

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO**

**CRIMINAL LAW (SEXUAL
OFFENCES AND RELATED
MATTERS) AMENDMENT BILL**

[B 50B—2003]

*(As agreed to by the Portfolio Committee on Justice and Constitutional
Development (National Assembly))*

[B 50C—2003]

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AMENDMENTS AGREED TO

ELECTRICITY REGULATION AMENDMENT BILL

[B 20—2006]

CLAUSE 1

1. On page 7, after line 26, to insert:

“**child pornography**” means any image, however created, or any description or presentation of a person, real or simulated, who is, or who is depicted or described or presented as being, under the age of 18 years, of an explicit or sexual nature, whether such image or description or presentation is intended to stimulate erotic or aesthetic feelings or not, including any such image or description of such person—

- (a) engaged in an act that constitutes a sexual offence;
- (b) engaged in an act of sexual penetration;
- (c) engaged in an act of sexual violation;
- (d) engaged in an act of self-masturbation;
- (e) displaying the genital organs of such person in a state of arousal or stimulation;
- (f) unduly displaying the genital organs or anus of such person;
- (g) displaying any form of stimulation of a sexual nature of such person’s breasts;
- (h) engaged in sexually suggestive or lewd acts;
- (i) engaged in or as the subject of sadistic or masochistic acts of a sexual nature;
- (j) engaged in any conduct or activity characteristically associated with sexual intercourse;
- (k) showing or describing such person—
 - (i) participating in, or assisting or facilitating another person to participate in; or
 - (ii) being in the presence of another person who commits or in any other manner being involved in, any act contemplated in paragraphs (a) to (j); or
- (l) showing or describing the body, or parts of the body, of such person in a manner or in circumstances which, within the context, violate or offend the sexual integrity or dignity of that person or any category of persons under 18 or is capable of being used for the purposes of violating or offending the sexual integrity or dignity of that person, any person or group or categories of persons;

2. On page 7, after line 36, to insert:

“**Minister**” means the cabinet member responsible for the administration of justice;

3. On page 7, in line 41, to omit all the words up to and including “justice” in line 42.
4. On page 7, after line 51, to insert:

“**pornography**” means any image, however created, or any description of a person, real or simulated, who is 18 years or older, of an explicit or sexual nature that is intended to stimulate erotic feelings, including any such image or description of such person—

- (a) engaged in an act that constitutes a sexual offence;

- (b) engaged in an act of sexual penetration;
- (c) engaged in an act of sexual violation;
- (d) engaged in an act of self-masturbation;
- (e) displaying the genital organs of such person in a state of arousal or stimulation;
- (f) unduly displaying the genital organs or anus of such person;
- (g) displaying any form of stimulation of a sexual nature of the female breasts;
- (h) engaged in sexually suggestive or lewd acts;
- (i) engaged in or as the subject of sadistic or masochistic acts of a sexual nature;
- (j) engaged in any conduct or activity characteristically associated with sexual intercourse; or
- (k) showing or describing the body, or parts of the body, of that person in a manner or in circumstances which, within the context, violate or offend the sexual integrity or dignity of that person or any other person or is capable of being used for the purposes of violating or offending the sexual integrity or dignity of that person or any other person;

5. On page 8, in line 31, after “(iii)” to omit “the”.
6. On page 8, in line 44, after “3” to omit “,”.
7. On page 8, in line 45, after “6” to omit “,”.

CLAUSE 10

1. On page 11, from line 13, to omit:
 , as contemplated in paragraph (a), (b) or (c) of section 19,

CLAUSE 11

1. On page 11, in line 18, to omit “(1)”.

CLAUSE 13

1. Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Bestiality

- 13.** A person (“A”) who unlawfully and intentionally commits an act—
- (a) which causes penetration to any extent whatsoever by the genital organs of—
 - (i) A into or beyond the mouth, genital organs or anus of an animal; or
 - (ii) an animal into or beyond the mouth, genital organs or anus of A; or
 - (b) of masturbation of an animal, unless such act is committed for scientific reasons or breeding purposes, or of masturbation with an animal,
- is guilty of the offence of bestiality.

