



ST CHRISTOPHER AND NEVIS

CHAPTER 4.05

CRIMINAL LAW AMENDMENT ACT

Revised Edition

showing the law as at 31 December 2002

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, No. 9 of 1986

This edition contains a consolidation of the following laws:

Criminal Law Amendment Act

Act 6 of 1887 in force 5th March, 1887

Amended by Act 36 of 1976

Act 10 of 1998

CHAPTER 4.05

CRIMINAL LAW AMENDMENT ACT

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CHAPTER 4.05

CRIMINAL LAW AMENDMENT ACT

AN ACT to provide for the protection of women and girls from those who would wish to cause them sexual harm, or exploit them for sexual purposes; and to provide for related or incidental matters.

1. Short title.

This Act may be cited as the Criminal Law Amendment Act.

2. Procuring defilement by threats or fraud, or administering drugs.

Any person who

- (a) by threats or intimidation procures or attempts to procure any woman or girl to have any unlawful carnal connection; or
- (b) by false pretences or false representations procures any woman or girl to have any unlawful carnal connections; or
- (c) applies, administers to, or causes to be taken by any woman or girl any drug, matter, or thing, with intent to stupefy or overpower so as thereby to enable any person to have unlawful carnal connection with such woman or girl,

commits a misdemeanour, and shall be liable, on conviction, to imprisonment for a term not exceeding two years:

Provided that no person shall be convicted of an offence under this section upon the evidence of one witness only, unless such witness be corroborated in some material particular by evidence implicating the accused.

3. Defilement of girl under fourteen years.

(1) Any person who unlawfully and carnally knows any girl under the age of fourteen years commits an indictable offence and shall be liable, on conviction, to imprisonment for life.

(2) Any person who attempts to have unlawful carnal knowledge of any girl under the age of fourteen years commits an offence and shall be liable, on conviction, to imprisonment for a term not exceeding five years, with or without hard labour:

Provided that in the case of an offender whose age does not exceed sixteen years, the Court may, instead of sentencing him to any term of imprisonment, order him to be whipped as prescribed by the Corporal Punishment Act, Cap. 3.09.

[Amended by Acts 36/1976 and 10/1998]

(3) Where, upon the hearing of a charge under this section, the girl in respect of whom the offence is charged to have been committed, or any other child of tender years who is tendered as a witness does not, in the opinion of the Court or Magistrate, understand the nature of an oath, the evidence of such girl or other child of tender years

may be received, though not given upon oath, if, in the opinion of the Court or Magistrate, as the case may be, such girl or other child of tender years is possessed of sufficient intelligence to justify the reception of the evidence, and understands the duty of speaking the truth:

Provided that no person shall be liable to be convicted of the offence, unless the testimony admitted by virtue of this section and given on behalf of the prosecution shall be corroborated by some other material evidence in support thereof implicating the accused:

Provided, also, that any witness whose evidence has been admitted under this section shall be liable to indictment and punishment for perjury in all respects as if he or she had been sworn.

[Amended by Acts 36/1976 and 10/1998]

4. Defilement of girl between fourteen and sixteen years of age.

Any person who

- (a) unlawfully and carnally knows, or attempts to have unlawful carnal knowledge of, any girl being of, or above the age of fourteen years and under the age of sixteen years; or
- (b) unlawfully and carnally knows, or attempts to have unlawful carnal knowledge of, any female idiot or imbecile woman or girl, under circumstances which do not amount to rape, but which prove that the offender knew, at the time of the commission of the offence, that the woman or girl was an idiot or imbecile;

commits an offence, and shall be liable, on conviction, to imprisonment for a term not exceeding five years, with or without hard labour:

Provided that it shall be a sufficient defence to any charge under paragraph (a) of this section, if it shall be made to appear to the Court or jury, before whom the charge shall be brought, that the person so charged had reasonable cause to believe that the girl was of or above the age of sixteen years:

Provided also that no prosecution shall be commenced for an offence under paragraph (a) of this section more than twelve months after the commission of the offence.

