

THE SEXUAL OFFENCES (MISCELLANEOUS PROVISIONS) ACT 2003

Act No. 30 of 2003

I assent

KARL AUGUSTE OFFMANN
President of the Republic

22nd August 2003

Date in Force:

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Courts Act amended
3. Criminal Code amended
4. Criminal Procedure Act amended

AN ACT

To amend the Courts Act, the Criminal Code and the Criminal Procedure Act

ENACTED by the Parliament of Mauritius, as follows -

1. Short title

This Act may be cited as the **Sexual Offences (Miscellaneous Provisions) Act 2003**.

2. Courts Act amended

The Courts Act is amended -

(a) in section 85 –

- (i) in subsection (1), by deleting the words “subsection (2)” and replacing them by the words “subsections (2) and (5)”;

- (ii) by adding immediately after subsection (4) the following new subsection -
 - (5) Where a person is prosecuted for an offence of rape under section 249(1) of the Criminal Code, the case shall be heard by -
 - (a) 2 Magistrates; or
 - (b) Where the President of the Intermediate Court so directs, more than 2 Magistrates.
- (b) in section 161, by inserting the following definition in its appropriate alphabetical place -

"sexual offence case" means a case in which the accused is being prosecuted for rape, attempt upon chastity or illegal sexual intercourse in breach of section 249 of the Criminal Code;
- (c) by inserting immediately after section 161A, the following new section, the existing section 161B being relettered 161C accordingly –

161B Live Video and Television Link

- (1) Notwithstanding any other enactment, the Court may, in its discretion and on motion made by the prosecution, allow a complainant in a sexual offence case to appear before it, and depone, through such live video or live television link system as may be approved in writing by the Chief Justice.
- (2) In exercising its discretion under subsection (1), the Court shall ensure that there is a fair hearing in the matter.

3. Criminal Code amended

The Criminal Code is amended in section 249 -

- (a) in subsection (1), by inserting immediately after the words "penal servitude", the words "for a term which shall not be less than 5 years".
- (b) by inserting immediately after subsection (1), the following new subsections –

- (1A) Notwithstanding any other enactment, where a person is convicted of an offence under subsection (1), the Intermediate Court shall have -
 - (a) jurisdiction to inflict penal servitude for a term not exceeding 20 years;
 - (b) power to order sentences of penal servitude to be served consecutively, provided that the terms of such sentences shall not in the aggregate exceed 20 years.
- (1B) Notwithstanding any other enactment, prosecution for the offence of rape may, at the sole discretion of the Director of Public Prosecutions, take place before a Judge without a jury where it is averred that the offence of rape was committed by 2 or more individuals.
- (1C) Sections 151 and 197 of the Criminal Procedure Act, and the Probation of Offenders Act, shall not apply to a conviction for the offence of rape.

4. Criminal Procedure Act amended

The Criminal Procedure Act is amended in the Fifth Schedule, in paragraph (a), by inserting immediately after the words "156," the words "249 (in respect of the offence of rape, where it is averred that the offence was committed by 2 or more individuals),".

Passed by the National Assembly on the twelfth day of August two thousand and three.

André Pompon
Clerk of the National Assembly