

FIRST AMENDMENT ACT TO LAW NUMBER: 17/2014 (SEXUAL OFFENCES ACT)

Incorporate the following amendments to Law Number 17/2014 (Sexual Offences Act).

1. Amend section 6 of the aforesaid Act as follows.

Rape

6. “Rape” means, between married or unmarried persons, the insertion of a person’s sexual organ, however minute, into a sexual organ or an organ which is not a sexual organ of another person without consent.

2. Amend section 7 of the aforesaid Act as follows.

Sexual injury

7. “Sexual Injury” means the insertion of any part of a person’s body into a sexual organ or an organ which is not a sexual organ of another person without consent, and in a manner, which would not constitute a Rape. Or it is the insertion by a person of an object into a sexual organ or an organ which is not a sexual organ of another person without consent.

3. Amend section 8 of the aforesaid Act as follows.

Sexual assault

8. “Sexual Assault” means the touching of a sexual organ of a person, with or without a sexual intent by another person, with or without the use of an object or a tool, without consent, and in a manner, which would not constitute it Rape or Sexual Injury. Or it is forcing a person to reveal his sexual organ without his consent, or causing an injury to a person’s sexual organ without his consent, or causing any other degrading act on the sexual organ of a person’s sexual organ without his consent.

4. Repeal the following replicated section 20 of the aforesaid Act.

20. (a) A husband having sexual intercourse with his wife without her consent shall be considered marital rape under the following exceptional circumstances, in spite of the fact that the offence of Rape stipulated in Section 14 of this Act is not applicable as between married persons under normal circumstances:

(1) the process of dissolution of marriage or tafriq being underway in the court, and hearings in the case having been concluded and the case being at the stage of delivering a verdict; or

(2) an application for divorce by either party pending in court, and hearings in the case having been concluded and the case being at the stage of delivering a verdict; or

(3) the husband having sexual intercourse with the wife, while suffering from a dangerous sexually transmitted disease, with the intent of transmitting the disease to the wife; or

(4) the husband and wife living separately under an agreement between them, even though they are not divorced.

(b) For the purpose of the offence stated in subsection (a) of this Section, the wife may not be deemed to have given consent under the following circumstances:

(1) consent obtained through violence or with

the threat of death or violence against the victim, or consent obtained through threat of death or violence against a person in close relationship with the victim through either family or marriage; or

(2) consent obtained based on false facts, by misrepresentation; or

(3) consent obtained by deceiving the person as to that act in question.

(c) The offence stipulated in subsection (a) of this Section shall be punishable with imprisonment for a period between 3 and 5 years where a dangerous weapon was used during commission of the offence. Where the offence was committed in any other manner, it shall be punishable with imprisonment for a period between 1 and 3 years.

(d) The marriage between two persons, its legal status, their children, or children that have been conceived, and their status, or their matrimonial property or its status shall not be affected for the sole reason of the husband being convicted for the offence stipulated in subsection (a) of this Section during the subsistence of their marriage.

5. Add the following sections to Chapter Five, following section 50 of the aforesaid Act.

Obligation to use rape
evidence kit

50-1. (a) In the cases where an act stated in section 14, section 15, section 16, section 17, section 18, section 19, section 21(b), section 24(b), section 28 and section 38 is alleged to have been committed,

samples shall be taken from the victim's body and clothes and must be examined forensically.

(b) The forensic examination stated in subsection (a) is an examination done with consent of the victim on samples taken using a "rape evidence kit" designed specifically to conduct forensic examination of sexual offences.

(c) The "rape evidence kit" specialized for forensic examination of sexual offences shall at the minimum contain devices to extract and store the following samples.

