

(Published 2nd September, 2016)

ACT

No. 31 of 2016

I assent

PRO. ARTHUR PETER MUTHARIKA

PRESIDENT

1st September, 2016

ARRANGEMENT OF SECTIONS

SECTION

1. Short title and commencement
2. Amendment of section 4 of Cap. 7:01
3. Insertion of new Chapter XIV A
4. Insertion of new section 224A
5. Insertion of new section 224B
6. Insertion of new section 224C

An Act to amend the Penal Code

ENACTED by the Parliament of Malawi as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Penal Code (Amendment) Act, 2016 and shall come into operation on a date the Minister may, by notice published in the *Gazette*, appoint. Short title and commencement

2. The Penal Code (hereinafter referred to as the “principal Act”) is amended by inserting the following new definition of “tissue” immediately after the definition of “public way”— Amendment of s.4 of Cap. 7:01

“ “tissue” means any human tissue including any human flesh, organ, bone, body fluid or derivative of any human tissue;” Cap. 34:03

commits an offence and shall be liable, upon conviction, to imprisonment for life:

Provided that possession of a human corpse or tissue—

(a) in accordance with any written law; or

(b) for other good and justifiable reason,

shall not constitute an offence under this section.

5. The principal Act is amended by inserting a new section 224B as follows—

Insertion of a
new section
224B

Conspiracy or
causing another
to harm person
with disability

224B.—(1) A person who, knowing another person to be a person with any type of disability, for any purpose whatsoever, conspires with a third person or causes or attempts to cause a third person, to—

(a) kill the person with disability;

(b) maim, wound or otherwise cause grievous bodily harm to the person with disability;

(c) extract human tissue from the person with disability;

(d) sexually or otherwise assault the person with disability,

commits an offence and is liable, on conviction, to imprisonment for life.

Cap. 33:06

(2) For the purposes of this section, “disability” has the meaning ascribed to it under the Disability Act and includes albinism, birth or other deformities, intellectual and psychosocial disabilities.

(3) A person is deemed to have caused an act under subsection (1) where the person instructs, encourages, promotes, incites, directs, demands, requests or otherwise makes another person to do any of the proscribed acts.

6. The principal Act is amended by inserting a new section 224C as follows—

Insertion of a
new section
224C

Aggravating
circumstances

224C. Where a person who commits any act under sections 224A and 224B was, at the time of the commission or attempted commission of the offence,—

(a) a relative of the person on whom the offence was committed;