

Types of offence(s)	Proposed Amended Provisions
<b>Offences committed against vulnerable victims</b>	<p><b>Enhanced penalties for offences against vulnerable person</b>  74A.— (1) This section applies where a person is convicted on or after the date of commencement of the Vulnerable Adults Act of an offence specified in subsection (3) (called in this section the offender) against a vulnerable person.  (2) The court may sentence the offender to twice the amount of punishment to which the offender would otherwise have been liable for that offence, where at the time of committing the offence the offender knew or ought reasonably to have known that the victim was a vulnerable person.  (2A) This section does not apply where the offender proves that despite being a vulnerable person the victim was capable of protecting himself or herself from the offender in respect of the harm caused by the offence in the same manner as an ordinary person who is not a vulnerable person.  (3) The offence mentioned in subsection (1) is any offence under this Code (except section 376F), other than an offence punishable with death or imprisonment for life, which may be committed against an individual vulnerable person.  (4) Despite anything to the contrary in the Criminal Procedure Code —  (a) a Magistrate’s Court has jurisdiction to try the offences specified in subsection (3), where no imprisonment is prescribed or where twice the maximum term of imprisonment prescribed for the offence does not exceed 5 years, and power to impose the full punishment provided under subsection (2) in respect of those offences; and  (b) a District Court has jurisdiction to try the offences specified in subsection (3) and power to impose the full punishment provided under subsection (2) in respect of those offences.  (5) In this section —  “abuse” has the meaning given by section 2 of the Vulnerable Adults Act 2018 (Act 27 of 2018);  “self-neglect” has the meaning given by section 2 of the Vulnerable Adults Act 2018;  “vulnerable person” means an individual who is, by reason of mental or physical infirmity, disability or incapacity, substantially unable to protect himself from abuse, neglect or self-neglect.</p> <p><b>Enhanced penalties for offences against child under 14 years of age</b>  74B.— (1) Subsection (2) applies to any offence under this Code which may be committed against a person under 14 years of age except where —  (a) it is expressly provided that an enhanced or mandatory minimum sentence will apply to the offence when it is committed against a person under 14 years of age; or  (b) the offence is punishable with death or imprisonment for life.  (2) Where any person commits an offence under this Code against a person who is under 14 years of age, the court may sentence the person convicted of the offence to punishment not exceeding twice the maximum punishment that the court could, but for this section, impose for the offence if at the time of committing the offence the offender knew or ought reasonably to have known that the victim was a person under 14 years of age.  (3) This section does not apply where the offender proves that despite being a person under 14 years of age, the victim was capable of protecting himself or herself from the offender in respect of the harm caused by the offence in the same manner as a person of or above 14 years of age.  (4) Despite anything to the contrary in the Criminal Procedure Code (Cap. 68)—  (a) a Magistrate’s Court has jurisdiction to try the offences specified in subsection (1), where no imprisonment is prescribed or where twice the maximum term of imprisonment prescribed for the offence does not exceed 5 years, and power to impose the full punishment provided under subsection (2) in respect of those offences; and  (b) a District Court has jurisdiction to try the offences specified in subsection (1) and power to impose the full punishment provided under subsection (2) in respect of those offences.</p> <p><b>Enhanced penalties for offences against victims in intimate relationships</b>  74C.— (1) Subsection (2) applies where an offender (A) is convicted of any offence under Chapter XVI of this Code (except an offence punishable with death or imprisonment for life) committed against a person (B) who is or was in an intimate relationship with A.</p>

- (2) When the offender (A) commits an offence mentioned in subsection (1) against B, the court may sentence the person convicted of the offence to punishment not exceeding twice the maximum punishment that the court could, but for this section, impose for the offence if at the time of committing the offence the offender knew or ought reasonably to have known that the victim is or was in an intimate relationship with the offender.
- (3) This section does not apply where the offender (A) proves that, despite A being or having been in an intimate relationship with B, the relationship between A and B did not adversely affect B's ability to protect himself or herself from A in respect of the harm caused by the offence.
- (4) Despite anything to the contrary in the Criminal Procedure Code —
- (a) a Magistrate's Court has jurisdiction to try the offences specified in subsection (1), where no imprisonment is prescribed or where twice the maximum term of imprisonment prescribed for the offence does not exceed 5 years, and power to impose the full punishment provided under subsection (2) in respect of those offences; and
  - (b) a District Court has jurisdiction to try the offences specified in subsection (1) and power to impose the full punishment provided under subsection (2) in respect of those offences.
- (5) In this section, the court may determine whether the offender (A) was or is in an intimate relationship with the victim (B) having regard to all the circumstances of the case including the following:
- (a) whether A and B are living in the same household although it is not necessary that they live in the same household;
  - (b) whether A and B share the tasks and duties of their daily lives;
  - (c) whether A and B have made arrangements to share expenses or financial support and the degree of financial dependence or interdependence between A and B;
  - (d) whether there is a sexual relationship between A and B, although it is not necessary that there be a sexual relationship between them;
  - (e) whether A and B share the care and support of a specific person under 21 years of age;
  - (f) whether A and B conduct themselves towards their friends, relatives or other persons as parties to an intimate relationship, and whether A and B are so treated by their friends, relatives or other persons.