(1) Hair swab sample collected from genitalia, anus and scalp;

(2) Blood and urine;

(3) Sample from the victim's clothes;

(4) Samples collected from fingernails and scraping under fingernails;

(5) Samples collected from genitalia and anus;

(6) Saliva; and

(7) Non-intimate sample,

- (d) The rules of procedure on obtaining samples from the victim's body and clothes and consent of the victim for forensic examination, the use of rape evidence kit on both minor and adult victims, and the storing of evidence collected shall be developed by the Minister entrusted with the mandate of health, in consultation with Maldives Police Service, Family Protection Authority and Child and Family Protection Service, and published within 60 (Sixty) days from the date this Act becomes effective.

Provision of Rape
evidence kit

50-2.

- (a) The government shall arrange for the provision of rape evidence kits to government hospitals and health centres.
- (b) No charge shall be levied by a government health service provider for extracting samples using rape evidence kits.
- (c) Rape evidence kits stated in subsection (a) shall be arranged and made available by the government within 6 (Six) months from the date this Act becomes effective.

Sample collection by
trained professionals

- 50-3.**
- (a) Every hospital and health centre operated in the Maldives by the government shall have at least a doctor, nurse or health worker who is trained to use a rape evidence kit. Such person must also have training completed on victim centred and trauma informed approaches.
 - (b) Samples using the rape evidence kit shall be only collected by those persons stated in subsection (a).
 - (c) Upon expiry of 6 (Six) months from the entry of force of this Act, the Family Protection Authority shall ensure that every government hospital and health centre operating in the Maldives has a doctor, nurse or health work trained in accordance with subsection (a). The Authority shall monitor such compliance every 6 (Six) months.
 - (d) The Family Protection Authority shall monitor whether every government hospital and health centre operating in the Maldives has a doctor, nurse or health work trained in accordance with subsection (a) and shall compile a report on it annually. The Family Protection Authority shall submit such report to the Peoples' Majlis.

Transferring the samples
to investigating bodies

- 50-4.** As samples collected using a rape evidence kit shall be considered as evidence stated in section 52(a)(1) and (3) of

this Act, Maldives Police Service shall develop the rules of procedure for transferring the samples from the center which collected the samples using the rape evidence kit, to the investigating body within 30 (Thirty) days from the date this Act becomes effective.

Preventing pregnancies in
rape victims

- 50-5.** (a) In cases where an offence stated in section 14, section 15, section 16, section 17, section 18, section 19, section 21(b), section 28 or section 38 is alleged to have been committed, if the doctor finds that the victim is pregnant or there is a likelihood of impregnation, with the consent of the victim, the health service provider shall provide services required to prevent such pregnancy.
- (b) The services stated in subsection (a) shall be provided under the direct supervision of a doctor.
- (c) The rules of procedure relating to the service stated in subsection (a) shall be developed and published by the Minister entrusted with the mandate of health within 3 (Three) months from the date this Act becomes effective.

Testing for sexually
transmitted diseases

- 50-6.** (a) In cases where an offence stated in section 14, section 15, section 16, section 17, section 18, section 19, section 21(b), section 24(b), section 28 or section 38 is alleged to have been committed, the

health service centre shall provide information to the victim regarding testing for sexually transmitted diseases. Where a victim requests for testing, the health service centre shall make the arrangements for such testing.

- (b) Health service centres which do not have the facilities to provide testing for sexually transmitted diseases shall take the sample from the victim and send the sample to a health facility which conducts testing and, in such manner, shall ensure testing is completed.
- (c) The regulation on rules of procedure for conducting the tests stated in subsection (a) shall be developed and published by the Minister entrusted with the mandate of health within 3 (Three) months from the date this Act becomes effective.

6. Amend the opening sentence of section 53 of the aforesaid Act as follows.

Evidence against the
victim

- 53.** Notwithstanding Section 52 of this Act, the accused proving that an independent review or evidence of a witness does not support a basic point among those used to narrate the occurrence of the event, shall form evidence that may be used to deny the accusations in relation to the offence of rape, or sexual injury or sexual assault.

7. Repeal the following replicated section 53(a) of the aforesaid Act.

- 53.** (a) The accused proving that an independent review or evidence of a witness does not support a basic point among those used to narrate the occurrence of the event.