CLAUSE 17

1. On page 13, in line 13, after “C,” to insert “with or without the consent of B,”.
2. On page 13, in line 16, after (“B”) to insert “, with or without the consent of B,”.
3. On page 13, in line 20, after (“B”) to insert “, with or without the consent of B,”.
4. On page 13, in line 27, after (“B”),’ to insert “with or without the consent of B,”.

CLAUSE 18

1. On page 13, after line 33, to insert:
 - (a) manufactures, produces, possesses, distributes or facilitates the manufacture, production or distribution of an article which is exclusively intended to facilitate the commission of a sexual act with or by a child (“B”);
2. On page 13, in line 34, to omit “(a)” and to substitute “(b)”.
3. On page 13, in line 35, after “of” to omit “an article or”.
4. On page 13, in line 35, after “publication” to insert “or film”.
5. On page 13, in line 36, after “by” to omit ‘a child (“B”)’ and to substitute “B”.
6. On page 13, in line 37, to omit “(b)” and to substitute “(c)”.
7. On page 13, in line 39, after “(ii)” to insert “child pornography or”.
8. On page 13, in line 39, after “pornography” to omit:

as contemplated in paragraph (a), (b) or (c) of section 19.
9. On page 13, in line 40, after “publication” to insert “or film”.
10. On page 13, in line 43, to omit “(c)” and to substitute “(d)”.
11. On page 13, in line 50, after “(ii)” to insert “child pornography or”.
12. On page 13, in line 50, after “pornography” to omit:

as contemplated in paragraph (a), (b) or (c) of section 19.
13. On page 13, in line 51, after “publication” to insert “or film”.
14. On page 14, in line 3, after “to” to insert “child pornography or”.
15. On page 14, in line 3, after “pornography” to omit:

as contemplated in paragraph (a), (b) or (c) of section 19.
16. On page 14, in line 22, after “sequence” to omit “as contemplated in section 20(1)”.
17. On page 14, in line 22, after “sequence” to insert “of child pornography”.

CLAUSE 19

1. Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Exposure or display of or causing exposure or display of child pornography or pornography to children

19. A person (“A”) who unlawfully and intentionally exposes or displays or causes the exposure or display of—

- (a) any image, publication, depiction, description or sequence of child pornography or pornography;
- (b) any image, publication, depiction, description or sequence containing a visual presentation, description or representation of a sexual nature of a child, which may be disturbing or harmful to, or age-inappropriate for children, as contemplated in the Films and Publications Act, 1996 (Act No. 65 of 1996), or in terms of any other legislation; or
- (c) any image, publication, depiction, description or sequence containing a visual presentation, description or representation of pornography or an act of an explicit sexual nature of a person 18 years or older, which may be disturbing or harmful to, or age-inappropriate, for children, as contemplated in the Films and Publications Act, 1996, or in terms of any other law,

to a child (“B”), with or without the consent of B, is guilty of the offence of exposing or displaying or causing the exposure or display of child pornography or pornography to a child.

CLAUSE 20

1. Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Using children for or benefiting from child pornography

20. (1) A person (“A”) who unlawfully and intentionally uses a child complainant (“B”), with or without the consent of B, whether for financial or other reward, favour or compensation to B or to a third person (“C”) or not—

- (a) for purposes of creating, making or producing;
 - (b) by creating, making or producing; or
 - (c) in any manner assisting to create, make or produce,
- any image, publication, depiction, description or sequence in any manner whatsoever of child pornography, is guilty of the offence of using a child for child pornography.

(2) Any person who knowingly and intentionally in any manner whatsoever gains financially from, or receives any favour, benefit, reward, compensation or any other advantage, as the result of the commission of any act contemplated in subsection (1), is guilty of the offence of benefiting from child pornography.