**Enhanced penalties for offences against victims in close relationships**

- 74D.— (1) Subsection (2) applies where an offender (A) is convicted of any offence under Chapter XVI of this Code (except an offence punishable with death or imprisonment for life) committed against a person (B) who is or was in a close relationship with A.
- (2) When the offender (A) commits an offence mentioned in subsection (1) against B, the court may sentence the person convicted of the offence to punishment not exceeding twice the maximum punishment that the court could, but for this section, impose for the offence if at the time of committing the offence the offender knew or ought reasonably to have known that the victim is or was in a close relationship with the offender.
- (3) This section does not apply where the offender (A) proves that, despite A being or having been in a close relationship with B, the relationship between A and B did not adversely affect B's ability to protect himself or herself from A in respect of the harm caused by the offence.
- (4) Despite anything to the contrary in the Criminal Procedure Code —
- (a) a Magistrate's Court has jurisdiction to try the offences specified in subsection (1), where no imprisonment is prescribed or where twice the maximum term of imprisonment prescribed for the offence does not exceed 5 years, and power to impose the full punishment provided under subsection (2) in respect of those offences; and
  - (b) a District Court has jurisdiction to try the offences specified in subsection (1) and power to impose the full punishment provided under subsection (2) in respect of those offences.
- (5) In this section, the offender (A) was or is in a close relationship with the victim (B) where —
- (a) A is a member of the same household as B; and
  - (b) A and B had frequent contact with each other.
- (6) For the purposes of subsection (5), A and B are to be treated as members of the same household if—
- (a) they live in the same household; or
  - (b) they do not live in the same household, but A or B visits the household to which the other belongs so often and for such periods of time that it is reasonable to regard A and B as being members of the same household.

	<p><b>Enhanced penalties for offences against domestic workers</b></p> <p>73.— (1) Subsection (2) applies where an employer of a domestic worker, or a member of the employer’s household or an employment agent of the domestic worker is convicted of any offence under this Code which may be committed against a domestic worker except where the offence is an offence punishable with death or imprisonment for life.</p> <p>(2) Where an employer of a domestic worker, or a member of the employer’s household or an employment agent of a domestic worker is convicted of an offence described in subsection (1), the court may sentence the employer of the domestic worker or the member of his household or the employment agent of a domestic worker, as the case may be, to twice the maximum punishment that the court could, but for this section, impose for that offence.</p> <p>(3) This section does not apply where the offender (A) proves that, despite A being an employer of the victim (B), a member of B’s employer’s household or an employment agent of B, the relationship between A and B did not adversely affect B’s ability to protect herself from A in respect of the harm caused by the offence.</p> <p>(4) Despite anything to the contrary in the Criminal Procedure Code (Cap. 68)—</p> <p>(a) a Magistrate’s Court has jurisdiction to try the offences specified in subsection (1), where no imprisonment is prescribed or where twice the maximum term of imprisonment prescribed for the offence does not exceed 5 years, and power to impose the full punishment provided under subsection (2) in respect of those offences; and</p> <p>(b) a District Court has jurisdiction to try the offences specified in subsection (1) and power to impose the full punishment provided under subsection (2) in respect of those offences.</p> <p>(5) In this section—</p> <p>“domestic worker” means any female house servant employed in, or in connection with, the domestic services of her employer’s private dwelling-house and who is required to reside in her employer’s private dwelling-house;</p> <p>“dwelling-house” means a place of residence and includes a building or tenement wholly or principally used, constructed or adapted for use for human habitation;</p> <p>“employer”, in relation to a domestic worker, includes a person who has the same fundamental qualities as an employer of the domestic worker and whose orders the domestic worker has reasonable grounds for believing she is expected to obey;</p> <p>“employment agency personnel” has the meaning given by section 2 of the Employment Agencies Act (Cap. 92);</p> <p>“employment agent”, in relation to a domestic worker, means an employment agency personnel or a person who performs work similar to employment agency personnel, and whose orders the domestic worker has reasonable grounds for believing she is expected to obey;</p> <p>“member of the employer’s household”, in relation to a domestic worker, means a person residing in the employer’s private dwelling-house at the time the offence was committed whose orders the domestic worker has reasonable grounds for believing she is expected to obey.</p>
<p><b>Offences relating to “child abuse material”</b></p>	<p><b>Using or involving child in production of child abuse material</b></p> <p>377BG.—(1) Any person shall be guilty of an offence who —</p> <p>(a) uses a person who is under 16 years of age for the production of material which he knows or has reason to believe is child abuse material;</p> <p>(b) causes or procures a person of that age to be so used; or</p> <p>(c) having the care or custody of a person of that age, consents to the person being so used.</p> <p>(2) A person who is guilty of an offence under subsection (1) shall on conviction be punished with a <u>term of imprisonment which may extend to 10 years, and shall also be liable to fine and to caning.</u></p> <p>(3) For the purposes of subsection (1) —</p> <p>(a) a person may have the care of a person under 16 years of age without necessarily being entitled by law to have the custody of the child;</p> <p>(b) the ways in which material is produced may include —</p> <p>(i) filming, printing, photographing, recording, drawing or otherwise generating material;</p> <p>(ii) altering or manipulating material; or</p> <p>(iii) reproducing or copying material;</p> <p>(c) the ways in which a person may be used in the production of material include inviting or encouraging the person to be involved, or offering the person to be involved, in the production of the material.</p>

**Producing child abuse material**

377BH.—(1) Any person who intentionally produces child abuse material knowing or having reason to believe that the material is child abuse material shall be guilty of an offence.

(2) A person who is guilty of an offence under subsection (1) shall on conviction be punished with a term of imprisonment which may extend to 10 years, and shall also be liable to fine and to caning.

(3) For the purposes of subsection (1), the ways in which material is produced may include —

- (a) filming, printing, photographing, recording, writing, drawing or otherwise generating material;
- (b) altering or manipulating material; or
- (c) reproducing or copying material.

**Distributing or selling child abuse material**

377BI.—(1) Any person shall be guilty of an offence who —

- (a) distributes or sells or offers for sale child abuse material or has in his possession child abuse material for the purpose of such distribution, sale or offer for sale; and
- (b) knowing or having reason to believe that the material is child abuse material.

