



BRITISH INDIAN OCEAN TERRITORY

**REVISED ORDINANCES OF THE  
BRITISH INDIAN OCEAN TERRITORY**

**THE PENAL CODE 1981**

**CHAPTER C.2**

**Revised Edition**

Showing the law as at 1 September 2020

Published by Authority

# **REVISED ORDINANCES OF THE BRITISH INDIAN OCEAN TERRITORY**

## **THE PENAL CODE 1981**

### **CHAPTER C.2**

#### **Revised Edition**

Showing the law as at 1 September 2020

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Ordinance 2015 and contains a consolidation of the following laws:

The Penal Code - Ordinance No.5 of 1981

As amended by:

Ordinance No.8 of 1983  
Ordinance No.1 of 1985  
Ordinance No.1 of 1986  
Ordinance No.6 of 1994  
Ordinance No.3 of 1999  
Ordinance No.6 of 2000  
Ordinance No.3 of 2004  
Ordinance No.3 of 2008  
Ordinance No.1 of 2011  
Ordinance No.7 of 2011  
Ordinance No.9 of 2011  
Ordinance No.4 of 2016  
Ordinance No.2 of 2018  
Ordinance No.3 of 2019  
Ordinance No.5 of 2019

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**REVISED ORDINANCES OF THE BRITISH INDIAN OCEAN  
TERRITORY**

**THE PENAL CODE 1981**

**CHAPTER C.2**

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**REVISED ORDINANCES OF THE BRITISH INDIAN OCEAN  
TERRITORY**

**THE PENAL CODE 1981**

**CHAPTER C.2**

*An Ordinance to amend and consolidate the Code of Criminal Law.*

**PART I**

**GENERAL PROVISIONS**

**CHAPTER I**

**PRELIMINARY**

**Citation.**

1. This Ordinance may be cited as the Penal Code 1981, ROBIOT c.C.2., and within this Ordinance it is referred to as “this Code”.

***Deleted on revision.***

2. *Deleted on revision.*

**Saving of certain laws.**

3. Nothing in this Code shall affect –
  - (a) subject to section 326 of this Code, the liability, trial or punishment of a person for an offence against the English common law or against any law in force in the Territory other than this Code;
  - (b) the liability of a person to be tried or punished for an offence under the provisions of any law in force in the Territory relating to the jurisdiction of the courts of the Territory in respect of acts done beyond the ordinary jurisdiction of such courts;
  - (c) the power of any court to punish a person for contempt of such Court;
  - (d) the liability or trial of a person, or the punishment of a person under any sentence passed or to be passed, in respect of any act done or commenced before the commencement of this Code;

(e) any power of Her Majesty, or of the Commissioner as the representative of Her Majesty, to grant any pardon or to remit or commute in whole or in part or to respite the execution of any sentence passed or to be passed; or

(f) any of the statutes, Ordinances, regulations or articles for the time being in force for the government of Her Majesty's military or naval or air forces:

Provided that if a person does an act which is punishable under this Code and is also punishable under another Ordinance or statute of any of the kinds mentioned in this section, he shall not, subject to section 21, be punished for that act both under that Ordinance or statute and also under this Code.

## CHAPTER II

### INTERPRETATION

#### **General rule of construction of Code.**

4. This Code shall be interpreted in accordance with the principles of legal interpretation obtaining in England, and expressions used in it shall be presumed, so far as is consistent with their context, and except as may be otherwise expressly provided, to be used with the meaning attaching to them in English criminal law and shall be construed in accordance therewith.

#### **Definitions.**

5. (1) In this Code, unless the context otherwise requires –

**court** means a court of competent jurisdiction;

**dangerous harm** means harm endangering life;

**explosive** or **explosive substance** means any article manufactured for the purpose of producing a practical effect by explosion, or intended by the person having it with him or handling it for that purpose;

**gain** and **loss** are to be construed as extending only to gain or loss in money or other property, but as extending to any such gain or loss whether temporary or permanent; and –

(a) **gain** includes a gain by keeping what one has, as well as a gain by getting what one has not; and

(b) **loss** includes a loss by not getting what one might get, as well as a loss by parting with what one has;



**goods**, except in so far as the context otherwise requires, includes money and every other description of property except land, and includes things severed from the land by stealing;

**grievous harm** means any harm which amounts to a maim or dangerous harm, or seriously or permanently injures health or which is likely so to injure health, or which extends to permanent disfigurement or to any permanent or serious injury to any external or internal organ, membrane or sense;

**harm** means any bodily hurt, disease or disorder whether permanent or temporary;

**Judicial Officer** means a Judge, a Magistrate or the Registrar of the Supreme Court;

**judicial proceeding** includes any proceeding had or taken in or before any court, tribunal, commission of inquiry or person, in which evidence may be taken on oath;

**knowingly** used in connection with any term denoting uttering or using, implies knowledge of the character of the thing uttered or used;

**maim** means the destruction or permanent disabling of any external or internal organ, membrane or sense;

**money** includes bank notes, bank drafts, cheques and any other orders, warrants or requests for the payment of money;

**oath** includes affirmation or declaration;

**offence** is an act, attempt or omission punishable by law;

**Ordinance** includes any orders or rules or regulations made under the authority of any Ordinance;

**Police Officer** means a person so appointed by the Commissioner under the Courts Ordinance 1983;

**person** and **owner** and other like terms, when used with reference to property includes corporations of all kinds and any other association of persons capable of owning property, and also when so used includes Her Majesty;

**person employed in the public service** means any person holding any of the following offices or performing the duty thereof whether as a deputy or otherwise, namely –