CLAUSE 21

1. On page 15, in line 51, after “self-masturbation” to insert “,”.

CLAUSE 23

1. On page 16, in line 43, after “care-giver” to insert “,”.

CLAUSE 24

1. On page 17, in line 14, after “(ii)” to insert “child pornography or”.
2. On page 17, in line 14, after “pornography” to omit:
as contemplated in paragraph (a), (b) or (c) of section 25.
3. On page 17, in line 15, after “publication” to insert “or film”.
4. On page 17, in line 17, to omit “B” and to substitute:
a person who is mentally disabled (“B”).
5. On page 17, in line 26, after “(ii)” to insert “child pornography or”.
6. On page 17, in line 26, after “pornography” to omit:
as contemplated in paragraph (a), (b) or (c) of section 25.
7. On page 17, in line 28, after “publication” to insert “or film”.
8. On page 17, in line 40, after “to” to insert “child pornography or”.
9. On page 17, in line 40, after “pornography” to omit:
as contemplated in paragraph (a), (b) or (c) of section 25.
10. On page 17, in line 59, after “sequence” to omit “as contemplated in section 26(1)” and to substitute “of pornography”.

CLAUSE 25

1. Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Exposure or display of or causing exposure or display of child pornography or pornography to persons who are mentally disabled

25. A person (“A”) who unlawfully and intentionally exposes or displays or causes the exposure or display of any image, publication, depiction, description or sequence of child pornography or pornography to a complainant who is mentally disabled (“B”), is guilty of the offence of exposing or displaying or causing the exposure or display of child pornography or pornography to a person who is mentally disabled.

CLAUSE 26

1. Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Using persons who are mentally disabled for pornographic purposes or benefiting therefrom

26. (1) A person (“A”) who unlawfully and intentionally uses a complainant who is mentally disabled (“B”), whether for financial or other reward, favour or compensation to B or to a third person (“C”) or not—

(a) for the purpose of creating, making or producing;

(b) by creating, making or producing; or

(c) in any manner assisting to create, make or produce, any image, publication, depiction, description or sequence in any manner whatsoever, of pornography or child pornography, is guilty of the offence of using a person who is mentally disabled for pornographic purposes.

(2) Any person who knowingly and intentionally in any manner whatsoever gains financially from, or receives any favour, benefit, reward, compensation or any other advantage, as the result of the commission of any act contemplated in subsection (1), is guilty of the offence of benefiting from using a person who is mentally disabled for pornographic purposes.

CLAUSE 29

1. On page 20, in line 45, to insert “National” before “Commissioner”.
2. On page 20, in line 46, after “Service,” to insert “National”.

CLAUSE 32

1. On page 22, in line 19, to omit “sex”.
2. On page 22, in line 19, to omit “police official” and to substitute “investigating officer”.
3. On page 22, in line 21, to omit “police official” and to substitute “investigating officer”.
4. One page 22, in line 21, to omit “sex”.
5. On page 22, in line 42, to omit all words after “offence,” up to and including “necessary—” in line 45.
6. On page 22, after line 45, to insert:

the magistrate must, in the case of an application contemplated in subsection (1)(a), order that the alleged offender be tested for HIV in accordance with the State’s prevailing norms and protocols, including, where necessary—
7. On page 22, in line 50, to omit all words after “offender,” up to and including “30(1)(a)(i)” in line 55.

8. On page 22, after line 55 to insert:

and that the HIV test results be disclosed in the prescribed manner to the investigating officer or, where applicable, to a prosecutor who needs to know the results for purposes of the prosecution of the matter in question or any other court proceedings and to the alleged offender, if the results have not already been made available to such offender as contemplated in section 30(1)(a)(i).

CLAUSE 40

1. On page 25, in line 31, to omit “any”.
2. On page 26, in line 8, after “employed” to omit “,” and to substitute “and”.
3. On page 26, in line 11, to omit “licenses” and to substitute “licences”.
4. On page 26, in line 21, to omit “any”.