[Amended by Acts 36/1976 and 10/1998]

5. Householder etc., permitting defilement of young girl on his or her premises.

Any person who, being the owner or occupier of any premises, or having, or acting or assisting in, the management or control of the premises, induces or knowingly suffers any girl of such age as is in this section mentioned to resort to, or be in or upon, such premises for the purpose of being unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally,

- (a) if such girl is under fourteen years, commits an offence, and shall be liable, on conviction, to imprisonment for a term not exceeding five years, with or without hard labour; and
- (b) if such girl is of or above the age of fourteen and under sixteen years, commits an offence and shall be liable, on conviction, to

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imprisonment for a term not exceeding five years, with or without hard labour.

[Amended by Acts 36/197, and 10/1998]

6. Abduction of girl under sixteen with intent to have carnal knowledge.

Any person who, with intent that any unmarried girl under the age of sixteen years should be unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally, takes, or causes to be taken, such girl out of the possession and against the will of her father or mother, or any other person having the lawful care or charge of her, commits an offence, and shall be liable, on conviction, to imprisonment, for a term not exceeding ten years, with or without hard labour:

Provided that it shall be a sufficient defence to any charge under this section, if it shall be made to appear to the Court or jury that the person so charged had reasonable cause to believe that the girl was of or above the age of sixteen years.

[Amended by Act 10/1998]

7. Cohabitation with unmarried girl under sixteen years.

(1) Any male person who cohabits with an unmarried girl under sixteen years commits an offence and shall be liable, on conviction, to imprisonment for a term not exceeding five years.

(2) For the purposes of this section, a belief, even though reasonable, that the girl is over sixteen years shall afford no defence to a charge under this section.

[Inserted by Act 36/1976; amended by Act 10/1998]

8. Undue control over unmarried girl under fourteen years.

Any male person of the age of eighteen or over

- (a) who is habitually in the company of an unmarried girl under the age of fourteen against the will of her father, mother or any other person having the lawful care or charge of her; or
- (b) who exercises control, direction or influence over the movements of a girl under the age of fourteen in such a way as to show that, he is aiding, abetting or compelling her, against the will of her father, mother or other person having the lawful care or charge of her to resort to premises of which he is the owner or occupier, or to premises whose management or control he has, or acts in, or assists in,

commits an offence and shall be liable, on summary conviction, before a magistrate, to imprisonment for a term not exceeding three months.

[Inserted by Act 36/1976]

9. Unlawful detention with intent to have carnal knowledge.

- (1) Any person who detains any woman or girl against her will

- (a) in or upon any premises with intent that she may be unlawfully and carnally known by any man, whether any particular man or generally; or
- (b) in any brothel;

commits an offence shall be liable, on conviction, to imprisonment for a term not exceeding ten years, with or without hard labour.

[Amended by Act 10/1998]

(2) Where a woman or girl is in or upon any premises for the purpose of having any unlawful carnal connection, or is in any brothel, a person shall be deemed to detain such woman or girl in or upon such premises, or in such brothel, if, with intent to compel or induce her to remain in or upon such premises or in such brothel, such person withhold from such woman or girl any wearing apparel or other property belonging to her, or, where wearing apparel has been lent or otherwise supplied to such woman or girl by or by the direction of such person, such person threatens such woman or girl with legal proceedings if she takes away with her the wearing apparel so lent or supplied.

(3) No legal proceedings, whether civil or criminal, shall be taken against the woman or girl for taking away or being found in possession of the wearing apparel as was necessary to enable her to leave such premises or brothel.

10. Power, on indictment for rape, to convict of certain misdemeanours.

If, upon the trial of any indictment for rape, or any offence made a felony by section 3, the jury is satisfied that the defendant is guilty of an offence under sections 2, 3 or 4, or of an indecent assault, but are not satisfied that the defendant is guilty of the felony charged in such indictment, or of an attempt to commit the same, then and in every such case the jury may acquit the defendant of the felony, and find him guilty of such offence as aforesaid, or of an indecent assault, and on conviction, the defendant shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such offence as aforesaid, or for the misdemeanour of indecent assault.