(2) A person who is guilty of an offence under subsection (1) shall on conviction be punished with a term of imprisonment which may extend to 7 years, and shall also be liable to fine and to caning.

**Advertising or seeking child abuse material**

377BJ.—(1) Any person shall be guilty of an offence who —

- (a) for the purposes of distributing or selling or offering for sale any child abuse material advertises the material; and
- (b) knowing or having reason to believe that the material is child abuse material.

(2) Any person shall be guilty of an offence who —

- (a) announces or otherwise makes known by any means any offer or purported offer to acquire, buy or access any child abuse material; and
- (b) knowing or having reason to believe that the material is child abuse material.

(3) A person who is guilty of an offence under subsection (1) or (2) shall on conviction be punished with a term of imprisonment which may extend to 5 years, and shall also be liable to fine and to caning.

(4) In subsection (1), “advertise”, in relation to child abuse material, includes —

- (a) exhibiting, displaying or supplying any advertising material relating to the material;
- (b) announcing by any means any offer to sell or distribute the material; or
- (c) distributing or circulating any advertisement relating to the material.

**Possession of or gaining access to child abuse material**

377BK.—(1) Any person shall be guilty of an offence who —

- (a) has in his possession or has gained access to child abuse material; and
- (b) knowing or having reason to believe that the material is child abuse material.

(2) A person who is guilty of an offence under subsection (1) shall on conviction be punished with a term of imprisonment which may extend to 5 years, and shall also be liable to caning and to fine.

(3) For the purposes of subsection (1) —

- (a) a person has in his possession child abuse material that is electronic material if he controls access to the material whether or not he has physical possession of the electronic material;
- (b) the ways in which a person accesses material may include viewing material or displaying material by an electronic medium or any other output of the material by an electronic medium.

*Illustration*

Y has an online storage account for electronic material accessible with a username and password. Y has control of what is stored in the account and can upload to, copy from or delete material from the account. Y has an electronic folder in the account to which Y uploads and stores electronic child abuse material. Y has in his possession child abuse material.

**Interpretation of sections 375 to 377BN (sexual offences)**

377C.— (1) In sections 375 to 377BN —

“child abuse material” means material that depicts an image of any of the following:

- (a) a person who is, or who appears to a reasonable observer to be or is implied to be under 16 years of age —
  - (i) as a victim of torture, cruelty or physical abuse (whether or not the torture, cruelty or abuse is sexual);
  - (ii) as a victim of sexual abuse;
  - (iii) engaged in, or apparently engaging in, a sexual pose or sexual activity (whether or not in the presence of another person); or
  - (iv) in the presence of another person who is engaged in, or apparently engaged in a sexual pose or sexual activity;
- (b) the genital or anal region of a person who is, or who appears to a reasonable observer to be or is implied to be, a person under 16 years of age in circumstances (whether or not apparent from the depiction) which reasonable persons would regard as being offensive;
- (c) the breasts of a person who is, or who appears to a reasonable observer to be or is implied to be, a female under 16 years of age in circumstances (whether or not apparent from the depiction) which reasonable persons would regard as being offensive;

“distribute” includes any of the following conduct, whether done in person, electronically, digitally or in any other way:

- (a) send, publish, supply, show, exhibit, transmit or communicate to another person;
- (b) make available for viewing or access by another person;

“image” means a still, moving, recorded or unrecorded image and includes an image produced by any means and, where the context requires, a three-dimensional image; “image” means a still, moving, recorded or unrecorded image and includes an image produced by any means and, where the context requires, a three-dimensional image;

“image”, in relation to a person, means an image of a human being that is not fictional or imaginary but includes an image that so closely resembles that of a human being as to make it difficult for an ordinary person to distinguish it from an image of a human being that is not fictional or imaginary;

“material” means —

- (a) any film, photograph, printed matter or computer game depicting an image;
- (b) any electronic record depicting an image; or
- (c) any other thing of any kind depicting an image;

“structure” includes a tent, vehicle or vessel or other temporary or movable structure;

“touching” includes touching —

- (a) with any part of the body;
- (b) with anything else; or
- (c) through anything,

and includes penetration of the vagina or anus, as the case may be, with a part of the body or anything else and penetration of the mouth with the penis;

“vagina” includes vulva.

(2) For the purposes of the definition of “distribute” in subsection (1), a person is treated as having distributed an image or recording whether or not another person views or accesses the image.

(3) In sections 375 to 377BN —

- (a) penetration is a continuing act from entry to withdrawal;
- (b) a reference to a part of the body include a reference to a part which is surgically constructed (in particular, through a sex reassignment procedure);
- (c) for the purposes of identifying the sex of a person —

- (i) the sex of a person as stated in that person’s identity card issued under the National Registration Act (Cap. 201) at the time the sexual activity took place is prima facie evidence of the sex of that person; and
- (ii) a person who has undergone a sex reassignment procedure is identified as being of the sex to which that person has been reassigned;
- (d) penetration, touching or other activity is “sexual” if —
  - (i) because of its nature it is sexual, whatever its circumstances or any person’s purpose in relation to it may be; or
  - (ii) because of its nature it may be sexual and because of its circumstances or the purpose of any person in relation to it (or both) it is sexual;
- (e) references to observation (however expressed) are to observation whether direct or by looking at an image;
- (f) a person is doing a private act if under circumstances in which the person has a reasonable expectation of privacy, the person —
  - (i) is in a state where the person’s genitals, buttocks or breasts (if the person is a female) are exposed or covered only in underwear;
  - (ii) is using a toilet, showering or bathing; or
  - (iii) is doing a sexual act that is not of a kind ordinarily done in public.

*Illustration*

A is showering in an open-concept shower cubicle at the changing room of a swimming pool and cannot reasonably expect not to be casually observed. However, A has a reasonable expectation that A will not be surreptitiously recorded by a video camera.

