

REPUBLIC OF SOUTH AFRICA

---

**CRIMINAL LAW (SEXUAL OFFENCES AND RELATED MATTERS)  
AMENDMENT ACT AMENDMENT BILL**

---

(.....)

---

(PORTFOLIO COMMITTEE ON JUSTICE AND CONSTITUTIONAL DEVELOPMENT)

## GENERAL EXPLANATORY NOTE:

[     ]           Words in bold type in square brackets indicate omissions from existing enactments.

\_\_\_\_\_           Words underlined with a solid line indicate insertions in existing enactments.

---

**BILL**

**To amend the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, so as to expressly provide that the imposition of penalties in respect of certain offences contained in the Act is left to discretion of the courts; and to provide for matters connected therewith.**

**P**ARLIAMENT of the Republic of South Africa enacts, as follows:—

**Amendment of section 11 of Act 32 of 2007**

1. Section 11 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (hereinafter referred to as the principal Act), is hereby amended by the substitution for the following section:

**“Engaging sexual services of persons 18 years or older**

11. A person (“A”) who unlawfully and intentionally engages the services of a person 18 years or older (“B”), for financial or other reward, favour or compensation to B or to a third person (“C”)—

(a) for the purpose of engaging in a sexual act with B, irrespective of whether the sexual act is committed or not;

(b) by committing a sexual act with B,

is guilty of the offence of engaging the sexual services of a person 18 years or older.”.

**Amendment of section 17 of Act 32 of 2007**

2. Section 17 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) A person (“A”) who unlawfully and intentionally engages the services of a child complainant (“B”), with or without the consent of B, for financial or other reward, favour or compensation to B or to a third person (“C”)—

- (a) for the purpose of engaging in a sexual act with B, irrespective of whether the sexual act is committed or not;
  - (b) by committing a sexual act with B,
- is, in addition to any other offence which he or she may be convicted of, guilty of the offence of sexual exploitation of a child.”.

#### **Amendment of section 23 of Act 32 of 2007**

3. Section 23 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) A person (“A”) who unlawfully and intentionally engages the services of a complainant who is mentally disabled (“B”), with or without the consent of B, for financial or other reward, favour or compensation to B or to a third person (“C”)—

- (a) for the purpose of engaging in a sexual act with B, irrespective of whether the sexual act is committed or not;
  - (b) by committing a sexual act with B,
- is, in addition to any other offence which he or she may be convicted of, guilty of the offence of sexual exploitation of a person who is mentally disabled.”.

#### **Amendment of section 56 of Act 32 of 2007**

4. Section 56 of the principal Act is hereby amended by—

- (a) substituting the heading with the following heading:  
“**Defences [and sentencing]**”; and
- (b) the deletion of subsection (7).

#### **Insertion of section 56A in Act 32 of 2007**

5. The principal Act is hereby amended by the insertion after section 56 of the following section:

##### **Sentencing**

**56A.** (1) A court may—

- (a) if it has convicted a person of an offence in terms of this Act; and
- (b) a penalty is not prescribed in terms of this Act or any other Act in respect of that offence.

impose a sentence which it considers appropriate and which is within the penal jurisdiction of that court.

(2) If a person is convicted of any offence under this Act, the court that imposes the sentence shall consider as an aggravating factor the fact that the person—

(a) committed the offence with the intent to gain financially, or receive any favour, benefit, reward, compensation or any other advantage; or

(b) gained financially, or received any favour, benefit, reward, compensation or any other advantage,

from the commission of such offence.

### **Short title**

6. This Act is called the Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Act, 2012.