11. Power of search.

(1) If it appears to any Magistrate, on information made before him on oath by any parent, relative, or guardian of any woman or girl, or any other person who, in the opinion of the Magistrate, is *bonâ fide* acting in the interest of any woman or girl, that there is reasonable cause to suspect that the woman or girl is unlawfully detained for immoral purposes by any person in any place within the jurisdiction of the Magistrate, the Magistrate may issue a warrant authorising any person named therein to search for, and, when found, to take to and detain in a place of safety such woman or girl until she can be brought before a Magistrate; and the Magistrate before whom the woman or girl is brought may cause her to be delivered up to her parents or guardians, or otherwise dealt with as circumstances may permit and require.

(2) The Magistrate issuing the warrant may, by the same or any other warrant, cause any person accused of unlawfully detaining the woman or girl to be apprehended and brought before a Magistrate, and proceedings to be taken for punishing such person according to law.

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(3) A woman or girl shall be deemed to be unlawfully detained for immoral purposes if she is so detained for the purpose of being unlawfully and carnally known by any man, whether any particular man or generally, and

- (a) either is under the age of fourteen years; or
- (b) if of or over the age of fourteen years, and under the age of sixteen years, is so detained against her will, or against the will of her father or mother, or of any other person having the lawful care or charge of her; or
- (c) if of or above the age of sixteen years, is so detained against her will.

(4) Any person authorized by warrant under this section to search for any woman or girl so detained as aforesaid may enter (if need be, by force) any house, building, or other place specified in such warrant, and may remove such woman or girl therefrom:

Provided that every warrant issued under this section shall be addressed to and executed by some officer of the police force, who shall be accompanied by the parent, relative, or guardian, or other person making the information, if such person so desire, unless the Magistrate shall otherwise direct.

12. Custody of girls under sixteen.

Where, on the trial of any offence under this Act, it is proved to the satisfaction of the Court that the seduction or prostitution of a girl under the age of sixteen has been caused, encouraged, or favoured by her father, mother, guardian, master, or mistress, it shall be in the power of the Court to divest such father, mother, guardian, master, or mistress of all authority over her, and to appoint any person or persons willing to take charge of such girl to be her guardian, until she has attained the age of eighteen, or any age below this as the Court may direct, and the Court shall have the power from time to time to rescind or vary such order by the appointment of any other person or persons as such guardian, or in any other respect.

13. Saving of liability to other criminal proceedings.

This Act shall not exempt any person from any proceedings for an offence which is punishable at common law, or under any enactment other than this Act, so that the person be not punished twice for the same offence.

[Amended by Act 6/1976]

14. Connection by personating husband to be rape.

Whereas doubts have been entertained whether a man who induces a married woman to permit him to have connection with her by personating her husband is or is not guilty of rape, it is hereby enacted and declared that every such offender shall be deemed to be guilty of rape.

15. Children loitering on streets.

(1) Any boy or girl under the age of "sixteen" found wandering or loitering on the streets after ten o'clock in the evening and failing to show to the satisfaction of a

constable that he or she is engaged on an urgent or unusual errand may be stopped and taken to the nearest police station and there held until released to the father, mother or other person having the lawful care or charge of such boy or girl.

[Amended by Act 10/1998]

(2) A member of the Royal Saint Christopher and Nevis Police Force who holds a boy or girl under subsection (1) shall forthwith cause the father, mother or other person having the lawful care or charge of the child to be notified.

[Amended by Act 10/1998]

(3) The father and mother or any other person who has the lawful care or charge of a child held under this section shall be liable to a fine not exceeding five hundred dollars:

Provided that no person shall be charged with an offence under this section without having previously been cautioned that persistent neglect of parental duty may result in a charge being laid under this section.

[Amended by Act 10/1998]

(4) For the purposes of this section “street” includes any bridge, road, lane, footway, square, court, alley or Passage, which is for the time being open to the public; and the doorways and entrances and fences of premises abutting on a street and any ground adjoining and open to a street shall be treated as forming part of the street.

[Inserted by Act 36/1976]

16. Protection of Constable.

No constable or officer in charge of any police station shall be liable to pay or to be found liable by any Court in damages in respect of any action taken under section 13 unless it is proved that such action was taken or done maliciously and without sufficient cause.

[Inserted by Act 36/1976]