**Defences to child abuse material offences**

- 377BN.— (1) It is a defence to a charge for an offence of having possession of or access to child abuse material under section 377BK for the accused person to prove that —
- (a) he did not intentionally come into possession of or gain access to child abuse material; and
  - (b) on becoming aware of having come into possession of or gaining access to child abuse material, he as soon as it was practicable to do so, took all reasonable steps in the circumstances to cease possession of or access to the material.
- (2) It is a defence to a charge for an offence under sections 377BH to 377BK if —
- (a) the act that is alleged to constitute the offence was necessary for carrying out any of the following purposes without malice and with reasonable cause:
    - (i) the prevention, detection, investigation or punishment of any offence;
    - (ii) the conduct of proceedings in any court or tribunal;
    - (iii) the purposes of safety or national security; and
  - (b) the child abuse material or the abusive material, as the case may be, was not kept for a period longer than what was reasonably necessary or required for the purposes mentioned in paragraph (a).
- (3) It is a defence to a charge for an offence under sections 377BH to 377BK if the act that is alleged to constitute the offence —
- (a) has a legitimate purpose related to science, medicine, education or art; and
  - (b) did not pose an undue risk of harm to any person under 16 years of age.

*Explanation.* —An act has a legitimate purpose related to art which reasonable persons would regard as art.

*Illustrations*

- (a) A university researcher has child abuse material in his possession for the purposes of studying the psychological effects of exposure to such material. The researcher’s possession of the child abuse material has a legitimate purpose.
- (b) A is a photo-journalist in a war zone. A takes a photo of a child victim of torture and submits this together with an article on the plight of such children to a news organisation for publication. The taking and sending of the photo has a legitimate purpose.

- (4) It is a defence to a charge for an offence under sections 377BH to 377BK if —

- (a) the accused person (A) is under 16 years of age; and
- (b) the child abuse material that is alleged to constitute the offence is an image of A alone.

*Illustration*

A is 15 years old and takes a photo of herself alone posing in the nude. A stores the photo in her mobile phone. A has not committed the offence of producing or possessing child abuse material.

	<p>(5) To avoid doubt, it is not a defence to a charge for an offence relating to child abuse material under sections 377BG to 377BL that, at the time of the conduct constituting the offence, the accused was under a mistaken but honest and reasonable belief that reasonable persons would not regard the child abuse material as being, in the circumstances, offensive.</p> <p>(6) It is a defence to a charge for the following offences in circumstances where the offender (A) and the person under 16 years of age (B) are married and subject to the following respective conditions:</p> <ul style="list-style-type: none"> <li>(a) an offence under section 377BG(1) or 377BH(1) if the child abuse material— <ul style="list-style-type: none"> <li>(i) involves only A and B in its production;</li> <li>(ii) depicts B only, A and B only or A only (if A is under 16 years of age); and</li> <li>(iii) was produced with B’s consent;</li> </ul> </li> <li>(b) an offence under section 377BI if the distribution of the child abuse material— <ul style="list-style-type: none"> <li>(i) occurs between A and B only; and</li> <li>(ii) involves material depicting B only, A and B only or A only (if A is under 16 years of age); and</li> <li>(iii) was distributed with B’s consent.</li> </ul> </li> <li>(c) an offence under section 377BJ(2) if the offer to acquire, buy, or access the child abuse material — <ul style="list-style-type: none"> <li>(i) occurs between A and B only; and</li> <li>(ii) involves material depicting B only, A and B only or A only (if A is under 16 years of age);</li> </ul> </li> <li>(d) an offence under section 377BK(1) if the possession of the child abuse material was with B’s consent and the material depicts B only, A and B only or A only (if A is under 16 years of age).</li> </ul> <p><b>Possession, distribution, etc., of child sex-doll</b></p> <p>292A.—(1) Any person who imports, exports, conveys, sells, lets to hire, distributes, puts into circulation, makes, produces or is in possession of a child sex-doll shall be guilty of an offence and shall on conviction be punished with a term of <u>imprisonment which may extend to 2 years or with fine or with both.</u></p> <p>(2) In subsection (1), “child sex-doll” means an anatomically correct doll, mannequin or robot, with the features of, or with features that appear to a reasonable observer to resemble a person under 16 years of age and intended for use in sexual activities.</p>
<p><b>Exploitative sexual activity with minors</b></p>	<p><b>Exploitative sexual penetration of minor of or above age of 16 but under 18</b></p> <p>376AA. — (1) Any person (A) who is in a relationship that is exploitative of a person of or above 16 years of age but under 18 years of age (B) shall be guilty of an offence if A —</p> <ul style="list-style-type: none"> <li>(a) penetrates, with A’s penis, if A is a man, the vagina, anus or mouth, as the case may be, of B;</li> <li>(b) sexually penetrates, with a part of A’s body (other than A’s penis, if A is a man) or anything else, the vagina or anus, as the case may be, of B;</li> <li>(c) causes B, if a man, to penetrate, with B’s penis, the vagina, anus or mouth, as the case may be, of another person including A; or</li> <li>(d) causes B to sexually penetrate, with a part of B’s body (other than B’s penis, if B is a man) or anything else, the vagina or anus, as the case may be, of any person including A or B.</li> </ul> <p>(2) For the purposes of subsection (1) —</p> <ul style="list-style-type: none"> <li>(a) it is not necessary for the prosecution to prove that B did or did not consent to the act mentioned in that subsection; and</li> <li>(b) to avoid doubt it is not a defence that B did consent to that act.</li> </ul> <p>(3) A person who is guilty of an offence under this section shall be punished with <u>imprisonment for a term which may extend to 15 years, and shall also be liable to fine or caning.</u></p> <p><b>Meaning of exploitative relationship</b></p> <p>377CA.— (1) For the purposes of sections 375, 376, 376A, 376AA, 376EA, 376EC, 376EE, 377BL, and 377D, whether an accused person’s relationship with a minor under 18 years of age is exploitative of the minor is to be determined by the court in the circumstances of each case and the court must have regard to the following in making such determination:</p>

