pain or suffering arising only from, or inherent in, or incidental to, a lawful sanction.

(4) It shall not be a defence for a person charged with an offence under subsection (1) to prove that he acted by order of his superior.

Passed by the National Assembly on the third day of June two thousand and three.

André Pompon  
Clerk of the National Assembly