- (a) any civil office including the office of Commissioner, the power of appointing a person to which or of removing from

which is vested in Her Majesty or in the Commissioner or in any public Commission or Board;

(b) any office to which a person is appointed or nominated by Ordinance or statute or by election;

(c) any civil office, the power of appointing to which or removing from which is vested in any person or persons holding an office of any kind included in either of the two last preceding paragraphs of this section; or

(d) any office of arbitrator or umpire in any proceeding or matter submitted to arbitration by order or with the sanction of any court, or in pursuance of any Ordinance;

and the said term further includes –

(i) a Police Officer;

(ii) a member of a commission of inquiry appointed under or in pursuance of any Ordinance;

(iii) any person employed to execute any process of a court;

(iv) all persons belonging to Her Majesty's naval or military or air forces;

(v) all persons in the employment of any government department;

(vi) a person acting as a minister of religion of whatsoever denomination in so far as he performs function in respect of the notification of intending marriage or in respect of the solemnisation of marriage, or in respect of the making or keeping of any register or certificate of marriage, birth, baptism, death or burial, but not in any other respect;

**possession** means “be in possession of” or “have in possession” and includes not only having in one's own personal possession, but also knowingly having anything in the actual possession or custody of any other person, or, having anything in any place (whether belonging to, or occupied by oneself or not) for the use or benefit of oneself or of any other person. If there are two or more persons and any one or more of them with the knowledge and consent of the rest has or have anything in his or their custody or possession, it shall be deemed and taken to be in the custody or possession of each and all of them;

**Principal Legal Adviser** means the person so appointed by the Commissioner, and includes –

(a) any person appointed by the Commissioner to perform all or any of the functions of the Principal Legal Adviser during any period when the office of Principal Legal Adviser is vacant or the holder thereof is for any reason unable to perform his functions;

(b) any person in the Territory, in respect of a particular function of the Principal Legal Adviser which the Principal Legal Adviser has authorised him to perform;

**property** includes money and all other property, real or personal, including things in action and other intangible property;

**public** refers not only to all persons within the Territory, but also to the person inhabiting or using any particular place, or any number of such persons, and also to such indeterminate persons as may happen to be affected by the conduct in respect to which such expression is used;

**public way** includes any highway, market place, square, street, bridge or other way which is lawfully used by the public;

**public place** or **public premises** includes any public way and any building, place or conveyance to which, for the time being, the public are entitled or permitted to have access either without any condition or upon condition of making any payment, and any building or place which is for the time being used for any public or religious meeting or assembly or as an open court;

**publicly** when applied to acts done means either –

(a) that they are so done in any public place as to be seen by any person whether such person be or be not in a public place; or

(b) that they are so done in any place not being a public place as to be likely to be seen by any person in a public place;

**statute** means an Act of Parliament of the United Kingdom and includes any orders, rules, regulations, bye-laws or other subsidiary legislation made or passed under the authority of any statute;

**Territory** means the British Indian Ocean Territory;

**utter** means and includes using or dealing with and attempting to use or deal with and attempting to induce any person to use, deal with or act upon the thing in question;

**valuable security** means any document creating, transferring, surrendering or releasing any right to, in or over property, or authorising the payment of money or delivery of any property, or evidencing the creation, transfer, surrender or release of any such right, or the payment of money or delivery of any property, or the satisfaction of any obligation;

**vessel** includes a ship, a boat and every other kind of vessel used in navigation on the sea and includes hovercraft;

**wound** means any incision or puncture which divides or pierces any exterior membrane of the body, and any membrane is exterior for the purpose of this definition which can be touched without dividing or piercing any other membrane.

(2) Except where the context otherwise requires, Chapters III, IV, V and VI of this Code apply to offences under any other law as they apply to offences under this Code.

### **CHAPTER III**

#### **TERRITORIAL APPLICATION OF THE CODE**

##### **Extent of jurisdiction of courts.**

6. The jurisdiction of the courts of the Territory for the purpose of this Code extends to every place within the Territory.

##### **Offences committed partly within and partly beyond the jurisdiction.**

7. When an act which, if wholly done within the jurisdiction of the court, would be an offence against this Code, is done partly within and partly beyond the jurisdiction, every person who within the jurisdiction does or makes any part of such act may be tried and punished under this Code in the same manner as if such act had been done wholly within the jurisdiction.

### **CHAPTER IV**

#### **GENERAL RULES AS TO CRIMINAL RESPONSIBILITY**

##### **Ignorance of law.**

8. Ignorance of the law does not afford any excuse for any act or omission which would otherwise constitute an offence unless knowledge of the law by the offender is expressly declared to be an element of the offence.

##### **Intention and motive.**

9. Subject to the express provisions of this Code relating to negligent acts and omissions, a person is not criminally responsible for an act or omission which occurs independently of the exercise of his will, or for an event which occurs by accident:

Unless the intention to cause a particular result is expressly declared to be an element of the offence constituted, in whole or part, by an act or omission, the result intended to be caused by an act or omission is immaterial; and

Unless otherwise expressly declared, the motive by which a person is induced to do or omit to do an act, or to form an intention, is immaterial so far as regards criminal responsibility.

### **Mistake of fact.**

**10.** (1) Subject to subsection (2), a person who does or omits to do an act under an honest and reasonable, but mistaken, belief in the existence of any state of things is not criminally responsible for the act or omission to any greater extent than if the real state of things had been such as he believed to exist.

(2) The operation of this rule may be excluded by the express or implied provisions of the law relating to the subject.

### **Presumption of sanity.**

**11.** Every person is presumed to be of sound mind, and to have been of sound mind at any time which comes in question, until the contrary is proved.