CLAUSE 41

1. On page 26, in line 41, to omit “license” and to substitute “licence”.
2. On page 26, in line 42, after “child” to insert:
or where children are present or congregate
3. On page 27, in line 1, to omit “license” and to substitute “licence”.
4. On page 27, in line 3, after “disabled” to insert:
or where persons who are mentally disabled are present or congregate

CLAUSE 44

1. On page 28, in line 3, to omit “license” and to substitute “licence”.
2. On page 28, in line 5, after “children” to insert:
or persons who are mentally disabled

CLAUSE 45

1. On page 28, in line 24, to omit all words after “(1)(b),” up to and including “Register.” in line 25.
2. On page 28, after line 25, to insert:
whose particulars are recorded in the Register.
3. On page 28, in line 36, after “section” to omit “50(1)” and to substitute “41”.
4. On page 28, in line 45, to omit “(4)” and to substitute “(3)”.
5. On page 28, in line 45, after “section” to insert “,”.

CLAUSE 46

1. On page 28, in line 50, after the first “is” to insert “or was”.
2. On page 28, in line 54, after “committed” to insert “or allegedly committed”.
3. On page 28, in line 55, after “conviction” to insert “or finding”.
4. On page 29, in line 7, after “(2)” to insert “,”.

CLAUSE 47

1. On page 29, in line 10, to omit “license” and to substitute “licence”.
2. On page 29, in line 11, to omit “license” and to substitute “licence”.
3. On page 29, in line 16, to omit “license” and to substitute “licence”.
4. On page 29, in line 23, after “section” to insert “,”.

CLAUSE 48

1. On page 29, in line 39, after “section” to insert “,”.

CLAUSE 49

1. On page 29, in line 44, after “section” to omit “48” and to substitute “50”.
2. On page 29, in line 45, after “(i)” to omit “the” and to substitute “The”.
3. On page 29, in line 50, to omit “license” and to substitute “licence”.

CLAUSE 50

1. On page 30, in line 33, to omit all words after “(a)(ii),” up to and including “Chapter.” in line 34.
2. On page 30, after line 34, to insert:

whether committed before or after the commencement of this Chapter.
3. On page 30, in line 45, to omit all words after “person,” up to and including “Register.” in line 46.
4. On page 30, after line 46, to insert:

must make an order that the particulars of the person be included in the Register.
5. On page 31, in line 4, after the first “The” to insert “National”.
6. On page 31, in line 9, after “child”, to insert:

, including an offence contemplated in section 14 of the Sexual Offences Act, 1957 (Act No. 23 of 1957),
7. On page 31, in line 14, after “1957” to omit “(Act No. 23 of 1957)”.

8. On page 31, in line 16, after the first “The” to insert “National”.
9. On page 31, from line 23, after “possible,” to omit “a conviction for a sexual offence against a child,” and to substitute:

an offence contemplated in section 14 of the Sexual Offences Act, 1957,
10. On page 31, in line 24, after the second “for” to omit “an” and to substitute “a sexual”.
11. On page 31, in line 25, after “including” to insert “, as far as is possible,”.

CLAUSE 51

1. On page 32, in line 18, after “her;” to insert “or”.

CLAUSE 52

1. On page 32, in line 55, after the first “the” to omit “purpose” and to substitute “purposes”.
2. On page 32, in line 58, after “person” to insert “,”.
3. On page 33, in line 11, after “manner” to insert “,”.

CLAUSE 53

1. On page 33, in line 21, after the second “the” to insert “National”.
2. On page 33, in line 25, after the second “the” to insert “National”.
3. On page 33, in line 53, after “in” to omit “paragraph” and to substitute “subsection”.

CLAUSE 55

1. On page 34, in line 29, after the second “offence” to insert:

and may be liable on conviction to the punishment to which a person convicted of actually committing that offence would be liable

CLAUSE 56

1. On page 34, in line 30, after “**Defences**” to insert “**and sentencing**”.
2. On page 34, in line 33, after “**Defences**” to insert “**and sentencing**”.
3. On page 34, in line 35, after “6” to omit “and” and to substitute “or”.
4. On page 35, after line 5, to insert:

(6) It is not a valid defense to a charge under section 20(1), in respect of a visual representation that—

(a) the accused person believed that a person shown in the representation that is alleged to constitute child pornography, was or was depicted as being 18 years or older unless the accused took all reasonable steps to ascertain the age of that person; and

(b) took all reasonable steps to ensure that, where the person was 18 years or older, the representation did not depict that person as being under the age of 18 years.

