

OFFENCES AGAINST THE PERSON ACT, 2018-32

Arrangement of Sections

1. Short title
2. Amendment of section 2 of Cap. 141
3. Insertion of section 2A into Cap. 141

BARBADOS

I assent
S. MASON
Governor-General
12th November, 2018.

2018-32

An Act to amend the *Offences Against the Person Act*, Cap. 141.

[Commencement: 19th November, 2018]

ENACTED by the Parliament of Barbados as follows:

Short title

1. This Act may be cited as the *Offences Against the Person (Amendment) Act, 2018*.

Amendment of section 2 of Cap. 141

2. *The Offences Against the Person Act, Cap. 141, in this Act referred to as the principal Act, is amended by deleting section 2 and substituting the following:*

“Punishment for murder

2.(1) A person who commits the offence of murder may be liable on conviction on indictment to

- (a) suffer death; or
- (b) imprisonment for life.

(2) A Court may sentence a person convicted of murder to death where

- (a) the murder was committed with a high level of brutality, cruelty, depravity, or callousness;
- (b) the murder involved calculated or lengthy planning;
- (c) the deceased was a Judge, a Magistrate, the Director of Public Prosecutions or a legal officer in the Department of Public Prosecutions and the office of the deceased was a factor in the commission of the offence;
- (d) the deceased was a member of the Royal Barbados Police Force, a member of the Barbados Defence Force, a member of the Special Constabulary or a prison officer and the office of the deceased was a factor in the commission of the offence;
- (e) the deceased was a member of a group of persons who have a common characteristic such as race, nationality, ethnicity or religion and this was a factor in the commission of the offence;

- (f) the deceased was a witness or a juror in a pending or concluded trial and this was a factor in the commission of the offence;
- (g) the deceased was particularly vulnerable because of his age, health or disability or because of any other factor;
- (h) the person convicted was convicted of 2 or more offences of murder, whether or not arising from the same circumstances; or
- (i) in the opinion of the Court, there are any other exceptional circumstances which must be taken into account and which justify the imposition of a sentence of death.

(3) Where the Court sentences a person to death and the sentence of death is not executed within a period of 5 years from the date of the sentence, the sentence shall be commuted by order of the Court, to a sentence of imprisonment that the Court shall specify having regard to the guidelines set out in sections 39 and 41 of the *Penal System Reform Act*, Cap. 139.

(4) Where the Court sentences a person convicted of murder specifically to imprisonment for life, the Court shall specify a minimum term of imprisonment to be served by the convicted person before becoming eligible for the grant of a release order.

(5) In determining the appropriate minimum term of imprisonment pursuant subsection (4), the Court shall have regard to the guidelines set out in sections 39 and 41 of the *Penal System Reform Act*, Cap. 139.

(6) Where the Court, in sentencing a person convicted of murder, does not impose the sentence of imprisonment for life, the Court shall impose a term of imprisonment having regard to the guidelines set out in sections 39 and 41 of the *Penal System Reform Act*, Cap. 139.

(7) In this section the term "release order" has the meaning assigned to it by section 2 of the *Prisons Act*, Cap. 168.”.

Insertion of section 2A into Cap. 141

3. *The principal Act is amended by inserting immediately after section 2, the following section:*

“Review of existing sentences for the offence of murder

2A.(1) A person who, prior to the commencement of the amendments contained in the *Offences Against the Person (Amendment) Act, 2018*, (Act 2018-), was convicted of murder and sentenced to death and

- (a) whose sentence was not commuted under section 78 of the *Constitution* shall have
 - (i) his sentence set aside by the Chief Justice; and
 - (ii) a new sentence imposed by the Chief Justice in accordance with section 2; and
- (b) whose sentence was commuted under section 78 of the *Constitution* shall have
 - (i) his sentence and the instrument by which the sentence was commuted, set aside; and
 - (ii) a new sentence imposed by the Chief Justice in accordance with section 2.

(2) Notwithstanding subsection (1), the sentence of death shall not be imposed on a person whose sentence is reviewed pursuant to subsection (1).

(3) The Chief Justice shall, in imposing a new sentence under subsection (1), take into consideration the guidelines set out in sections 39 and 41 of the *Penal System Reform Act*, Cap. 139. ”.