### **Insanity.**

**12.** (1) Subject to subsection (2), a person is not criminally responsible for an act or omission if at the time of doing the act or making the omission he is through any disease affecting his mind incapable of understanding what he is doing, or of knowing that he ought not to do the act or make the omission.

(2) A person may be criminally responsible for an act or omission, although his mind is affected by disease, if such disease does not in fact produce upon his mind one or other of the effects above mentioned in reference to that act or omission.

### **Intoxication.**

**13.** (1) Save as provided in this section, intoxication shall not constitute a defence to any criminal charge.

(2) Intoxication shall be a defence to any criminal charge if by reason thereof the person charged at the time of the act or omission complained of did not know that such act or omission was wrong or did not know what he was doing and –

(a) the state of intoxication was caused without his consent by the malicious or negligent act of another person; or

(b) the person charged was by reason of intoxication insane, temporarily or otherwise, at the time of such act or omission.

(3) Where the defence under the preceding subsection is established, then in a case falling under paragraph (a) thereof the accused person shall be discharged, and in a case falling under paragraph (b) the provisions of section 12 shall apply.

(4) Intoxication shall be taken into account for the purpose of determining whether the person charged had formed any intention, specific or otherwise, in the absence of which he would not be guilty of the offence.

(5) For the purposes of this section **intoxication** shall be deemed to include a state produced by narcotics or drugs.

### **Immature age.**

**14.** (1) A person under the age of ten years is not criminally responsible for any act or omission.

(2) A person under the age of fourteen years is not criminally responsible for an act or omission, unless it is proved that at the time of doing the act or making the omission he had capacity to know that he ought not to do the act or make the omission.

(3) A male person under the age of fourteen years is presumed to be incapable of having carnal knowledge.

### **Judicial officers.**

**15.** Except as expressly provided by this Code, a judicial officer (which expression is not limited to the persons referred to in section 5 of this Code) is not criminally responsible for anything done or omitted to be done by him in the exercise of his judicial functions, although the act done is in excess of his judicial authority or although he is bound to do the act omitted to be done.

### **Compulsion**

**16.** (1) A person is not criminally responsible for an offence, other than murder as a principal offender under section 22(a) of this Code, if it is committed by two or more offenders, and if the act is done or omitted only because during the whole of the time in which it is being done or omitted the person is compelled to do or omit to do the act by threats on the part of the other offender or offenders instantly to kill him or do him grievous bodily harm if he refuses; but threats of future injury do not excuse any offence.

(2) In cases of treason, compulsion is a defence to the same extent as it is from time to time under the common law of England.

### **Defence of person or property**

17. Subject to any express provisions in the Code or any other law in operation in the Territory, criminal responsibility for the use of force in the defence of person or property shall be determined according to the principles of English common law.

### **Use of force in effecting arrest.**

18. Where any person is charged with a criminal offence arising out of the lawful arrest, or attempted arrest, by him of a person who forcibly resists such arrest or attempts to evade being arrested, the court shall, in considering whether the means used were necessary, or the degree of force used was reasonable, for the apprehension of such person, have regard to the gravity of the offence which had been or was being committed by such person and the circumstances in which such offence had been or was being committed by such person.

### **Husband and wife.**

19. Chapters XXV, XXVI and XXVII of this Code shall apply in relation to the parties to a marriage, and to property belonging to the wife or husband whether or not by reason of an interest derived from the marriage, as they would apply if they were not married and any such interest subsisted independently of the marriage.

### **Compulsion by husband.**

20. A married woman is not free from criminal responsibility for doing or omitting to do an act merely because the act or omission takes place in the presence of her husband; but on a charge against a wife for any offence other than treason or murder it shall be a good defence to prove that the offence was committed in the presence of, and under the coercion of, the husband.

### **Persons not to be punished twice for same offence.**

21. Where an act or omission constitutes an offence under two or more enactments (including this Code), the offender shall, unless the contrary intention be expressed, be liable to be prosecuted under either or any of those enactments and at common law, but he shall not be liable to be punished more than once for the same offence, except in the case where the act or omission is such that by means thereof he causes the death of another person, in which case he may be punished for the offence of which he is guilty by reason of causing such death, despite having already been punished for some other offence constituted by the act or omission.

## **CHAPTER V**

### **PARTIES TO OFFENCES**

#### **Principal offenders.**

**22.** (1) When an offence is committed, each of the following persons is deemed to have taken part in committing the offence and to be guilty of the offence, and may be charged with actually committing it, that is to say –

(a) every person who actually does the act or makes the omission which constitutes the offence;

(b) every person who does or omits to do any act for the purpose of enabling or aiding another person to commit the offence;

(c) every person who aids or abets another person in committing the offence;

(d) any person who counsels or procures any other person to commit the offence.

(2) In subsection (1)(d), a person may be charged with himself committing the offence or with counselling or procuring its commission.

(3) A conviction of counselling or procuring the commission of an offence entails the same consequences in all respects as a conviction of committing the offence.

(4) Any person who procures another to do or omit to do any act of such a nature that, if he had himself done the act or made the omission, the act or omission would have constituted an offence on his part, is guilty of an offence of the same kind, and is liable to the same punishment, as if he had himself done the act or made the omission, and he may be charged with himself doing the act or making the omission.

#### **Offences committed by joint offenders in prosecution of common purpose.**

**23.** When two or more persons form a common intention to prosecute an unlawful purpose in conjunction with one another, and in the prosecution of such purpose an offence is committed of such a nature that its commission was a probable consequence of the prosecution of such purpose, each of them is deemed to have committed the offence.

