



**PENAL CODE
(AMENDMENT) (NO. 2) ACT
1987**

(NO. 16 OF 1987)



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Passed by the National Parliament this sixth day of August 1987.

This printed impression has been carefully compared by me with the Bill passed by Parliament and found by me to be a true and correct copy of the said Bill.

Kulrang

*S/M Tuhaika
Clerk to the National Parliament*

Assented to in Her Majesty's name and on Her Majesty's behalf this twenty-sixth day of August 1987.

B Devesi

*B Devesi
Governor-General*

Date of commencement: date of publication in the Gazette.

AN ACT to amend the Penal Code.

ENACTED by the National Parliament of Solomon Islands.

PENAL CODE (AMENDMENT) (NO. 2) ACT 1987

ARRANGEMENT OF SECTIONS

Section:

1. Short title.
2. Addition of new sections to Cap. 5.
3. Amendment of sections 167 and 168.
4. Addition of new section 168A.
5. Amendment of section 288.
6. Amendment of section 296.

1. This Act may be cited as the Penal Code (Amendment) (No. 2) Act 1987.

Short title.

2. The Penal Code (hereinafter referred to as the "principal Act") is hereby amended by adding thereto the following new sections -

Addition of new sections to Cap. 5.

"Suspended sentences. 43A. (1) Subject to the provisions of subsections (2) and (3), a court which passes a sentence of imprisonment on any offender for a term not more than two years for any offence, may order -

- (a) that the sentence shall not take effect during a period specified in the order; or
- (b) that after the offender has served part of the sentence in prison, the remainder of the sentence shall not take effect during a period specified in the order,

unless during the period specified in the order, the offender commits another offence punishable with imprisonment and a court thereafter orders under section 43B that the original sentence shall take effect:

Provided, that the period specified in the order shall not be less than one year or more than two years.

(2) The provisions of subsection (1) shall not apply where the offence involved the use or the illegal possession of a weapon.

(3) A court shall not deal with an offender by means of a suspended sentence unless the case appears to the court to be one in respect of which a sentence of imprisonment would have been appropriate in the absence of any power to suspend such a sentence by an order under subsection (1).

(4) A court which passes a suspended sentence on any offender for an offence shall not make a probation order in respect of another offence of which he is convicted before the court or for which he is dealt with by the court on the same occasion.

(5) Where a court passes a suspended sentence on an offender in respect of an offence and a term of imprisonment in respect of another offence the court shall direct that the suspended sentence be concurrent with the term of imprisonment.

(6) On passing a suspended sentence the court shall explain to the offender in ordinary language his liability under section 43B, if during the period of suspension he commits a subsequent offence punishable with imprisonment.

Subsequent offence during period sentence is suspended.

43B. (1) Subject to subsection (3), where an offender is convicted of a subsequent offence punishable with imprisonment committed during the period of suspension, the court before which he is convicted for the subsequent offence shall, unless the sentence has already taken effect, consider his case and deal with him by one of the following methods -

- (a) order that the suspended sentence shall take effect with the original term unaltered;
- (b) order that the sentence shall take effect with the substitution of a lesser term for the original term;
- (c) by order vary the original order made under section 43A of this Act by substituting for the period specified therein a period expiring not later than two years from the date of the variation; or
- (d) make no order with respect to the suspended sentence,

and a court shall make an order under paragraph (a) of this subsection unless the court is of opinion that it would be unjust to do so in view of all the circumstances which have arisen since the suspended sentence was passed, including the facts of the subsequent offence,

and where it is of that opinion the court shall state its reasons.

(2) Where a court deals with an offender in respect of a suspended sentence passed by another court, the court dealing with the offender shall notify the court which passed the suspended sentence of the manner in which the offender was dealt with.

(3) Where a Magistrate's Court deals with an offender during the period of suspension of a sentence passed by the High Court, the Magistrate shall, after conviction of the offender and before passing to sentence, commit him in custody to the High Court for sentencing.

Discovery of further offence.

43C. (1) Where during the period of suspension, a person is convicted by a court for a subsequent offence, but such court had no information of the suspended sentence, any court may, on receipt of information relating to such suspended sentence and the conviction for the subsequent offence, issue a summons requiring such person to appear at the place and time specified therein or may issue a warrant for his arrest.

(2) A summons or warrant issued under subsection (1) shall direct the person to appear or be brought before the court by which he was convicted in respect of the subsequent offence and upon such person appearing or being brought, the court shall deal with him under section 43B in respect of the suspended sentence.

Suspended sentence supervision order.

43D. (1) Where a court passes on an offender a suspended sentence, the court may make a suspended sentence supervision order placing the offender under the supervision of an officer appointed for the purpose by the court, for such period as may be specified in the order not exceeding the period during which the sentence is suspended and subject to such

conditions as to residence as the court shall consider necessary.

(2) An offender in respect of whom a suspended sentence supervision order is in force shall keep in touch with the officer in accordance with such instructions as may from time to time be given to him by that officer and the offender shall notify the officer of any change of address.

(3) If, at any time while a suspended sentence supervision order is in force in respect of an offender, it appears on information provided by the officer to the court of the area in which the offender resides that the offender has failed to comply with any of the requirements of subsections (1) and (2), the court may issue a summons requiring the offender to appear before the court at a time specified in such summons, or may, if the information is in writing and on oath, issue a warrant for his arrest.

(4) If it is proved to the satisfaction of the court before which the offender appears or is brought under this section that he has failed without reasonable cause to comply with any of the requirements of the suspended sentence supervision order, the court may, without prejudice to the continuance of the order, impose on him a fine not exceeding three hundred dollars.

(5) In this section "officer" means the probation officer or any other suitable person the court seems fit to appoint under subsection (1)."

Amendment
of sections
167 and
168.

3. The provisos to sections 167 and 168 of the principal Act are hereby amended by deleting the words "one year" wherever those words appear in those sections and substituting therefor in each case the words "three years".

4. The principal Act is hereby amended by adding thereto the following new section -

Addition of
new section
168A.

“Persons convicted under sections 167 or 168 subject to supervision, 168A. (1) Where the Magistrate makes an order under sections 167 and 168, he may in the order direct that the person convicted be subject to the supervision of a suitable person nominated for the purpose by the court, for such period as may be specified in the order, not exceeding the period during which the convicted person is required to reside in the place or district.

(2) The person nominated pursuant to subsection (1) shall be responsible to the supervision of the convicted person and submit to the court such reports and information as may be required in terms of the order.”.

5. Section 288 of the principal Act is hereby amended by deleting therefrom the words “with intent to steal the same.”

Amendment of
section 288.

6. Section 296 of the principal Act is hereby amended in the following respects -

Amendment of
section 296.

(a) in subsection (1) -

(i) by deleting from paragraph (a) the words “of breaking”;

(ii) by deleting from paragraph (b) the words “one year” and substituting therefor the words “three years”;

and

(b) by adding thereto immediately after subsection (1), the following new subsections -

“(2) Where the Magistrate makes an order under paragraph (b) of subsection (1), he may in the order direct that the person convicted be subject to the supervision of a suitable person nominated for the purpose by the court, for such period as may be specified in the order, not exceeding the period during which the convicted person is required to reside in the place or district.

(3) The person nominated pursuant to subsection (1) shall be responsible for the supervision of the convicted person and submit to the court such reports and information as may be required in terms of the order.”.

