

Passed in Parliament this *19th day of September*, in the year of our Lord two thousand and nineteen.

MOHAMED LEBBIE,
Acting Clerk of Parliament.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed Parliament and found by me to be a true and correct printed copy of the said Bill.

MOHAMED LEBBIE,
Acting Clerk of Parliament..

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SIGNED this *7th day of October, 2019.*

DR. JULIUS MAADA BIO,
President.



No. 8



2019

Sierra Leone

The Sexual Offences (Amendment) Act, 2019

Short title.

Being an Act to amend the Sexual Offences Act, 2012, to make provision for the increase of the maximum penalty for rape and sexual penetration of a child from fifteen years to life imprisonment; to make provision for the introduction of the offence of aggravated sexual assault; to make provision for an alternative conviction of aggravated sexual assault; to make provision for the prosecution of offences under the Act; to make provision for the making of rules by the Rules of Court Committee, to further regulate the practice and procedure under the Act and to provide for other related matters.

[] Date of commencement.

ENACTED by the President and Members of Parliament in this present Parliament assembled.

Amendment
of section 1
of Act No. 12
of 2012.

1. Section 1 of the Sexual Offences Act, 2012 is amended by inserting immediately after the definition of "person with mental or physical disability" the following new definition -

"sexual act" means an act performed in a sexual manner on another person;

Amendment
of section 6
of Act No.
12
of 2012.

2. Section 6 of the Sexual Offences Act, 2012 is amended by repealing and replacing that section with the following new section -

"Rape. 6. A person who intentionally commits an act of sexual penetration on another person without the consent of that other person commits the offence of rape and is liable on conviction to a term of imprisonment not less than 15 years to life imprisonment."

(i) Notwithstanding the provisions of Section 24(1) of the Children and Young Persons Act, (Cap 44) and Section 70 of the Child Rights Act of 2007, a child who engages in an act of rape on another person commits an offence and is liable on conviction to a term of imprisonment not less than five (5) years but not more than fifteen (15) years.

(ii) A young person who engages in an act of rape on another person commits an offence and is liable on conviction to a term of imprisonment of not less than ten (10) years to life imprisonment.

(iii) A person above the age of a youth who engages in an act of rape on another person commits an offence and is liable on conviction to a term of imprisonment of not less than fifteen (15) to life imprisonment.

(iv) "Where a child commits rape under Section 6, the child receives a deferred sentence and sent to the Approve School until he comes of age to serve the remaining sentence in prison"

3. Section 13 (1) of the Sexual Offences Act, 2012 (Harassment) be amended by inserting immediately after Section 13 the following new Section as 13(2) (Solicitation by person in Authority):

Amendment
of section 13
of Act No. 12
of 2012
solicitation
by person in
authority.

13 (2) "A person who, being in a position of authority over another person, solicits sex from that person by threat, victimization or offer of favour, commits the offence of solicitation by person in authority and is liable on conviction to a term of imprisonment not less than 15 years".

b. For the purposes of Sub section 13(2) being in a position of authority over another person includes but is not limited to a relationship involving-

(i) Teacher, instructor, professor, lecturer, trainer, coach and student;

(ii) Employer and employee;

(iii) Minister, priest, preacher, cleric, vicar, pastor, imam and the member of their congregation or a person seeking counselling; and

(iv) Doctor and patient.

Amendment
of section 19
of Act No. 12
of 2012.

4. Section 19 of the Sexual Offences Act, 2012 is amended by—

(a) repealing and replacing that section with the following new section -

"Sexual
penetration
of a child.

19. Subject to section 24 of the Children and Young Persons Act (Cap 44), a person who engages in an act of sexual penetration with a child commits an offence and is liable on conviction to the following terms of imprisonment

- (i) Notwithstanding the provisions in Section 24(1) of the Children and Young Persons Act (Cap 44) and Section 70 of the Child Rights Act 2007, a child who engages in an act of sexual penetration on another child or rape commits an offence and is liable on conviction to a term of imprisonment of not less than five years (5) and not more than fifteen (15) years imprisonment.
- (ii) A young person who engages in an act of sexual penetration or rape on another person commits an offence and is liable on conviction to a term of imprisonment of not less than ten (10) years to life imprisonment.
- (iii) A person above the age of a youth who engages in sexual penetration or rape on another person commits an offence and is liable on conviction to a term of imprisonment of not less than fifteen (15) years to life imprisonment

"Aggravated
sexual
assault.

(b) inserting immediately after that section the following new section -

19. A. (1) A person who, in a sexual manner, coerces or physically forces another person, to engage in any sexual act, including any form of sexual violence, drug facilitated sexual assault, groping or torture, commits the offence of aggravated sexual assault and is liable on conviction to the following terms of imprisonment.

- (i) Notwithstanding the provisions in Section 24(1) of the Children and Young Persons Act (Cap 44) and Section 70 of the Child Rights Act 2007, a child who engages in an act of aggravated sexual assault **on** another child commits an offence and is liable on conviction to a term of imprisonment not less than five years (5) and not more than fifteen (15) years.
- (ii) A young person who engages in an act of aggravated sexual assault **on** another person commits an offence and is liable on conviction to a term of imprisonment of not less than ten (10) years to life imprisonment.
- (iii) A person above the age of a youth who engages in an act of aggravated sexual assault **on** another person, commits an

offence and is liable upon conviction to a term of imprisonment of not less than fifteen (15) years to life imprisonment.