#### **Counselling another to commit an offence.**

**24.** (1) When a person counsels another to commit an offence, and an offence is actually committed after such counsel by the person to whom it is given, it is immaterial whether the offence actually committed is the same as that counselled



or a different one, or whether the offence is committed in the way counselled or in a different way, provided in either case that the facts constituting the offence actually committed are a probable consequence of carrying out the counsel.

(2) Where subsection (1) applies, the person who gave counsel is deemed to have counselled the other person to commit the offence actually committed by him.

## **CHAPTER VI**

### **PUNISHMENTS**

#### **Different kinds of punishment.**

**25.** The following punishments may be inflicted by a court –

(a) *Repealed.*

(b) Imprisonment (including suspended sentences of imprisonment);

(c) Fine;

(d) Payment of compensation;

(e) Finding security to keep the peace and be of good behaviour; or to come up for judgment;

(f) Forfeiture;

(g) Any other punishment provided by this Code or by any other law.

***Repealed.***

**26.** *Repealed.*

#### **Imprisonment and fines.**

**27.** (1) A person liable to imprisonment for life or any other period may be sentenced for any shorter term.

(2) A person liable to imprisonment may be sentenced to pay a fine in addition to or instead of imprisonment.

(3) A person liable to imprisonment or a fine may be sentenced to both imprisonment and a fine.

## **Fines.**

**28.** Where a fine is imposed under any law (including this Code), then in the absence of express provisions relating to such fine in such law the following provisions shall apply –

(a) Where no sum is expressed to which the fine may extend the amount of the fine which may be imposed is unlimited, but shall not be excessive;

(b) Where a sum is expressed for a fine, a fine of that or any lesser sum may be imposed;

(c) In the case of an offence punishable with a fine or a term of imprisonment the imposition of a fine or a term of imprisonment or both shall be a matter for the discretion of the court;

(d) In the case of an offence punishable with imprisonment or a fine in which the offender is sentenced to a fine with or without imprisonment and in every case of an offence punishable with fine only in which the offender is sentenced to a fine the court passing sentence may, in its discretion –

(i) direct by its sentence that in default of payment of the fine the offender shall suffer imprisonment for a term not exceeding the maximum term specified by section 185 of the Criminal Procedure Code 2019 in relation to that fine, which imprisonment shall be in addition to any other imprisonment to which he may have been sentenced or to which he may be liable under a commutation of sentence; and

(ii) issue a warrant for the levy of the amount on the immovable and movable property of the offender by distress and sale under warrant:

Provided that if the sentence directs that in default of payment of the fine the offender shall be imprisoned, and if such offender has undergone the whole of such imprisonment in default, no court shall issue a distress warrant unless for special reasons to be recorded in writing it considers it necessary to do so.

Provided also that the imprisonment which is imposed in default of payment of a fine shall terminate whenever the fine is either paid or levied by process of law.

(e) Where the fine is imposed by the Magistrate's Court, section 169(1) of the Criminal Procedure Code 2019 shall apply.

**Forfeiture.**

**29.** When any person is convicted of an offence under any of the following sections, namely, sections 79, 80, 81, 98, 99 and 315, the court may, in addition to or in lieu of any penalty which may be imposed, order the forfeiture to Her Majesty of any property which has passed in connection with the commission of the offence or, if such property cannot be forfeited or cannot be found, of such sum as the court shall assess as the value of the property; and any property or sum so forfeited shall be dealt with in such manner as the Commissioner may direct. Payment of any sum so ordered to be forfeited may be enforced in the same manner and subject to the same incidents as in the case of the payment of a fine.

**Compensation.**

**30.** Any person who is convicted of an offence may be adjudged to make compensation to any person injured by his offence. Any such compensation may be either in addition to or in substitution for any other punishment.

**Costs.**

**31.** Subject to the limitations imposed by section 197 of the Criminal Procedure Code 2019 a court may order any person convicted of an offence to pay the costs of and incidental to the prosecution or any part thereof.

**Security for keeping the peace.**

**32.** A person convicted of an offence may, instead of, or in addition to, any punishment to which he is liable, be ordered to enter into his own recognizance, with or without sureties, in such amount as the court thinks fit, that he shall keep the peace and be of good behaviour for a time to be fixed by the court, and may be ordered to be imprisoned until such recognizance, with sureties if so directed, is entered into; but so that the imprisonment for not entering into recognizance shall not extend for a term longer than six months, and shall not, together with the fixed term of imprisonment if any, extend for a term longer than the longest term for which he might be sentenced to be imprisoned without fine.

**Security for coming up for judgment.**

**33.** When a person is convicted of any offence the court may, instead of passing sentence, discharge the offender upon his entering into his own recognizance, with or without sureties, in such sum as the court may think fit, conditioned that he shall appear and receive judgment at some future sitting of the court or when called upon.

### **Certain provisions of Criminal Procedure Code applicable to recognisance.**

**34.** (1) The provisions of sections 17 and 34 of the Criminal Procedure Code 2019 shall apply *mutatis mutandis* to recognizances taken under section 32 or 33 of this Code.

(2) If at any time, the court which convicted the offender is satisfied that he has failed to observe any of the conditions of his recognizance it may issue a warrant for his arrest, and upon his being brought before the court may pass sentence upon him.

### **General punishment of offences.**

**35.** When in this Code no punishment is especially provided for any offence, it shall be punishable with imprisonment for a term not exceeding two years or with a fine.

### **Sentences cumulative unless otherwise stated.**

**36.** Where a person after conviction for an offence is convicted of another offence, either before sentence is passed upon him under the first conviction or before the expiration of that sentence, any sentence which is passed upon him under the subsequent conviction, shall be executed after the expiration of the former sentence, unless the court directs that it shall be executed concurrently with the former sentence or of any part thereof:

Provided that it shall not be lawful for a court to direct that a sentence of imprisonment in default of payment of a fine shall be executed concurrently with a former sentence under section 28(d)(i) of this Code or of any part thereof.