	<p>(a) the age of the minor;  (b) the difference between the age of the accused person and the minor;  (c) the nature of the relationship;  (d) the degree of control or influence exercised by the accused person over the minor.</p> <p>(2) For the purposes of subsection (1) and subject to subsection (3), it shall be presumed until the contrary is proved that an accused person's relationship with a minor under 18 years of age is exploitative where the relationship is any of the following:  (a) the accused person is the parent, step-parent, guardian, or foster parent of the minor;  (b) the accused person is the de facto partner of the parent, guardian, or foster parent of the minor;  (c) the accused person is a member of the teaching or management staff of the school or educational institution at which the minor is a student;  (d) the accused person has an established personal relationship with the minor in connection with the provision of religious, sporting, musical or other instruction to the minor;  (e) the accused person is a custodial officer of an institution in which the minor is detained;  (f) the accused person is a registered medical practitioner, a registered traditional Chinese medicine practitioner or a psychologist and the minor is a patient of the accused person;  (g) the accused person is an advocate and solicitor or a counsellor and the minor is a client of the accused person.</p> <p>(3) The presumption in subsection (2) does not apply to a person who is lawfully married to a minor under 18 years of age even though the relationship may fall within any of the relationships mentioned in subsection (2).</p>
<p>Repeal of Marital immunity for rape</p>	<p><b>Rape</b></p> <p>375. – (1) Any man who penetrates the vagina of a woman with his penis –  (a) without her consent; or  (b) with or without her consent, when she is under 14 years of age, shall be guilty of an offence</p> <p>(1A) Any man (A) who penetrates, with A's penis, the anus or mouth of another person (B) —  (a) without B's consent; or  (b) with or without B's consent, when B is under 14 years of age,  shall be guilty of an offence.</p> <p>(2) Subject to subsection (3), a man who is guilty of an offence under this section shall be punished with imprisonment for a term which may extend to 20 years, and shall also be liable to fine or caning</p> <p>(3) Whoever —  (a) in order to commit or to facilitate the commission of an offence under subsection (1) or (1A) —  (i) voluntarily causes hurt to any person; or  (ii) puts a person in fear of death or hurt to that person or any other person;  (b) commits an offence under subsection (1) or (1A) against a person under 14 years of age without that person's consent; or  (c) commits an offence under subsection (1) or (1A) against a person under 14 years of age with whom the offender is in a relationship that is exploitative of that person,  shall be punished with imprisonment for a term of not less than 8 years and not more than 20 years and shall also be punished with caning with not less than 12 strokes.</p> <p>(4) No man shall be guilty of an offence under subsection (1)(b) or (1A)(b) for an act of penetration against his wife with her consent.</p> <p>(5) Despite section 79, no man shall be guilty of an offence under subsection (1)(a) or (1A)(a) if he proves that by reason of mistake of fact in good faith, he believed that the act of penetration against a person was done with consent.</p> <p>(6) No man shall be punished under subsection (3)(b) if he proves that by reason of mistake of fact in good faith, he believed that the act of penetration against a person under 14 years of age was done with consent.</p>



Sexual assault involving penetration	<p><b>Sexual assault involving penetration</b> 376.—</p> <p>(1) Any man (A) who causes another man (B) to penetrate with B’s penis, the anus or mouth of A—  (a) without B’s consent; or  (b) with or without B’s consent, when B is under 14 years of age,  shall be guilty of an offence.</p> <p>(2) Any person (A) who —  (a) sexually penetrates, with a part of A’s body (other than A’s penis, if a man) or anything else, the vagina or anus, as the case may be, of another person (B);  (b) causes a man (B) to penetrate, with B’s penis, the vagina, anus or mouth, as the case may be, of another person including A; or  (c) causes another person (B), to sexually penetrate, with a part of B’s body (other than B’s penis, if a man) or anything else, the vagina or anus, as the case may be, of any person including A or B,  shall be guilty of an offence if B did not consent to the penetration or if B is under 14 years of age, whether B did or did not consent to the penetration.</p> <p>(3) Subject to subsection (4), a person who is guilty of an offence under this section shall be punished with imprisonment for a term which may extend to 20 years, and shall also be liable to fine or to caning.</p> <p>(4) Whoever —  (a) in order to commit or to facilitate the commission of an offence under subsection (1) or (2) —  (i) voluntarily causes hurt to any person;  (ii) puts any person in fear of death or hurt to himself or any other person; or  (b) commits an offence under subsection (1) or (2) against a person under 14 years of age without that person’s consent; or  (c) commits an offence under subsection (1) or (2) against a person under 14 years of age with whom the offender is in a relationship that is exploitative of that person,  shall be punished with imprisonment for a term of not less than 8 years and not more than 20 years and shall also be punished with caning with not less than 12 strokes.</p> <p>(5) No person shall be guilty of an offence under subsection (1) or (2) —  (a) for an act of penetration against his or her spouse with the consent of that spouse; or  (b) if despite section 79, that person proves that by reason of mistake of fact in good faith, the person believed that B mentioned in those subsections did consent to the penetration, unless B was under 14 years of age.</p> <p>(6) No man shall be punished under subsection (4)(b) if he proves that by reason of mistake of fact in good faith, he believed that the act of penetration against a person under 14 years of age was done with consent.</p>
MACR	<p><b>Act of a child under 10 years of age</b> 82. Nothing is an offence which is done by a child under 10 years of age.</p> <p><b>Act of a child of or above 10 years and under 12 years of age, who has not sufficient maturity of understanding</b> 83. Nothing is an offence which is done by a child of or above 10 years of age and under 12, who has not attained sufficient maturity of understanding to judge the nature and consequence of his conduct on that occasion.</p>
Consent	<p><b>Consent given under misconception in sexual offences</b> 377CB.—(1) Despite section 90(a)(ii), a consent for the purposes of an act which is the physical element of a sexual offence is not a consent given by a person under a misconception of fact only if it is directly related to —  (a) the nature of the act namely that it is not of a sexual nature;  (b) the purpose of the act namely that it is not for a sexual purpose; or  (c) the identity of the person doing the act,  and the person doing the act knows, or has reason to believe, that the consent was given in consequence of such misconception.</p>