(2) Where a person is charged with rape or sexual penetration of a child, he may, if the evidence so warrants, be acquitted of rape or sexual penetration of a child and convicted of aggravated sexual assault although he was not charged with that offence and is liable on conviction to a term of imprisonment not less than 15 years to life imprisonment."

Amendment of section 35 of Act No. 12 of 2012.

5. Section 35 of the Sexual Offences Act, 2012 (Aggravating Factors) be amended by inserting paragraphs (i) and (j) immediately after paragraph (h) to read as follows:

- (i) The victim is impregnated.
- (j) The victim is found to have contracted a sexually transmitted disease

Amendment of section 39 of Act No. 12 of 2012.

6. Section 39 of the Sexual Offences Act, 2012 (Free Medical treatment and report) be amended by inserting the following paragraphs:

- (i) A victim of a sexual offence shall be entitled to free medical treatment and a free medical report from any Government Hospital in Sierra Leone or from any other Health unit duly accredited by the Ministry of Health and Sanitation for provision of medical treatment for sexual offences and related Health Care Services.

(ii) Medical treatment shall include counselling, psycho-social support and mental health services.

Amendment of section 42 of Act No. 12 of 2012.

4. Section 42 of the Sexual Offences Act, 2012 is amended by repealing and replacing that section with the following new section—

"Prosecution of offences.

42. (1) Where the Attorney-General is of the opinion that the findings in any investigation warrants prosecution under this Act, the Attorney-General shall do so in the High Court.

(2) An indictment relating to an offence under this Act shall be preferred without any previous committal for trial and it shall in all respects be deemed to have been preferred pursuant to a consent in writing by a judge granted under subsection (1) of section 136 of the Criminal Procedure Act, (No. 32 of 1965) and shall be proceeded with accordingly.

(3) On a trial on indictment preferred under this section, an extract of the findings of the police or investigators, signed by the Attorney-General to the effect that a particular person is, or particular persons are implicated in any offence under this Act shall, without more, be

sufficient authority for preferring that indictment in respect of such offence as is disclosed in or based on the report of those findings.

- (4) An indictment preferred under this section shall be filed and served on the accused together with the summary of the evidence of the witnesses which the Attorney-General rely on for the proof of the charge contained in that indictment and the names of such witnesses shall be listed on the back of the indictment.
- (5) The Attorney-General may, upon giving to the Registrar of the Court and to the accused a notice of its intention to do so together with a summary of the evidence to be given by that witness, call as additional witness any person not listed on the back of the indictment who may give necessary or material evidence at the trial of any indictment under this section, whether or not that person gave any evidence during an investigation by the police or investigators.
- (6) The trial of any offence under this Act shall have priority of hearing in the Court over any other indictment except an indictment for treason, murder or other capital offence.

7. Section 42 of the Sexual Offences Act, 2012 is amended by inserting immediately after that section the following new section - Amendment of section 42 of Act No. 12 of 2012.

"Rules of Court Committee to make rules.

42A. (1) Notwithstanding section 42, the Rules of Court Committee may make rules for regulating the practice and procedure under this Act, including the application of special measures in accordance with section 40."

(2) Notwithstanding the provisions in Section 7 of Children and Young Persons Act (Capp 44) for cases of sexual penetration and rape a child and young person shall be tried in the High Court.

B. Notwithstanding section 42, the Chief Justice shall within 3 months of the coming into force of this amendment Act issue compulsory sentencing guidelines to be applied by the court in all cases where an offender is being sentenced for a sexual offence.

8. Section 43 of the Sexual Offences Act, 2012 (Attempted Conspiracy) be amended by criminalising settlement and compromise. Amendment of section 43 of Act No. 12 of 2012. A new paragraph be inserted immediately after that Section. A new Section 43 A to read as follows:

“A person who engages or attempts to engage in a settlement or compromise on any matter in which a sexual offence is alleged to have occurred, commits an offence and is liable on conviction to a fine of 10 million Leones or to a term of imprisonment of not less than one (1) year and not more than ten (10) years or to both fine and imprisonment”.

Amendment of section 44 of Act No. 12 of 2012.

9. Section 44 of the Sexual Offences Act of 2012 (Regulations) is amended by repealing and replacing that Section with the following

“Notwithstanding the generality of sub-section 1, the Minister responsible for Social Welfare, Gender and Children Affairs, may by Statutory Instrument, make rules for:

- (a) Compulsory counselling
- (b) Setting up child panels under Part 5 of the Child Rights Act of 2007
- (c) establishing, maintaining and publishing annually both in print and electronic media, a sexual offenders database.
- (d) Setting up of approved schools.
- (f) make provision for rape kits and the training of forensic experts and setting up of Forensic Laboratories

- (g) Establish, maintain, make accessible to competent authorities and publicise as necessary for public safety (particularly of children) a data base of persons convicted of sexual offences.

10. Sexual Offences Act, 2012 be amended by inserting the Annual report.
following new section to read 45:

The Human Rights Commission of Sierra Leone in conjunction with the National Committee on Gender based violence (NAC-GBV) of the Ministry of Social Welfare, Gender and Children’s Affairs shall produce and present to Parliament an annual report of the status of implementation of the Sexual Offences Act, 2012 (as amended) throughout Sierra Leone including recommendations to Parliament”.