### **Escaped prisoners to serve unexpired sentences when recaptured.**

**37.** When sentence is passed under this Code on an escaped prisoner, such sentence –

(a) if a fine shall, subject to the provisions of this Code and the Criminal Procedure Code, take effect immediately;

(b) if of imprisonment, shall run consecutively or concurrently, as the court shall order, with the unexpired portion of the sentence which the prisoner was undergoing when he escaped.

### **Discharge of offender without punishment.**

**38.** (1) Where in any trial the court thinks that the charge is proved but is of opinion that, having regard to the character, antecedents, age, health or mental condition of the accused, or to the trivial nature of the offence or to the extenuating circumstances in which the offence was committed, it is inexpedient

to inflict any punishment, the court may, without proceeding to conviction, make an order dismissing the charge.

(2) An order made under this section shall for the purpose of revesting or restoring stolen property, and of enabling the court to make any order under the provisions of section 205 of the Criminal Procedure Code 2019, have the like effect as a conviction.

#### **Application of certain sections.**

**38A.** Sections 27, 30, 31, 32, 33, 34, 36 and 38 of this Code apply in respect of offences under any law (including this Code) save where otherwise specifically provided.

## **PART II – CRIMES**

### **DIVISION I**

#### **OFFENCES AGAINST PUBLIC ORDER**

##### **CHAPTER VII**

#### **TREASON AND OTHER OFFENCES AGAINST THE SOVEREIGN'S AUTHORITY**

##### **Treason by law of England.**

**39.** Any person who compasses, imagines, invents, devises or intends any act, matter or theory the compassing, imagining, inventing, devising or intending whereof is treason by the law of England for the time being in force, and expresses, utters or declares such compassing, imagining, inventing, devising or intending by publishing any printing or writing or by any overt act, or does any act which, if done in England, would be deemed to be treason according to the law of England for the time being in force, is guilty of treason and shall be liable to imprisonment for life.

##### **Instigating invasion.**

**40.** Any person who instigates any other person to invade the Territory with an armed force is guilty of treason, and is liable to imprisonment for life.

##### **Concealment of treason.**

**41.** Any person who –

- (a) becomes an accessory after the fact to treason; or

(b) knowing that any person intends to commit treason, does not give information thereof with all reasonable despatch to the Commissioner, the Commissioner's Representative, a Magistrate or Police Officer or use other reasonable endeavours to prevent the commission of the offence,

is guilty of misprision of treason, and is liable to imprisonment for life.

**Treasonable offences.**

**42.** Any person who forms an intention to effect any of the following purposes, that is to say –

(a) to depose Her Majesty from the style, honour and royal name of the Crown of the United Kingdom, or of any other of Her Majesty's dominions or countries;

(b) to levy war against Her Majesty within any part of Her Majesty's dominions, in order by force or constraint to compel her to change her measures or counsels, or in order to put any force or constraint upon or in order to intimidate or overawe, the legislature or legislative authority of any of Her Majesty's dominions; or

(c) to instigate any other person to make an armed invasion of any of Her Majesty's dominions, and manifests such intention by an overt act, or by publishing any printing or writing,

is guilty of an offence, and is liable to imprisonment for life.

**Limitations as to trial for treason, etc.**

**43.** (1) A person cannot be tried for treason, or for any of the offences defined in the two last preceding sections, unless the prosecution is commenced within three years after the offence is committed.

(2) A person cannot be convicted of treason, or of any of the offences defined in the two last preceding sections, except on his own plea of guilty, or on the evidence in open court of two witnesses at the least to one overt act of the kind of treason or offence alleged, or the evidence of one witness to one overt act, and one other witness to another overt act of the same kind of treason or offence.

(3) This section does not apply to cases in which the overt act of treason alleged is the killing of Her Majesty or a direct attempt to endanger the life or injure the person of Her Majesty.

### **Inciting to mutiny.**

**44.** Any person who maliciously and advisedly attempts to effect any of the following purposes, that is to say –

- (a) to seduce any person serving in Her Majesty's forces from his duty and allegiance to Her Majesty;
- (b) to incite any such person to commit an act of mutiny or any traitorous or mutinous act; or
- (c) to incite any such person to make or endeavour to make a mutinous assembly,

is guilty of an offence, and is liable to imprisonment for life.

### **Aiding members of H.M. forces to acts of mutiny.**

**45.** Any person who –

- (a) aids, abets, or is accessory to, any act of mutiny; or
- (b) incites to sedition or to disobedience to any lawful order given by a superior officer, any non-commissioned officer or seaman, private or airman of Her Majesty's forces,

is guilty of an offence.

### **Inducing members of H.M. forces to desert.**

**46.** Any person who, by any means whatever, directly or indirectly –

- (a) procures or persuades or attempts to procure or persuade to desert;
- (b) aids, abets, or is accessory to the desertion of; or
- (c) having reason to believe he is a deserter, harbours or aids in concealing,

any non-commissioned officer or seaman, private or airman of the said forces, is guilty of an offence and is liable to imprisonment for six months.

### **Aiding prisoners of war to escape.**

**47.** Any person who –

- (1) knowingly aids an alien enemy of Her Majesty, being a prisoner of war in the Territory, whether such prisoner is confined in a prison or elsewhere

or is suffered to be at large on his parole, to escape from his prison or place of confinement, or, if he is at large on his parole, to escape from the Territory, is guilty of an offence and is liable to imprisonment for life;

(2) negligently and unlawfully permits the escape of any such person as is mentioned in the last preceding paragraph,

is guilty an offence.

