

MACAO SPECIAL ADMINISTRATIVE REGION

Law No. 8/2017

Amendment to the Criminal Code

The Legislative Assembly decrees, pursuant to Article 71, subparagraph 1) of the Basic Law of the Macao Special Administrative Region, the following with the force of law:

Article 1

Amendment to the Criminal Code

Articles 157, 158, 159, 161, 166, 167, 168, 169, 171, 172 and 173 of the Criminal Code, approved by Decree-law No. 58/95/M, of 14 November, and amended by Laws No. 6/2001, No. 3/2006, No. 6/2008, No. 11/2009 and No. 2/2016, are amended as follows:

«Article 157

(Rape)

1. Whoever compels another person to endure or to practise, with him/her or with a third person, vaginal or anal intercourse or oral sex, by means of violence, serious threat or after, for that purpose, having made that person unconscious or unable to resist, shall be punished with imprisonment from 3 to 12 years.
2. Whoever, by the means provided for in the previous paragraph, compels another person to endure the introduction of any parts of the body or objects into the vagina or anus, shall be punished with the same penalty.

Article 158

(Sexual coercion)

Whoever compels another person to endure or to perform, with him/her, with a third person or upon that person himself/herself, a relevant sexual act, by means of violence, serious threat or after, for that purpose, having made that person unconscious or unable to resist, shall be punished with imprisonment from 2 to 8 years.

Article 159

(Sexual abuse of a person unable to resist)

1. [...].
2. If, by the means provided for in the previous paragraph, the relevant sexual act consists of vaginal or anal intercourse or oral sex, or of the introduction of any parts of the body or objects into the vagina or anus, the perpetrator shall be punished with imprisonment from 2 to 10 years.

Article 161

(Sexual fraud)

1. [...].
2. If, by the means provided for in the previous paragraph, the relevant sexual act consists of vaginal or anal intercourse or oral sex, or of the introduction of any parts of the body or objects into the vagina or anus, the perpetrator shall be punished with imprisonment of up to 5 years.

Article 166

(Sexual abuse of children)

1. Whoever performs a relevant sexual act with or upon a minor under the age of 14, or induces the minor to perform such act with him/her, a third person or upon the minor himself/herself, shall be punished with imprisonment from 1 to 8 years.
2. [...].
3. Whoever practises vaginal or anal intercourse or oral sex with a minor under the age of 14, or induces the minor to perform such act with him/her or with a third person, or subjects the minor to the introduction of any parts of the body or objects into the vagina or anus, shall be punished with imprisonment from 3 to 10 years.
4. [...]:
 - a) performs with or before a minor under the age of 14, respectively, the acts provided for in Articles 164-A and 165,
 - b) acts upon a minor under the age of 14, by means of pornographic conversation, writing, performance or object,shall be punished with imprisonment of up to 3 years.

5. [...].

Article 167

(Sexual abuse of pupils and dependents)

1. [...].

2. Whoever performs the act described in subparagraph b) of paragraph 4 of the previous article in relation to a minor referred in the previous paragraph and in the conditions thereby described shall be punished with imprisonment of up to 1 year.

3. Whoever performs or induces the acts described in paragraph 4 of the previous article in relation to a minor referred in paragraph 1 of this article and in the conditions thereby described for profit shall be punished with imprisonment of up to 3 years.

Article 168

(Statutory rape)

1. Whoever, taking advantage of the inexperience of a minor between the age of 14 and 16, practises with the minor vaginal or anal intercourse or oral sex, or induces the minor to perform such act with him/her or with a third person, shall be punished with imprisonment of up to 4 years.

2. Whoever, by the means provided for in the previous paragraph, subjects a minor between the age of 14 and 16 to the introduction of any parts of the body or objects into the vagina or anus shall be punished with the same penalty.

Article 169

(Sexual act with minors)

Whoever performs a relevant sexual act with or upon a minor between the age of 14 and 16 or induces the minor to perform such act with him/her, with a third person, or upon the minor himself/herself, taking advantage of his/her inexperience, shall be punished with imprisonment of up to 3 years.