	<p>(2) In subsection (1) —  “sexual” has the meaning given by section 377C(3);  “sexual offence” means any offence where the physical element of the offence under this Code or any other written law involves an act of a sexual nature and includes but is not limited to any offence under sections 375 to 377BN.</p> <p style="text-align: center;"><i>Illustrations</i></p> <p>(a) A deceives B into allowing him to penetrate her vagina by inducing the misconception that he is extracting an evil spirit from B’s body. B believes A and thinks that what she has consented to is a procedure to extract an evil spirit, not sexual intercourse. B has given her consent under a misconception as to the sexual nature of the act. B’s apparent consent is therefore not a valid consent.</p> <p>(b) A deceives B into believing that he can heal B’s chronic disease by treatment involving sexual penetration. B gives her consent under the misconception that the act is treatment for a health purpose and not for a sexual purpose. B’s apparent consent is therefore not a valid consent.</p> <p>(c) A deceives B into believing that A is her husband. A is an imposter. B consents to sexual intercourse with A because she believes A is her husband. B’s consent is given under a misconception of the identity of A and is therefore not a valid consent.</p> <p>(d) A deceives B into believing that A is a famous movie director. A is in fact only an administrative assistant to the movie director. B consents to sexual intercourse with A because she believes A is a famous movie director. B’s misconception is as to A’s attributes and not of A’s identity. B’s consent is therefore a valid consent.</p> <p><b>Procurement of sexual activity by deception or false representation</b></p> <p>376H.— (1) Any person (A) shall be guilty of an offence if —</p> <p>(a) A intentionally touches another person (B) or intentionally incites B to touch A or B or another person;</p> <p>(b) the touching is sexual and B consents to the touching;</p> <p>(c) A fraudulently obtains B’s consent by means of deception or false representation practised or made by A for that purpose;</p> <p>(d) the deception or false representation mentioned in paragraph (c) relates to —</p> <p style="padding-left: 20px;">(i) the use or manner of use of any sexually protective measure; or</p> <p style="padding-left: 20px;">(ii) whether A or another person whom B is incited to touch is suffering from or is a carrier of a sexually transmitted disease; and</p> <p>(e) A knows or has reason to believe that the consent was given in consequence of such deception or false representation.</p> <p>(2) A person who is guilty of an offence under subsection (1) shall —</p> <p>(a) in the case where the sexual touching mentioned in that subsection involved penetration of the vagina or anus, as the case may be, with a part of the body or anything else; or penetration of the mouth with the penis, be punished on conviction with <u>imprisonment for a term which may extend to 10 years, or with fine, or with caning, or any combination of such punishments</u>; and;</p> <p>(b) in any other case, be punished on conviction with <u>imprisonment for a term which may extend to 2 years, or with fine, or with both.</u>”.</p> <p>(3) For the purposes of subsection (1) —</p> <p>(a) a person makes a false representation if it is untrue or misleading, and that person knows that it is, or might be, untrue or misleading;</p> <p>(b) representation may be express or implied; and</p> <p>(c) a “sexually protective measure” means —</p> <p style="padding-left: 20px;">(i) where B is female, a device, drug or medical procedure to prevent pregnancy or sexually transmitted diseases as a result of the sexual intercourse;</p> <p style="padding-left: 20px;">(ii) where B is male, a device, drug or medical procedure to prevent sexually transmitted diseases as a result of sexual intercourse</p>
Voyeuristic activity	<p><b>Voyeurism</b></p> <p>377BB. — (1) Any person (A) shall be guilty of an offence who —</p> <p>(a) intentionally observes another person (B) doing a private act without B’s consent; and</p> <p>(b) knows or has reason to believe that B does not consent to being observed.</p> <p>(2) Any person (A) shall be guilty of an offence who —</p> <p>(a) operates equipment with the intention of enabling A or another person to observe a third person (B) doing a private act without B’s consent; and</p> <p>(b) knows or has reason to believe that B (whether B’s private act was recorded or not) does not consent to A operating equipment with that intention.</p> <p>(3) Any person (A) shall be guilty of an offence who —</p>