### **Definition of overt act.**

**48.** In the case of any of the offences defined in this Chapter, when the manifestation by an overt act of an intention to effect any purpose is an element of the offence, every act of conspiring with any person to effect that purpose and every act done in furtherance of the purpose by any of the persons conspiring, is deemed to be an overt act manifesting the intention.

### **Definitions.**

**49.** For the purposes of the two next following sections of this Code –

**publication** includes all written or printed matter and everything, whether of a nature similar to written or printed matter or not, containing any visible representation, or by its form, shape, or in any manner capable of suggesting words or ideas, and every copy and reproduction of any publication;

**sedition publication** means a publication having a seditious intention;

**sedition words** means words having a seditious intention.

### **Seditious intentions.**

**50.** (1) A **seditious intention** is an intention –

(a) to bring into hatred or contempt or to excite disaffection against the person of Her Majesty, her heirs or successors, or the Government of the Territory as by law established;

(b) to excite Her Majesty's subjects or inhabitants of the Territory to attempt to procure the alteration, otherwise than by lawful means, of any other matter in the Territory as by law established;

(c) to bring into hatred or contempt or to excite disaffection against the administration of justice in the Territory;

(d) to raise discontent or disaffection amongst Her Majesty's subjects or inhabitants of the Territory; or

(e) to promote feelings of ill-will and hostility between different classes of the population of the Territory.



(2) Despite subsection (1), an act, speech or publication is not seditious by reason only that it intends –

(a) to show that Her Majesty has been misled or mistaken in any of her measures;

(b) to point out errors or defects in the Government or constitution of the Territory as by law established or in legislation or in the administration of justice with a view to the remedying of such errors or defects;

(c) to persuade Her Majesty's subjects or inhabitants of the Territory to attempt to procure by lawful means the alteration of any matter in the Territory as by law established; or

(d) to point out, with a view to their removal, any matters which are producing or have a tendency to produce feelings of ill-will and enmity between different classes of the population of the Territory.

(3) In determining whether the intention with which any act was done, any words were spoken, or any document was published, was or was not seditious, every person shall be deemed to intend the consequences which would naturally follow from his conduct at the time at, and under the circumstances in which, he so conducted himself.

### **Seditious offences.**

**51.** (1) Any person who –

(a) utters any seditious words;

(b) prints, publishes, sells, offers for sale, distributes or reproduces any seditious publication;

(c) imports any seditious publication, unless he has no reason to believe that it is seditious,

shall be guilty of an offence and liable for a first offence to imprisonment for two years or to a fine of £5,000, and for a subsequent offence to imprisonment for three years, and any seditious publication shall be forfeited to Her Majesty.

(2) Any person who without lawful excuse has in his possession any seditious publication shall be guilty of an offence and liable for a first offence to imprisonment for one year or to a fine of £2,500, and for a subsequent offence to imprisonment for two years; and such publication shall be forfeited to Her Majesty.

(3) It shall be a defence to a charge under the preceding subsection that, if the person charged did not know that the publication was seditious when it came into his possession, he did, as soon as the nature of the publication became known to him, deliver the publication to a Police Officer.

(4) No person shall be convicted of an offence under this section on the uncorroborated testimony of one witness.

### **Legal proceedings.**

**52.** (1) No prosecution for an offence under section 51 of this Code shall be begun except within six months after the offence is committed.

(2) A person shall not be prosecuted for an offence under section 51 of this Code without the consent of the Principal Legal Adviser.

### **Unlawful oaths to commit treason or murder.**

**53.** Any person who –

(a) administers, or is present at and consents to the administering of, any oath or engagement in the nature of an oath, purporting to bind the person who takes it to commit treason or murder; or

(b) takes any such oath or engagement, not being compelled to do so,

is guilty of an offence, and is liable to imprisonment for life.

### **Other unlawful oaths to commit offences.**

**54.** Any person who –

(a) administers, or is present at and consents to the administering of, any oath or engagement in the nature of an oath, purporting to bind the person who takes it to act in any of the ways following, that is to say –

(i) to engage in any mutinous or seditious enterprise;

(ii) to commit any offence other than treason or murder;

(iii) to disturb the public peace;

(iv) to be member of any association, society or confederacy formed for the purpose of doing any such act as specified in subsection (a)(i), (ii), or (iii);

(v) to obey the orders or commands of any committee or body of men not lawfully constituted, or of any leader or commander or other person not having authority by law for that purpose;

(vi) not to inform or give evidence against any associate, confederate or other person;

(vii) not to reveal or discover any unlawful association, society or confederacy, or any illegal act done or to be done, or any illegal oath or engagement that may have been administered or tendered to or taken by himself or any other person, or the import of any such oath or engagement, or

(b) takes any such oath or engagement, not being compelled to do so,

is guilty of an offence, and is liable to imprisonment for seven years.

#### **Compulsion how far a defence.**

**55.** A person who takes any such oath or engagement as is mentioned in the two last preceding sections cannot set up as a defence that he was compelled to do so, unless within fourteen days after taking it, or, if he is prevented by actual force or sickness, within fourteen days after the termination of such prevention, he declares by information on oath before a Magistrate the whole of what he knows concerning the matter, including the person or persons by whom and in whose presence, and the place where, and the time when, the oath or engagement was administered or taken.

#### **Unlawful drilling.**

**56.** (1) Any person who –

(a) without the permission of the Commissioner's Representative trains or drills any other person to the use of arms or the practice of military exercises, movements, or evolutions; or

(b) is present at any meeting or assembly of persons, held without the permission of the Commissioner's Representative for the purpose of training or drilling any other persons to the use of arms or the practice of military exercises, movements or evolutions,

is guilty of an offence, and is liable to imprisonment for seven years.

