

# REPUBLIC OF VANUATU

## **BILL FOR THE PENAL CODE (AMENDMENT) ACT NO. OF 2016**

### **Explanatory Note**

This Bill amends the Penal Code Act [CAP 135] (“the Act”). The main objective of this amendment is to strengthen the purpose of this Act in providing deterrence, especially individual deterrence for specific offenders. The goal is to impose a sufficient penalty to discourage the offender from criminal behaviour. It relates mainly to sexual offences such as abduction, incest, rape and unlawful sexual intercourse. The Courts have highlighted the fact that the current penalties need to be reviewed and amended to assist the Courts in applying appropriate and fair penalties according to the seriousness of offences committed.

Item 1 amends section 92 of the Act by deleting the figure “10” and substituting it with the figure “12”. The penalty for the offence of abduction under any age will now be imprisonment for a term not exceeding 12 years.

Item 2 amends section 92 of the Act by inserting after that section a new section 92A to deal with abduction of girls under the age of 18 years and provides for a maximum penalty of 7 years.

Item 3 amends subsection 95(2) of the Act by deleting the figure “10” and substituting it with the figure “15”. The penalty for the offence of incest being sexual intercourse between parent and child under paragraph 95(1)(a), (b) or (c), and subsection 95(2) will now be imprisonment for a term not exceeding 15 years.

Item 4 amends subsection 95(3) of the Act by inserting after that subsection new subsections (4), (5), (6), (7), (8) and (9). Subsection (4) provides for a person not to commit incest consensually with a person over 16 years old and subsection (5) provides for the penalty of 15 years imprisonment if that offence is committed. Subsection (6) provides that a person must not commit incest without consent with a person over 16 years old and subsection (7) provides the penalty of 20 years imprisonment if that offence is committed. Subsection (8) provides that a person must not commit incest with a person over 16 years and subsection (9) provides the penalty of life imprisonment if that offence is committed.

Item 5 amends subsection 97(1) of the Act by deleting the words “14 years” and substituting it with the word “life”. The new penalty for sexual intercourse with any child under the age of 13 is life imprisonment.

Item 6 amends subsection 97(2) of the Act by deleting the figure “5” and substituting it with the figure “15”. The penalty for sexual intercourse with any child under the age of 15 years or 13 years or over is 15 years imprisonment.

Item 7 amends paragraph 107(a) of the Act by deleting the words “3 months” and substituting it with the words “1 year”. The penalty for intentional assault on the body of another person if no physical damage is caused is 1 year imprisonment.

Item 8 amends paragraph 107(b) of the Act by deleting the words “1 year” and substituting it with the words “5 year”. The penalty for intentional assault on the body of another person if damage of a temporary nature is caused is 5 years imprisonment.

Item 9 amends paragraph 107(c) of the Act by deleting the figure “5” and substituting it with the figure “10”. The penalty for intentional assault on the body of another person if damage of a permanent nature is caused is 10 years imprisonment.

Item 10 amends paragraph 107(d) of the Act by deleting the figure “10” and substituting it with the figure “14”. The penalty for intentional assault on the body of another person if damage caused resulted in death although there was no intention to cause such death is 14 years imprisonment.

**Minister of Justice and Community Services**



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**Arrangement of Sections**

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## **BILL FOR THE PENAL CODE (AMENDMENT) ACT NO. OF 2016**

An Act to amend the Penal Code Act [CAP 135].

Be it enacted by the President and Parliament as follows-

### **1 Amendment**

The Penal Code Act [CAP 135] is amended as set out in the Schedule.

### **2 Commencement**

This Act commences on the day on which it is published in the Gazette.

## SCHEDULE

### AMENDMENTS OF THE PENAL CODE ACT [CAP 135]

**1 Section 92**

Delete “10”, substitute “12”

**2 After section 92**

Insert

**“92A Abduction of girl under 18 years of age**

- (1) A person must not take or cause to be taken an unmarried girl under the age of 18 years out of the possession and against the will of her father or mother or guardian or any other person having the lawful care or charge of her with the intention:
- (a) of having sexual intercourse with the girl; or
  - (b) to cause the girl to have sexual intercourse with any other person.
- (2) A person who contravenes subsection (1) commits an offence punishable on conviction to a term of imprisonment not exceeding 7 years.”

**3 Subsection 95(2)**

Delete “10”, substitute “15”

**4 After subsection 95(3)**

Insert

- “(4) A person must not commit incest consensually with a person over the age of 16 years.
- (5) A person who contravenes subsection (4) commits an offence punishable on conviction to a term of imprisonment not exceeding 15 years.
- (6) A person must not commit incest without consent with a person over the age of 16 years.

SCHEDULE  
AMENDMENTS OF THE PENAL CODE ACT [CAP 135]

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- (7) A person who contravenes subsection (6) commits an offence punishable on conviction to a term of imprisonment not exceeding 20 years.
- (8) A person must not commit incest with a person under the age of 16 years.
- (9) A person who contravenes subsection (8) commits an offence punishable on conviction to life imprisonment.”

**5 Subsection 97(1)**

Delete “14 years”, substitute “life”

**6 Subsection 97(2)**

Delete “5”, substitute “15”

**7 Paragraph 107(a)**

Delete “3 months”, substitute “1 year”

**8 Paragraph 107(b)**

Delete “1 year”, substitute “5 years”

**9 Paragraph 107(c)**

Delete “5”, substitute “10”

**10 Paragraph 107(d)**

Delete “10”, substitute “14”