



I assent.

[L.S.]

K.K.T. MARA
President

[24 December 1997]

AN ACT

TO AMEND THE JUVENILES ACT

ENACTED by the Parliament of Fiji.

Short title

1. This Act may be cited as the Juveniles (Amendment) Act, 1997.

Interpretation

2. In this Act, unless the context otherwise requires, the Juveniles Act is referred to as the "principal Act".

New section inserted

3. The principal Act is amended by inserting a new section after section 62 as -

"Pornographic activity involving Juveniles"

62A. (1) Any person whether in public or in private, who

- (a) records from, reproduces, places onto, views, or accesses on or from, media or records of pornographic activity directly or indirectly involving juveniles, or persons who look like juveniles whether they are or not;

(b) or who makes, participates in, uses, observes, publishes, solicits, advertises, distributes, traffics in, lets on hire, buys, sells, offers to sell, media or records of pornographic activity directly or indirectly involving juveniles, or persons who look like juveniles whether they are or not;

commits a felony and is liable on conviction—

- (i) in the case of a first offender, to a fine not exceeding \$25,000 or a term of imprisonment not exceeding 14 years, or both; or
 - (ii) in the case of a second or subsequent offence, to a fine not exceeding \$50,000 or life imprisonment, or both.
- (2) For the purposes of sentence under this section and notwithstanding section 7 of the Criminal Procedure Code, the powers of a Resident Magistrate are increased to permit the imposition of a fine up to a maximum of \$25,000.00 or \$50,000.00 respectively, and so as to permit, whether on a first or subsequent offence, the imposition of a term of imprisonment not exceeding 10 years, or the imposition of both;
 - (3) If a Resident Magistrate after convicting a person for an offence under this section, considers his powers of sentence in relation to imprisonment insufficient, and notwithstanding section 222(1) of the Criminal Procedure Code, the Resident Magistrate may commit the accused for sentence to the High Court.
 - (4) A court may order the forfeiture of any equipment used directly or indirectly in the commission of an offence under this section.
 - (5) It shall be presumed unless the contrary is proven that an individual user code, or access, security, PIN number, password, or credit or bank card code is or has been used by the holder of such number, password or code.
 - (6) No prosecution shall be commenced for an offence under this section without the sanction of the Director of Public Prosecutions.
 - (7) No offence shall be committed by a member of an enforcement or prosecution authority if engaged properly upon that member's duties in connection therewith with the authorisation in writing of the Commissioner of Police including training or authorised study, or by the examining or treating medical practitioners or by persons engaged in or for the purposes of Court proceedings, or by any other persons engaged upon proper studies authorised in writing by the Commissioner of Police.

- (8) The Commissioner of Police or his delegated officer shall maintain a register containing the names, addresses, and conviction details of persons convicted under this section.
- (9) Any entry on the register shall be kept for a period of 10 years and shall remain on the register whether or not the conviction has become a spent or irrelevant conviction under the Rehabilitation of Offenders (Irrelevant Convictions) Act. At the expiration of 10 years, the entry shall be removed from the register.
- (10) Until the period of 10 years has expired, a person convicted of an offence under this section shall notify the Commissioner of Police in writing of any such change prior to any change of address and if that person fails to do so he or she shall commit a misdemeanour and be liable to imprisonment for 1 year or to a fine.
- (11) The Commissioner of Police or his delegated officer may not divulge details of any current registration under this section including a conviction whether or not it has become a "spent or irrelevant conviction", save to properly interested bodies or persons for the purpose of avoiding risk to vulnerable members of the public.
- (12) In this section, unless the context otherwise requires—

"enforcement or prosecution authority"

includes an officer of the Director of Public Prosecutions, the Police, the Department of Social Welfare, or of any special body set up or person authorised to study, investigate, or assist with complaints of, offences against juveniles;

"media"

includes television, newspapers, radio, or any publication disseminating information, comment or entertainment;

"pornographic activity"

includes activity which is either indecent or obscene, or in any way judged by the standards of the time, is of a sexual nature and offensive;

“records” includes film, audio-visual work, microfilm, video, computer or software programme or game or interactive game, compact discs, E-Mail, internet, books, journals, photographs, or records on communication or telecommunication networks of whatever type, method or technology.”.

Passed by the House of Representatives this fifth day of December in the year of our Lord one thousand, nine hundred and ninety-seven.

Passed by the Senate this eighteenth day of December, in the year of our Lord one thousand, nine hundred and ninety-seven.