(2) Any person who, at any meeting or assembly held without the permission of the Commissioner's Representative, is trained or drilled to the use of arms or the practice of military exercises, movements, or evolutions, or who

is present at any such meeting or assembly for the purpose of being so trained or drilled, is guilty of an offence.

**Publication of false news likely to cause fear and alarm to the public.**

**57.** (1) Any person who publishes any false statement, rumour or report which is likely to cause fear and alarm to the public or to disturb the public peace is guilty of an offence.

(2) It shall be a defence to a charge under subsection (1) of this section if the accused proves that, prior to publication, he took such measures to verify the accuracy of such statement, rumour or report as to lead him reasonably to believe that it was true.

## **CHAPTER VIII**

### **OFFENCES AFFECTING RELATIONS WITH FOREIGN OR COMMONWEALTH STATES AND EXTERNAL TRANQUILLITY**

**Defamation of foreign princes.**

**58.** Any person who without such justification or excuse as would be sufficient in the case of the defamation of a private person, publishes anything intended to be read, or any sign or visible representation, tending to degrade, revile or expose to hatred or contempt any foreign or Commonwealth Head of State, potentate, ambassador or other foreign or Commonwealth dignitary with intent to disturb peace and friendship between the United Kingdom or the Territory and the country to which such Head of State, potentate, ambassador or dignitary belongs, is guilty of an offence.

**Piracy.**

**59.** Any person who is guilty of piracy or any crime connected with or relating or akin to piracy shall be liable to be tried and punished according to the law of England for the time being in force.

## **CHAPTER IX**

### **UNLAWFUL ASSEMBLIES, RIOTS AND OTHER OFFENCES AGAINST PUBLIC TRANQUILLITY**

**Definitions; Unlawful Assembly and Riot.**

**60.** (1) When three or more persons assemble with intent to commit an offence, or, being assembled with intent to carry out some common purpose, conduct themselves in such a manner as to cause persons in the neighbourhood

reasonably to fear that the persons so assembled will commit a breach of the peace, or will by such assembly needlessly and without any reasonable occasion provoke other persons to commit a breach of the peace they are an unlawful assembly.

(2) It is immaterial that the original assembling was lawful if, being assembled, they conduct themselves with a common purpose in such a manner as specified in subsection (1).

(3) When an unlawful assembly has begun to execute the purpose for which it assembled by a breach of the peace and to the terror of the public, the assembly is called a riot, and the persons assembled are said to be riotously assembled.

### **Punishment of Unlawful Assembly.**

**61.** Any person who takes part in an unlawful assembly is guilty of an offence, and is liable to imprisonment for one year.

### **Punishment of riot.**

**62.** Any person who takes part in a riot is guilty of an offence.

### **Proclamation for rioters or assembly to disperse.**

**63.** A Magistrate, a Police Officer or such other person as the Commissioner may appoint, in whose view twelve or more persons are riotously assembled, or who apprehends that a riot is about to be committed by twelve or more persons assembled within his view, may make or cause to be made a proclamation in the Queen's name, in such form as he thinks fit, commanding the rioters or persons so assembled to disperse peaceably.

### **Dispersal of rioters or persons assembled after proclamation.**

**64.** If, after such proclamation made or if the making of such proclamation has been prevented by force, twelve or more persons continue so assembled together, any person authorised to make a proclamation, or any other person acting in aid of such person, may do all things necessary for dispersing the persons so continuing assembled and for apprehending them or any of them, and, if any person makes resistance, may use all such force as is reasonably necessary for overcoming such resistance, and shall not be liable in any criminal or civil proceeding for having, by the use of such force, caused harm or death to any person.

### **Calling on military forces.**

**65.** (1) If, in the opinion of a person authorised to make a proclamation, the force available is insufficient to disperse such assembly, or is unable to control the situation created by such assembly, such person shall request the military forces, if any, to assist and restore order. Such request shall be made in writing

wherever practicable. Every member of the military forces so requested to assist and restore order shall have the same powers and immunities as a person authorised to make a proclamation under section 63 of this Code.

(2) For the purposes of this section **military forces** include naval and air forces.

#### **Rioting or failure to disperse after proclamation.**

**66.** If a proclamation is made commanding the persons engaged in a riot, or assembled with the purpose of committing a riot, to disperse, every person who, after the making of such proclamation, takes or continues to take part in the riot or assembly, is guilty of an offence and is liable to imprisonment for five years.

#### **Preventing or obstructing the making of proclamation.**

**67.** Any person who forcibly prevents or obstructs the making of such a proclamation as is in section 63 mentioned is guilty of an offence, and is liable to imprisonment for ten years; and if the making of the proclamation is so prevented, every person who, knowing that it has been so prevented, takes or continues to take part in the riot or assembly is guilty of an offence, and is liable to imprisonment for five years.

#### **Rioters demolishing buildings, machinery, etc.**

**68.** Any persons who, being riotously assembled together, unlawfully pull down or destroy or begin to pull down or destroy any building, machinery or structure are guilty of an offence, and each of them is liable to imprisonment for life.

#### **Rioters injuring buildings, machinery, etc.**

**69.** Any persons who, being riotously assembled together, unlawfully damage any of the things in the last preceding section mentioned are guilty of an offence, and each of them is liable to imprisonment for seven years.

#### **Riotously preventing the sailing of ship.**

**70.** All persons are guilty of an offence who, being riotously assembled, unlawfully and with force prevent, hinder, or obstruct the loading or unloading, or the sailing, departure or navigating of any vessel, or unlawfully and with force board any vessel with intent to do so.