(7) If a person is convicted of any offence under this Act, the court that imposes the sentence shall consider as an aggravating factor the fact that the person—

(a) committed the offence with intent to gain financially, or receive any favour, benefit, reward, compensation or any other advantage; or

(b) gained financially, or received any favour, benefit, reward, compensation or any other advantage, from the commission of such offence.

(8) A person may not be convicted of an offence in terms of section 9 or 22 if that person commits such act in compliance with and in the interest of a legitimate cultural practice.

CLAUSE 63

1. On page 36, in line 36, after “the” to insert “National”.

CLAUSE 66

1. On page 37, from line 57, to omit all words up to and including “manner” in line 58.
2. On page 37, after line 58, to insert:

with a view to ensuring that as many police officials as possible are able to deal with sexual offence cases in an appropriate, efficient and sensitive manner.
3. On page 38, from line 6, after “33(2)(b)” to omit all words up to and including “results.” in line 7.
4. On page 38, after line 7, to insert:

as contemplated in section 33(1)(e), in order to ensure the confidentiality of such test results.

CLAUSE 67

1. On page 39, in line 49, to omit “member” and to substitute “members”.

CLAUSE 68

1. On page 40, from line 6, after “corpse,” to omit all words up and including “repealed.” in line 7.
2. On page 40, after line 7, to insert “is hereby repealed”.

CLAUSE 70

1. On page 40, in line 41, to omit “(a)” and to substitute “(i)”.

2. On page 40, in line 42, to omit “(b)” and to substitute “(ii)”.
3. On page 40, in line 43, to omit “(c)” and to substitute “(iii)”.
4. On page 40, in line 44, to omit “(d)” and to substitute “(iv)”.
5. On page 40, in line 45, to omit “(e)” and to substitute “(v)”.
6. On page 40, in line 46, to omit “(f)” and to substitute “(vi)”.
7. On page 40, in line 50, to omit “(g)” and to substitute “(vii)”.
8. On page 40, in line 50, after “payments” to omit “or” and to substitute “, compensation, rewards,”.
9. On page 40, in line 50, after “benefits” to insert “or any other advantage”.
10. On page 40, from line 50, after “benefits,” to omit all the words up to and including “meaning.” in line 56.
11. On page 40, after line 56, to insert:

for the purpose of any form or manner of exploitation, grooming or abuse of a sexual nature of such person, including the commission of any sexual offence or any offence of a sexual nature in any other law against such person or performing any sexual act with such person, whether committed in or outside the borders of the Republic, and “**trafficks**” and “**trafficked**” have a corresponding meaning.

CLAUSE 71

1. On page 41, in line 19, to omit “(a) to (g)” and to substitute “(i) to (vii)”.
2. On page 41, in line 28, to omit “(v)” and to substitute “(iv)”.
3. On page 41, in line 29, to omit “(vi)” and to substitute “(v)”.

CLAUSE 72

1. Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Short title and commencement

72. (1) This Act is called the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, and, subject to subsection (2), takes effect on 16 December 2007, or an earlier date fixed by the President by proclamation in the *Gazette*.

(2) (a) Chapter 5 of the Act takes effect on 21 March 2008, or an earlier date fixed by the President by proclamation in the *Gazette*.

(b) Chapter 6 of the Act takes effect on 16 June 2008, or an earlier date fixed by the President by proclamation in the *Gazette*.