8. Repeal the following replicated section 53(b) of the aforesaid Act.

- 53.** (b) A long time period having elapsed between the occurrence of the event and the date on which the complaint was made, and the incident not having been narrated to any other person within that period.

9. Repeal the following replicated section 53(c) of the aforesaid Act.

- 53.** (c) The court making a finding that there is a possibility of false testimony being supplied by the victim, having regard to the facts relating to dignity and discipline of the victim.

10. Repeal the following replicated section 53(d) of the aforesaid Act.

- 53.** (d) The court being of the opinion that the likelihood of the event not having taken place is more likely than not, after having regard to both parties' account of events.

11. Repeal the following replicated section 53(e) of the aforesaid Act.

- 53.** (e) The court being of the opinion that the relationship between the parties, and transactions that have taken place between them prior to the accusation of the offence makes it improbable that the offence accused of would have taken place.

12. Add the following sections to Chapter 7, following section 57 of the aforesaid Act.

Special responsibilities of
health service providers

- 57-1.** (a) When a victim of an offence stated in this Act seeks services from a health service provider, such service provider shall immediately inform the Maldives Police Service and the Social Service Department.
- (b) In cases involving an offence stated in section 14, section 15, section 16, section 17, section 18, section 19, section 21(b), section 24(b), section 28 or section 38, if a victim seeks health services from a health service provider, the sample stated in section 50-1 should be collected by the service provider as swiftly as possible.
- (c) The rules of procedure that health service providers shall maintain in treating victims of an offence stated in this Act shall be developed and published by the Minister entrusted with the mandate for

health within 6 (Six) months from the date this Act becomes effective.

Special responsibility of
the police towards victims

- 57-2.**
- (a) When an offence stated in section 14, section 15, section 16, section 17, section 18, section 19, section 21(b), section 24(b) section 28 or section 38 is reported to the police, the Maldives Police Service shall inform the Social Service Department as soon as the victim is located.
 - (b) In addition to complying with subsection (a), the victim, with consent, shall be accompanied to a health service provider.
 - (c) The rules of procedure on investigation and dealing with victims in cases which involves an offence stated in this Act, shall be developed by the Maldives Police Service within 3 (Three) months from the date this Act becomes effective.
 - (d) When the Maldives Police Service becomes aware of a violation committed by police of the applicable rules in dealing with cases involving an offense stated in this Act, it shall be investigated in accordance with Law Number 34/2020 (Maldives Police Service Act). Within 24 (Twenty-Four) hours of completing such investigation, the Maldives Police Service shall submit the decision

outcome of the investigation to the oversight body of police services.

13. Amend subsections (a) and (b) of section 66 of the aforesaid Act.

Enacting regulation

- 66.** (a) Unless otherwise stated in this Act, except for the regulations required to be enacted by the courts under this Act, all other regulations shall be enacted and regulated by the Minister.
- (b) Where regulations under this Act are required to be enacted by the courts, such regulations shall be enacted by the Department of Judicial Administration in consultation with the courts. For the purposes of this Act, a single regulation under this Act shall be enacted and regulated by the courts.

14. Add the following subsections (p), (r), (s) and (t), following subsection (q) of section 69 of the aforesaid Act.

Definitions

- 69.** (p) “Social Service Department” means the office under the Minister or Ministry with the mandate of providing psychosocial support to victims of abuse.

- (r) “Health service providers” means government hospitals and health centres operating in the Maldives and private hospitals.
- (s) “Victim centered approach” means the way of providing services and care to victims by systematically focusing on the needs and concerns of the victims, in an empathetic manner that avoids further abuse and re-traumatization.
- (t) “Trauma informed approach” means the way of providing services and care to victims by identifying physical, psychological, and social impacts to the victims.

15. This Act shall become effective, upon passing, ratification and on the date of publication of this Act on Government gazette.