- (a) intentionally or knowingly records another person (B) doing a private act without B's consent; and
  - (b) knows or has reason to believe that B does not consent to A recording the act with that intention.
- (4) Any person (A) shall be guilty of an offence who —
- (a) operates equipment without another person's (B) consent with the intention of enabling A or another person (C) to observe B's genitals, breasts if B is female or buttocks (whether exposed or covered) in circumstances where the genitals, breasts, buttocks or underwear would not otherwise be visible; and
  - (b) knows or has reason to believe that B (whether B's image was recorded or not) does not consent to A operating the equipment with that intention.
- (5) Any person (A) shall be guilty of an offence who —
- (a) intentionally or knowingly records without another person's (B) consent an image of B's genitals, breasts, if B is female or buttocks (whether exposed or covered), in circumstances where the genitals, breasts, or buttocks would not otherwise be visible; and
  - (b) knows or has reason to believe that B does not consent to A's recording the image with that intention.
- (6) Any person (A) who installs equipment, or constructs or adapts a structure or part of a structure, with the intention of enabling A or another person to commit an offence under subsection (1), (2), (3), (4) or (5) shall be guilty of an offence.
- (7) Subject to subsection (8), a person who is guilty of an offence under this section shall on conviction be punished with a term of imprisonment which may extend to 2 years, or with fine, or with caning, or with any combination of such punishments.
- (8) A person who commits an offence under this section against a person who is under 14 years of age shall on conviction be punished with a term of imprisonment which may extend to 2 years and shall also be liable to fine or to caning.
- (9) In any proceedings for an offence under this section, where a person (A) has made a recording of another person (B) doing a private act or of B's genitals, breasts if B is female or buttocks (whether exposed or covered), in circumstances where the genitals, breasts if B is female or buttocks would not otherwise be visible; it shall be presumed until the contrary is proved that B did not consent to A making the recording.

**Distribution of voyeuristic image or recording**

- 377BC. — (1) Any person (A) shall be guilty of an offence who —
- (a) intentionally or knowingly distributes an image or recording of another person (B) without B's consent;
  - (b) knowing or having reason to believe that the image or recording was obtained through the commission of an offence under section 377BB; and
  - (c) knows or has reason to believe that B does not consent to the distribution.
- (2) Any person (A) shall be guilty of an offence who —
- (a) intentionally or knowingly has in his possession an image or recording of another person (B) for the purpose of distribution without B's consent;
  - (b) knowing or having reason to believe that the image or recording was obtained through the commission of an offence under section 377BB; and
  - (c) knows or has reason to believe that B does not consent to the distribution.
- (3) Subject to subsection (4), a person who is guilty of an offence under subsection (1) or (2) shall on conviction be punished with a term of imprisonment which may extend to 5 years, or with fine, or with caning, or any combination of such punishments.
- (4) Where the image or recording in subsection (1) or (2) is of a person under 14 years of age, a person who is guilty of an offence under subsection (1) or (2) shall on conviction be punished with a term of imprisonment which may extend to 5 years, and shall also be liable to fine or to caning.

**Possession of or gaining access to voyeuristic or intimate image or recording**

- 377BD.— (1) Any person shall be guilty of an offence who has in his possession or has gained access to an image or recording of another person and —
- (a) knows or has reason to believe that the image or recording was obtained through the commission of an offence under section 377BB; or
  - (b) knows or has reason to believe that —
    - (i) the image or recording is an intimate image or recording as defined in 377BE(5);
    - (ii) the possession of or access to the image or recording was without the consent of the person depicted in the image; and
    - (iii) the possession of or access to the image or recording will or is likely to cause humiliation, distress or alarm to the person depicted in the image.
- (2) Subject to subsection (3), a person who is guilty of an offence under this section shall on conviction be punished with a term of imprisonment which may extend to 2 years, or with fine, or with both.

	<p>(3) Where the image or recording mentioned in subsection (1)(a) is of a person under 14 years of age, a person who is guilty of an offence under this section shall on conviction be punished with <u>a term of imprisonment which may extend to 2 years, and shall also be liable to fine or to caning.</u></p> <p>(4) For the purposes of subsection (1) —</p> <p>(a) a person has in his possession an image or recording of another person that is in electronic form if he controls access to the electronic image or recording whether or not he has physical possession of the electronic image or recording;</p> <p>(b) the ways in which a person gains access to an image or recording may include —</p> <p>(i) viewing or displaying it by an electronic medium or any other output of the image by an electronic medium; or</p> <p>(ii) communicating, sending, supplying or transmitting the image to himself or herself.</p> <p><b>Defences to offences relating to intimate images or recordings and voyeurism</b></p> <p>377BM.—(1) It is a defence to a charge for an offence under section 377BD of having possession of or gained access to an image or a recording obtained through the commission of an offence under section 377BB or an intimate image or recording mentioned in section 377BD(1)(b) for the accused person to prove that —</p> <p>(a) he did not intentionally come into possession of or gain access to the image or recording; and</p> <p>(b) on becoming aware of having come into possession of or gaining access to the image or recording, he as soon as it was practicable to do so, took all reasonable steps in the circumstances to cease possession of or access to the image or recording.</p> <p>(2) It is a defence to a charge for an offence under section 377BB, 377BC, 377BD or 377BE(1) if —</p> <p>(a) the act that is alleged to constitute the offence was done for any of the following purposes without malice and with reasonable cause:</p> <p>(i) the prevention, detection, investigation or punishment of any offence;</p> <p>(ii) the conduct of contemplated or pending proceedings in any court or tribunal or obtaining evidence for the purpose of contemplating such proceedings;</p> <p>(iii) safety or national security; and</p> <p>(b) the image or recording (if any) obtained through the commission of an offence under section 377BB or the intimate image or recording (if any) mentioned in section 377BD(1)(b) or 377BE(5) was not kept for a period longer than what was reasonably necessary or required for the purposes mentioned in paragraph (a).</p> <p style="text-align: center;"><i>Illustrations</i></p> <p>(a) A, a caregiver is concerned that B, an elderly person has been in the toilet for an unusually long period of time. Despite A knocking several times, there is no response from B. As A is concerned for B’s safety, A forcefully opens the toilet door to find B in a state of undress. A has committed no offence as the act was done for the purpose of ensuring B’s safety.</p> <p>(b) A notices that a stranger is using a mobile phone taking an upskirt photograph of a woman in the mall. A confronts the stranger who flees and drops his mobile phone. A keeps the mobile phone with the upskirt photograph with the intention of reporting the offence to the police. A hands over the phone to the police when he makes the police report. A has committed no offence as the act was done for the purpose of investigating the offence.</p>
Distribution of intimate images	<p><b>Distributing or threatening to distribute intimate images</b></p> <p>377BE. — (1) Any person (A) shall be guilty of an offence who —</p> <p>(a) intentionally or knowingly distributes an intimate image of another person (B);</p> <p>(b) without B’s consent; and</p> <p>(c) knows or has reason to believe that it will or is likely to cause B humiliation, distress or alarm.</p> <p>(2) Any person (A) shall be guilty of an offence who —</p> <p>(a) knowingly threatens the distribution of an intimate image of another person (B);</p> <p>(b) without B’s consent; and</p> <p>(c) knows or has reason to believe that the threat will or is likely to cause B humiliation, distress or alarm.</p> <p>(3) Subject to subsection (4), a person who is guilty of an offence under subsection (1) or (2) shall on conviction be punished with <u>a term of imprisonment which may extend to 5 years, or with fine, or with caning, or with any combination of such punishments.</u></p> <p>(4) A person who commits an offence under subsection (1) or (2) against a person (B) who is under 14 years of age shall on conviction be punished with <u>a term of imprisonment which may extend to 5 years and shall also be liable to fine or to caning.</u></p>