SCHEDULE

1. On page 42, under Act 23 of 1957, in the third column, to omit items 1, 2 and 3 and to substitute:
 1. The amendment of section 1 by the insertion after the definition of “court” of the following definition:

“‘female’ means a female person 18 years or older;’.
 2. The substitution of subsection (1) of section 12A for the following subsection:

“(1) Any person who, with intent or while he reasonably ought to have foreseen the possibility that any person, who is 18 years or older, may have unlawful carnal intercourse, or commit an act of indecency, with any other person for reward, performs for reward any act which is calculated to enable such other person to communicate with any such person, who is 18 years or older, shall be guilty of an offence.”.
 3. The amendment of section 19 by the substitution for the following section:

“19. (1) Any person who[—
 (a)] entices, solicits, or importunes in any public place for immoral purposes[; or
 (b) wilfully and openly exhibits himself or herself in an indecent dress or manner at any door or window or within view of any public street or place or in any place to which the public have access],
 shall be guilty of an offence.
 (2) Any person 18 years or older who wilfully and openly exhibits himself or herself in an indecent dress or manner at any door or window or within view of any public street or place or in any place to which the public have access, shall be guilty of an offence.”.
 4. The amendment of section 20 by the—
 - (a) substitution for subsection (1) of the following subsection:

“(1) Any person who—
 (a) knowingly lives wholly or in part on the earnings of prostitution; or
 [(aA) has unlawful carnal intercourse, or commits an act of indecency, with any other person for reward; or
 (b) in public commits any act of indecency with another person; or]
 (c) in public or in private in any way assists in bringing about, or receives any consideration for, the commission by any person of any act of indecency with another person,
 shall be guilty of an offence.”; and
 - (b) insertion after subsection (1) of the following subsection:

“(1A) Any person 18 years or older who—
 (a) has unlawful carnal intercourse, or commits an act of indecency, with any other person for reward; or
 (b) in public commits any act of indecency with another person,
 shall be guilty of an offence.”.

5. The substitution for section 22 of the following section:

“Penalties

22. Any person who is convicted of an offence under the provisions of this Act for which no special penalty is prescribed, shall be liable—

- (a) in the case of an offence referred to in section 2 or 20(1)(a) or [(aA)] (1A)(a), to imprisonment for a period not exceeding three years with or without a fine not exceeding R6 000 in addition to such imprisonment;
- [(b) in the case of an offence referred to in section 9(1), to imprisonment for a period not exceeding five years, or, if the child concerned is a boy under the age of 14 years or a girl under the age of 12 years, for life;]**
- (c) . . .
- (d) in the case of an offence referred to in section [11,] 12A [or 18], with a fine, or imprisonment for a period not exceeding five years;
- (e) in the case of an offence referred to in section 10 or 12(1) [or 13(1)], to imprisonment for a period not exceeding seven years;
- (f) in the case of an offence referred to in section [14(1), 14(3), 15 or] 17, to imprisonment for a period not exceeding six years with or without a fine not exceeding R12 000 in addition to such imprisonment;
- (g) in the case of an offence referred to in section [18A, 19 or 20(1)(b) or (c), or 20A(1),] 19 or 20(1)(c) or (1A)(b) to a fine not exceeding R4 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.”.

6. The repeal of sections 9, 11, 12(2) 13, 14, 15, 18, 18A and 20A.

- 2. On page 44, under Act 51 of 1977, in the third column, in the twenty sixth line, to omit “(h)” and to substitute “(h)”.
- 3. On page 45, in the first line, to omit “(i)” and to substitute “(i)”.
- 4. On page 45, in the fifty-fifth line, to omit “(i)” and to substitute “(i)”.
- 5. On page 47, in the second line, to omit “(i)” and to substitute “(i)”.
- 6. On page 47, from the fifty-eighth line, after “and” to omit all words up to and including “directs.” in the sixtieth line.
- 7. On page 47, after the sixtieth line, to insert:
 - (iv) by a clinical psychologist where the court so directs.
- 8. On page 64, in the twentieth line, after “the” to insert “offence does not exceed R20 000,00”.
- 9. On page 64, in the twenty first line, to omit all words up to and including “R20 000,00”.

