



PENAL CODE (AMENDMENT) (No. 2) ACT, 2012

(Act 7 of 2012)

I assent



Danny Faure
Vice-President

27th August, 2012

AN ACT to amend the Penal Code (Cap 158).

ENACTED by the President and the National Assembly.

1. This Act may be cited as the Penal Code (Amendment) (No. 2) Act, 2012. Short title

Amendment of
Cap 158

2. The Penal Code, Cap 158 is amended by inserting after section 157, the following new sections—

"Prohibited
observation and
recording of
private act

157A A person who observes or visually records another person, in circumstances where a person would expect to be afforded privacy—

- (a) without the other person's consent; and
- (b) when the other person is—
 - (i) in a private place; or
 - (ii) engaging in a private act; and

(c) the observation or visual recording is made for the purpose of observing or visually recording a private act, commits an offence and is liable on conviction to imprisonment for a term of 20 years.

Prohibited
observation and
recording of
private parts

157B A person who observes or visually records another person's private parts, in circumstances where a person would expect to be afforded privacy in relation to his or her private parts—

- (a) without the other person's consent; and
- (b) when the observation or visual recording is made for the purpose of observing or visually recording the other person's private parts,

commits an offence and is liable on conviction to imprisonment for a term of 20 years.

Possession of
prohibited
visual recording

157C A person who possesses a prohibited visual recording of another person having reason to believe it to be a prohibited visual recording,

without the other person's consent, commits an offence and is liable on conviction to imprisonment for a term of 20 years.

Distribution
of prohibited
visual
recording

157D A person who distributes a prohibited visual recording of another person having reason to believe it to be a prohibited visual recording, without the other person's consent, commits an offence and is liable on conviction to imprisonment for a term of 20 years.

Interpretation

157E For the purpose of sections 157A, 157B, 157C and 157D —

"distribute" includes—

- (a) communicate, exhibit, send, supply or transmit to someone, whether to a particular person or not;
- (b) make available for access by someone, whether by a particular person or not;
- (c) enter into an agreement or arrangement to do something in paragraph (a) or (b); and
- (d) attempt to distribute.

"observe" means observation by any means whatsoever;

"private act" means—

- (a) bathing and showering;
- (b) using a toilet;

(c) any other activity where the person is in a state of nudity;

(d) intimate sexual activity that is not ordinarily done in public;

“private parts” means a person's genital or anal region when bare or a female's breast when bare;

“private place” means a place where a person might reasonably be expected to be engaging in a private act;

“prohibited visual recording of another person” means a visual recording of—

(a) the person in a private place or engaging in a private act made in circumstances where a person would expect to be afforded privacy; or

(b) a visual recording of the person's private parts, when bare made in circumstances where a person would expect to be afforded privacy in relation to his or her private parts.

Immunity

157(F) A person is not criminally responsible for an offence against sections 157A, 157B, 157C or 157D if—

(a) the person is, at the time of the offence, a law enforcement officer acting in the course of the person's duties; and

(b) the person's conduct is reasonable in the circumstances for the performance of the duties.”

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 14th August, 2012.



Azarel Ernesta
Clerk to the National Assembly