Article 171

(Aggravation)

1. The penalties provided for in Articles 157 to 159 and 161 to 170-A shall be aggravated by one third in its minimum and maximum limits if the victim:
 - a) [...];
 - b) [...].
2. The penalties provided for in Articles 157 to 161 and 166 to 169-A shall be aggravated by one third in its minimum and maximum limits if the perpetrator has a sexually transmitted disease.
3. The penalties provided for in Articles 157 to 162 and 166 to 169-A shall be aggravated by half in its minimum and maximum limits if the conducts thereby described result in pregnancy, serious offence to physical integrity, transmission of a life-threatening sexually transmitted disease, suicide or death of the victim.
4. The penalties provided for in Articles 157, 158, 162, 164-A and 165 shall be aggravated by one third in its minimum and maximum limits if the victim is a minor under the age of 16 or an incapacitated person or a person with diminished capacity by reason of illness, physical or mental disability.
5. The penalties provided for in Articles 157 to 160 and 166 to 169-A shall be aggravated by one third in its minimum and maximum limits if the crimes are jointly committed by two or more persons who directly participate in their execution.
6. [Former paragraph 5].

Article 172

(Complaint)

1. The criminal proceedings for the crimes provided for in Articles 161, 162 and 164-A to 169 depend on complaint, except when they result in suicide or death of the victim.
2. For the crimes provided for in Articles 161, 162 and 164-A to 169, when the victim is a minor under the age of 16, the Public Prosecutions Office shall initiate the proceedings if special reasons for the victim's interests so require.

Article 173

(Inhibition of parental power)

Whoever is convicted of the crime provided for in Articles 157 to 170-A may, considering the concrete seriousness of the fact and its connection with the function performed by the perpetrator, be inhibited from the exercise of parental power, guardianship, or curatorship for a period of 2 to 5 years.»

Article 2

Additional provisions to the Criminal Code

Articles 164-A, 169-A and 170-A shall be added to the Criminal Code, with the following wording:

«Article 164-A

(Sexual harassment)

Whoever harasses another person by compelling him/her to endure or to engage in, with him/her or with a third person, physical contact of a sexual nature through any parts of the body or objects, shall be punished with imprisonment of up to 1 year or with a fine of up to 120 days, if a heavier penalty is not imposed by virtue of another legal provision.

Article 169-A

(Recourse to the procurement of a minor)

1. Whoever performs a relevant sexual act with a minor between the age of 14 and 18, by providing or promising to provide remuneration or any other form of return by himself/herself or by a third person to the minor or to a third person, shall be punished with imprisonment of up to 3 years.
2. If, by the means provided for in the previous paragraph, the relevant sexual act consists of vaginal or anal intercourse or oral sex, or of the introduction of any parts of the body or objects into the vagina or anus, the perpetrator shall be punished with imprisonment of up to 4 years.
3. An attempt is punishable.

Article 170-A

(Pornography of minor)

1. Whoever:
 - a) uses a minor in a pornographic performance or induces him/her for that purpose,

b) uses a minor in a pornographic photo, film or recording, regardless of its medium, or induces him/her for that purpose,

c) produces, distributes, sells, imports, exports or disseminates in any name or by any means or acquires or detains for those purposes the materials provided for in the previous subparagraph, shall be punished with imprisonment from 1 to 5 years.

2. Whoever transmits, exhibits or provides in any name or by any means, or acquires or detains for those purposes the materials provided for in subparagraph b) of the previous paragraph, shall be punished with imprisonment of up to 3 years.

3. Whoever performs the acts described in the previous paragraphs as a means of living or for profit, shall be punished:

a) with imprisonment from 2 to 8 years, in the case of paragraph 1;

b) with imprisonment from 1 to 5 years, in the case of paragraph 2.»

Article 3

Amendment to Law No. 6/97/M, of 30 July

(Law against Organised Crime)

Article 1 of Law No. 6/97/M, of 30 July, amended by Laws No. 2/2006, No. 6/2008 and No. 9/2013, is amended as follows:

«Article 1

(Definition of secret association or society)

1. [...]:

a) [...];

b) [...];

c) [...];

d) Exploitation of prostitution, procurement, procurement of minors and pornography of minor;

e) [...];

f) [...];

g) [...];

- h) [...];
- i) [...];
- j) [...];
- l) [...];
- m) [...];
- n) [...];
- o) [...];
- p) [...];
- q) [...];
- r) [...];
- s) [...];
- t) [...];
- u) [...];
- v) [...].
- 2. [...]»

Article 4

Entry into force

This law enters into force 60 days after the day of its publication.

Approved on 16 June 2017.

The President of the Legislative Assembly, *Ho Iat Seng*.

Signed on 20 June 2017.

To be published.

The Chief Executive, *Chui Sai On*.