

UPDATE ON THE AMENDMENTS TO THE CRIMINAL PROCEDURE CODE 2010

Criminal Procedure Code 2010 forms the bedrock of our criminal justice system. This article explores 3 key areas of the 2024 amendments to the CPC.

"[T]he Bill is a significant milestone in our criminal justice framework. The proposed amendments build on past reforms, and demonstrate our commitment towards building a fair and effective criminal justice system that protects society from crime."

-Ms Rahayu Mahzam, Senior Parliamentary Secretary, Ministry of Health and Ministry of Law, Second Reading Speech on Criminal Procedure (Miscellaneous Amendments) Bill 2024



Introduction

The amendments to the Criminal Procedure Code 2010 (the "**CPC**") include a wide range of issues, from criminal investigations to sentencing.¹ These amendments aim to (a) protect the public by strengthening the levers to tackle crime; and (b) enhance transparency, fairness and coherence in the court processes.² The last major amendments to the CPC were in 2018.

There are several changes that are covered in the Criminal Procedure (Miscellaneous Amendments) Act 2024 (the "**Act**"), which will be implemented in stages, some of which are already in force. This article explores three main areas.

Law Enforcement Powers

The amendments with regard to law enforcement powers aim to strengthen operational efficiency and investigative capabilities. The

"We regularly review our laws. We study other countries. Some have similar sentences to the SEPP. We looked at them, and decided that it made sense to have something similar."

-Mr K Shanmugam,
Minister for Law,
Second Reading
Speech on Criminal
Procedure
(Miscellaneous
Amendments) Bill
2024

police will be able to conduct a search without a warrant if they have reasons to believe the relevant evidence is in the possession or power of a suspect of an arrestable offence.³ Before the amendments, the police only have the power to perform such searches in certain restricted circumstances.

The new powers are subject to certain conditions, including (a) the investigation has to involve an "arrestable offence"; and (b) the item being searched for is in the possession or control of the person being reasonably suspected of having committed the offence.

Forensic Medical Examinations ("FMEs")

The FME consists of physical medical examination, collection of bodily samples and taking photographs of parts of the body.⁴ There are two main areas that are worth pointing out in the new FME framework.

For the accused, FMEs shall be required regardless of whether consent is given. Reasonable force may even be used as long as the FME does not involve invasive procedures. It will not only be an offence for the accused to refuse an FME without reasonable excuse, the Court is also allowed to draw adverse inferences from such refusal. For the victims, consent is required for FMEs, unless it falls within the exceptions, such as where any delay will result in the loss of evidence if the victim is unable to give consent. These changes reflect the time-sensitive nature regarding the collection of DNA evidence due to its natural degradation.

Safeguards built into FME include only qualified medical professionals are allowed to conduct physical medical examinations and invasive medical procedures, and if the subject undergoing FME is female, the corresponding specialist or officer must also be a female.

Sentence for Enhanced Public Protection ("SEPP")

The current sentencing framework requires the offender to be released automatically once their sentence is served. Offenders sentenced under the SEPP framework will not be automatically released but only if the Minister of Home Affairs finds it suitable to do so.

Under the SEPP, the court will determine the term of imprisonment, of minimally 5 years up to a maximum of 20 years without remission. Thereafter, the Minister will assess if the offender is fit to be released. If the offender is found to be suitable, he or she will be subject to certain conditions such as attending counselling, imposing a curfew and wearing an electronic tag. Subsequently, the offender will be assessed biennially to determine his suitability for an unconditional release.

Offenders considered not suitable for release may be detained indefinitely.⁵ However such cases will be reviewed annually.

The imposition of SEPP is limited to offenders who have been convicted of serious crimes such as culpable homicide, rape and sexual penetration of minors.⁶ It is only applicable to individuals aged 21 and above.

Notably, there are safeguards in place to ensure that the sentence is just. When deciding whether to impose the SEPP, the court is obliged to make an assessment as to the suitability of imposing the SEPP on a particular offender given the severity of the offence, the risk assessed and representations by the defence counsel. Additionally, as mentioned above, there will be regular reviews for releases on license and unconditional releases.

Conclusion

The reform is intended to enhance the criminal justice system by safeguarding the interests of the public while ensuring that accused persons are granted their due process in law. It remains to be seen if the changes will achieve its intended effect as they are gradually being implemented.

At **Infinity Legal LLC**, we assist clients on all issues relating to criminal law, including advising and representation.

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[1] Second Reading Speech by Minister for Law, K Shanmugam, On Criminal Procedure (Miscellaneous Amendments) Bill 2024 at [6].

[2] Criminal Procedure (Miscellaneous Amendments) Bill 2024 (10 January 2024) at [1].

[3] Section 5 of Criminal Procedure (Miscellaneous Amendments) Act 2024, Amendment of Section 34.

[4] Section 7 of Criminal Procedure (Miscellaneous Amendments) Act 2024, New Divisions 4 and 5 of Part 4.

[5] Ministry of Law, Press Releases, Criminal Procedure (Miscellaneous Amendments) Bill 2024 at [14].

[6] Section 45 of Criminal Procedure (Miscellaneous Amendments) Act 2024, New Seventh Schedule.