10. On page 65, under Act 105 of 1997, in the third column, to omit item 1 and to substitute:

1. The amendment of Schedule 2 by—
 (a) the substitution for Part I of the following part:

“PART I

Murder, when—

- (a) it was planned or premeditated;
 (b) the victim was—
 (i) a law enforcement officer performing his or her functions as such, whether on duty or not; or
 (ii) a person who has given or was likely to give material evidence with reference to any offence referred to in Schedule 1 to the Criminal Procedure Act, 1977 (Act No. 51 of 1977), at criminal proceedings in any court;
 (c) the death of the victim was caused by the accused in committing or attempting to commit or after having committed or attempted to commit one of the following offences:
 (i) Rape or compelled rape as contemplated in section 3 or 4 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, respectively; or
 (ii) robbery with aggravating circumstances as defined in section 1 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977); or
 (d) the offence was committed by a person, group of persons or syndicate acting in the execution or furtherance of a common purpose or conspiracy.

Rape as contemplated in section 3 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007—

- (a) when committed—
 (i) in circumstances where the victim was raped more than once whether by the accused or by any co-perpetrator or accomplice;
 (ii) by more than one person, where such persons acted in the execution or furtherance of a common purpose or conspiracy;
 (iii) by a person who has been convicted of two or more offences of rape or compelled rape, but has not yet been sentenced in respect of such convictions; or
 (iv) by a person, knowing that he has the acquired immune deficiency syndrome or the human immunodeficiency virus;
 (b) where the victim—
 (i) is a **[girl]** person under the age of 16 years;
 (ii) is a physically disabled **[woman]** person who, due to his or her physical disability, is rendered particularly vulnerable; or
 (iii) is a **[mentally ill woman]** person who is mentally disabled as contemplated in section 1 of the **[Mental Health Act, 1973 (Act 18 of 1973)]** Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007; or
 (c) involving the infliction of grievous bodily harm.

Compelled rape as contemplated in section 4 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007—

- (a) when committed—

- (i) in circumstances where the victim was raped more than once by one or more than one person;
 - (ii) by a person who has been convicted of two or more offences of rape or compelled rape, but has not yet been sentenced in respect of such convictions; or
 - (iii) under circumstances where the accused knows that the person committing the rape has the acquired immune deficiency syndrome or the human immunodeficiency virus;
- (b) where the victim—
- (i) is a person under the age of 16 years;
 - (ii) is a physically disabled person who, due to his or her physical disability, is rendered particularly vulnerable; or
 - (iii) is a person who is mentally disabled as contemplated in section 1 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007; or

(c) involving the infliction of grievous bodily harm.

Any offence referred to in section 2, 5, 6, 7, 8, 9, 10 or 14 (in so far as it relates to the aforementioned sections) of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004, when it is proved that the offence has—

- (a) endangered the life or caused serious bodily injury to or the death of, any person, or any number or group of persons;
- (b) caused serious risk to the health or safety of the public or any segment of the public; or
- (c) created a serious public emergency situation or a general insurrection.

Trafficking in persons for sexual purposes by a person contemplated in section 71(1) or (2) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007.”; and

- (b) the substitution for Part III of the following Part:

“PART III

Rape or compelled rape as contemplated in section 3 or 4 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, respectively in circumstances other than those referred to in Part I.

[Indecent assault on a child under the age of 16 years, involving the infliction of bodily harm.]

Sexual exploitation of a child or sexual exploitation of a person who is mentally disabled as contemplated in section 17 or 23 or using a child for child pornography or using a person who is mentally disabled for pornographic purposes, as contemplated in section 20(1) or 26(1) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, respectively.

Assault with intent to do grievous bodily harm on a child under the age of 16 years.

Any offence in contravention of section 36 of the Arms and Ammunitions Act, 1969 (Act No. 75 of 1969), on account of being in possession of more than 1 000 rounds of ammunition intended for firing in an arm contemplated in section 39(2)(a)(i) of that Act.

Any trafficking related offence by a commercial carrier as contemplated in section 71(6) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007.”.

LONG TITLE

1. On page 2, from line sixteen, after “and”, to omit “a sexual act with a corpse” and to substitute:

violation of a corpse, as far as such violation is of a sexual nature,

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