

Sexual Offences Commentary

Edited by
Dee Smythe and
Bronwyn Pithey,
with Lillian Artz
Juta Law (2010)
xix & 600 pp;
loose leaf

The Criminal Law (Sexual Offences and Related Matters) Amendment Act was passed in December 2007, reforming the law relating to rape and related sexual offences. The authors and editors of the publication under discussion go to great lengths to provide a commentary on the Act, bringing together legal analysis with practical knowledge of the management of sexual offences within the criminal justice system.

The *Commentary* provides insights into the challenges and limitations facing the law relating to sexual offences and draws on the expertise, knowledge and experience of a wide range of legal and social scholars and practitioners. The authors acknowledge the contributions of various experts who assisted in reviewing chapters and explicating the finer points of the interpretation of the statute that the work offers. The publication benefits greatly from the input of the different experts as it serves to present a well-rounded picture of the various issues surrounding the law relating to sexual offences and the persons affected thereby.

The *Commentary* is structured to follow the Act section by section. Each section is dissected carefully, with reference to the common law and the development of the relevant case law, as well as to other academic discussions on the topic. Problematic areas in the Act are highlighted and discussed. This method serves to provide a comprehensive frame of reference within which any lawyer should be able to find the information necessary to prepare for any case revolving around a sexual offence.

Different authors contributed to the various chapters, each contributor focusing on those portions of the Act falling within his or her area of expertise and/or practical experience. The authors specifically point out that, although their thinking about the law on sexual offences has been enriched by the insights and contributions of the various people who assisted them, the opinions and interpretations expressed in the *Commentary* remain solely those of the authors and editors.

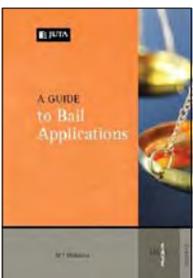
The *Commentary* presents as a balanced and considered source of authority, providing a mountain of information on every relevant aspect of the Act. However, it does not burden the user with so much information as to become cumbersome. The publication serves as both a reference authority and a practical tool. It should fit comfortably in the hands of the academic thinker, postulating policy for developments in the area, but will also assist the legal 'mechanic' fighting in

the trenches for his or her client, formulating strategy and searching for loopholes and defences. The *Commentary* is not written from the viewpoint of either the prosecuting authority or defence counsel, thereby ensuring a balanced viewpoint on every aspect.

Where appropriate, references to regulations gazetted under the Act are included in the *Commentary*. The text of the regulations is found at the back of the *Commentary*. As the *Commentary* is published in a loose-leave format, one can expect updates and supplements. This will ensure that the publication does not become outdated and so lose its practicality. Included as an annexure at the end of the *Commentary* is a useful timeline comparison of the application of sexual offences laws and the transitional provisions of the Act. Other annexures set out the *SAPS National Instructions on Sexual Offences* and the regulations on services for victims of sexual offences and compulsory HIV testing of alleged sex offenders.

The authors and editors aptly refer to their work as 'a mammoth undertaking.' The law on sexual offences went through a prolonged reform process, with input from lawyers and civil society alike. The authors and editors of the *Commentary* deserve praise for trudging through the volume of available information on the subject and presenting it to the rest of us in such a useful compilation.

Germa Wright, Free State Bar 



A Guide to Bail Applications

MT Mokoena
Juta Law (2012)
Legal-Ease Essence
xxvi & 206 pp;
soft cover

One of the cornerstones of our democracy and constitutional principles is that individual liberty can and should be interfered with by the authorities only in necessary circumstances. It is against this backdrop, whilst every accused person wants to be released as soon as possible after the requirements of the law have been complied with, that those law enforcement functionaries who deal with the administration and consideration of

incarceration and release of accused persons should be vigilant in applying proper care in exercising their duties. The above is a paraphrased extract from the preface in Mr Mokoena's book.

It is commendable that the author has invested enormous effort in achieving the aim of Juta's Legal-Ease, which is to make the law easier to understand and to provide practical tips and helpful hints to legal practitioners in particular.

This notwithstanding, the book, in my view, is of equal benefit to all legal practitioners, irrespective of seniority, to judicial officers and even to members of the public who wish to acquaint themselves with the legal principles applied in bail applications. In recent times there has been increasing public interest in the question whether some particular ac-

cusced person ought to be released on bail or not and, in my view, this guide is an invaluable tool for persons of all walks of life to acquaint themselves with the legal principles applicable to bail. This said, of course the main aim is to assist practitioners who practise criminal law daily and in my view the book succeeds with flying colours in doing just that. In setting out all the practical steps of a bail application and highlighting the consequences that flow therefrom, including the case studies, the importance of preparation in bail applications is emphasized and how it should not be taken lightly, even by the experienced criminal law practitioner. This guide is a useful aid for all those concerned with bail applications.

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