	<p>(5) In this section, “intimate image”, in relation to a person (B) —</p> <p>(a) means an image —</p> <p>(i) of B’s genital or anal region whether bare or covered by underwear;</p> <p>(ii) of B’s breasts if B is a female whether bare or covered by underwear; or</p> <p>(iii) of B doing a private act; and</p> <p>(b) includes an image, in any form, that has been altered to appear to show any of the things mentioned in paragraph (a) but excludes an image so altered that no reasonable person would believe that it depicts B.</p> <p style="text-align: center;"><i>Illustrations</i></p> <p>(a) A copies, crops, and pastes an image of B’s face onto the image of a body of a person who is engaging in a sexual act. This image has been altered to appear to show that B actually engaged in a sexual act. This is an intimate image.</p> <p>(b) A pastes an image of B’s face on a cartoon depicting B performing a sexual act on C. No reasonable person would believe that B was performing the sexual act depicted on C. This is not an intimate image.</p>
Sexual exposure	<p><b>Sexual exposure</b></p> <p>377BF. — (1) Any person (A) shall be guilty of an offence who —</p> <p>(a) intentionally exposes A’s genitals;</p> <p>(b) intends that another person (B) will see A’s genitals; and</p> <p>(c) does so without B’s consent for the purpose of obtaining sexual gratification or of causing B humiliation, distress or alarm.</p> <p>(2) Any person (A) shall be guilty of an offence who —</p> <p>(a) intentionally distributes to another person (B) an image of A’s or any other person’s genitals;</p> <p>(b) intends that B will see A’s or the other person’s genitals; and</p> <p>(c) does so without B’s consent for the purpose of obtaining sexual gratification or of causing B humiliation, distress or alarm.</p> <p>(3) Subject to subsection (4), a person who is guilty of an offence under subsection (1) or (2) shall on conviction be punished with <u>a term of imprisonment which may extend to one year, or with fine, or with both.</u></p> <p>(4) A person who commits an offence under subsection (1) or (2) against a person (B) who is under 14 years of age shall on conviction be punished with <u>a term of imprisonment which may extend to 2 years, and shall also be liable to fine or to caning.</u></p>
Fraud	<p><b>Fraud by false representation, non-disclosure or abuse of position not connected with contracts for goods or services</b></p> <p>424A.— (1) Any person shall be guilty of an offence if he, fraudulently or dishonestly —</p> <p>(a) makes a false representation;</p> <p>(b) fails to disclose to another person information which he is under a [legal]duty to disclose; or</p> <p>(c) abuses, whether by act or omission, a position which he occupies in which he is expected to safeguard, or not to act against, the financial interests of another person.</p> <p>(2) A person may be guilty of an offence under subsection (1) whether or not the acts in subsection (1)(a), (b) or (c) were material.</p> <p>(3) A person who is guilty of an offence under subsection (1) shall on conviction be punished with imprisonment for a term which may extend to 20 years, or with fine, or with both.</p> <p>(4) This section does not apply where the false representation, failure to disclose or abuse of position mentioned in subsection (1) is directly connected with a written or oral contract for the supply of goods or services.</p> <p>(5) For the purposes of this section —</p> <p>(a) a “representation” means any representation as to fact or law, including a representation as to the state of mind of the person making the representation, or any other person;</p> <p>(b) a person makes a false representation if it is untrue or misleading, and that person knows that it is, or might be, untrue or misleading;</p> <p>(c) a representation may be express or implied; and</p>

	(d) a representation may be regarded as made if it (or anything implying it) is submitted in any form to any system or device designed to receive, convey or respond to communications (with or without human intervention).
	<p><b>Fraud by false representation, non-disclosure or abuse of position</b></p> <p>424B.— (1) Any person shall be guilty of an offence if he, fraudulently or dishonestly</p> <ul style="list-style-type: none"><li>(a) makes a false representation;</li><li>(b) fails to disclose to another person information which he is under a legal duty to disclose; or</li><li>(c) abuses, whether by act or omission, a position which he occupies in which he is expected to safeguard, or not to act against, the financial interests of another person.</li></ul> <p>(2) A person may be guilty of an offence under subsection (1) whether or not the acts in subsection (1)(a), (b) or (c) were material.</p> <p>(3) A person who is guilty of an offence under subsection (1) shall on conviction be punished with imprisonment for a term which may extend to 20 years, or with fine, or with both.</p> <p>(4) This section does not apply to any act mentioned in subsection (1) which would constitute an offence under section 424A.</p>