#### **Possession of firearms, etc.**

**71.** (1) Any person who, without lawful authority or reasonable excuse, the proof whereof shall lie upon him, carries or has in his possession or under his control any firearm or other offensive weapon, or any ammunition, incendiary material or explosive, in circumstances which raise a reasonable presumption that such firearm, offensive weapon, ammunition, incendiary material or

explosive is intended to be used or has recently been used in a manner or for a purpose prejudicial to public order, is guilty of an offence, and is liable to imprisonment for seven years.

(2) Any person who consorts with, or is found in the company of, another person who, in contravention of subsection (1) of this section, is carrying or has in his possession or under his control any firearm or other offensive weapon, or any ammunition, incendiary material or explosive, in circumstances which raise a reasonable presumption that he intends to act or has recently acted with such other person in a manner or for a purpose prejudicial to public order, is guilty of an offence, and is liable to imprisonment for five years.

(3) Any person who knowingly negotiates, procures, arranges for, or is in any way concerned in or assists, the delivery to any other person, or the delivery by any person to any other person, of any firearm or other offensive weapon, or any ammunition, incendiary material or explosive, whether by way of sale, hire, gift, loan or otherwise, in circumstances which raise a reasonable presumption that he knew or believed that such firearm, offensive weapon, ammunition, incendiary material or explosive was intended or likely to be used by any person in a manner or for a purpose prejudicial to public order, is guilty of an offence, and is liable to imprisonment for five years.

(4) Any person who, without lawful authority or reasonable excuse, the proof whereof shall lie upon him, has with him in any public place an offensive weapon, is guilty of an offence, and is liable to a fine of £5,000 or to imprisonment for one year.

(5) Where any person is convicted of an offence under this section any weapon or other article in respect of which the offence was committed shall be forfeited to the Crown.

(6) A person shall not be prosecuted for an offence under this section, other than an offence under subsection (4), without the consent of the Principal Legal Adviser.

(7) In any prosecution for an offence under this section, it shall be presumed, until the contrary is proved, that a weapon having the appearance of a firearm is a firearm.

(8) In this section –

(a) **ammunition** means ammunition for any firearm and includes grenades, bombs and other like missiles whether capable of use with such a firearm or not, and any ammunition containing or designed or adapted to contain any noxious liquid, gas or other thing;

(b) **firearm** means any lethal barrelled weapon of any description, including an airgun and air pistol, from which any shot, bullet or other missile can be discharged or which can be

adapted for the discharge of any such shot, bullet or other missile, and any weapon of whatever description designed or adapted for the discharge of any noxious liquid, gas or other thing, and includes the barrel, bolt and chamber, and any other essential component part, of any such a weapon;

(c) **incendiary material** means any material capable of being used for causing damage to property by fire and intended by the person having it in his possession or under his control for such use; and

(d) **offensive weapon** means any article made or adapted for use for causing injury to the person or intended by any person having it with him for such use by him and includes any axe, hatchet, cutlass, knife or club.

### **Forcible entry.**

**72.** (1) Any person who, in order to take possession thereof enters on any lands or tenements in a violent manner, whether such violence consists in actual force applied to any other person or in threats or in breaking open any house or in collecting an unusual number of people, is guilty of the offence termed forcible entry.

(2) It is immaterial whether he is entitled to enter on the land or not:

Provided that a person who enters upon lands or tenements of his own, but which are in the custody of his servant or bailiff, does not commit the offence of forcible entry.

### **Forcible detainer.**

**73.** Any person who, being in actual possession of land without colour of right, holds possession of it in a manner likely to cause a breach of the peace or reasonable apprehension of a breach of the peace against a person entitled by law to the possession of the land is guilty of the offence termed forcible detainer.

### **Affray.**

**74.** Any person who takes part in a fight in a public place is guilty of an offence, and liable to imprisonment for one year.

### **Challenge to a duel.**

**75.** Any person who challenges another to fight a duel, or attempts to provoke another to fight a duel, or attempts to provoke any person to challenge another to fight a duel, is guilty of an offence.



**Threatening violence, etc.**

**76.** Any person who –

(a) threatens another with any injury, damage, harm or loss to any person or property with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as a means of avoiding the execution of such threat; or

(b) discharges any loaded firearm or commits any breach of the peace with intent to alarm any person,

is guilty of an offence, and is liable to imprisonment for five years.

**Proposing violence or breaches of the law to assemblies.**

**77.** (1) Any person, who without lawful excuse, the proof whereof shall lie upon him, to any assembly makes any statement indicating or implying that it would be incumbent or desirable –

(a) to do any acts calculated to bring death or physical injury to any person or to any class or community of persons;

(b) to do any acts calculated to lead to destruction or damage to any property; or

(c) to commit an offence against any law in force in the Territory;

is guilty of an offence, and is liable to imprisonment for seven years:

Provided that a statement which expresses mere disapproval of a law shall, to that extent only, be held not to be a statement which indicates or implies that it would be incumbent or desirable to commit an offence against such law.

(2) A person shall not be prosecuted for an offence under paragraph (c) of subsection (1) of this section without the consent of the Principal Legal Adviser.

**Assembling for the purpose of smuggling.**

**78.** Any persons who assemble together, to the number of two or more, for the purpose of unshipping, carrying, or concealing any goods subject to customs duty and liable to forfeiture under any law relating to the customs, are guilty of an offence, and each of them is liable to a fine of £5,000 or to imprisonment for six months.

**DIVISION II**  
**OFFENCES AGAINST THE ADMINISTRATION OF LAWFUL**  
**AUTHORITY**

**CHAPTER X**  
**CORRUPTION AND THE ABUSE OF OFFICE**

**Official corruption.**

**79.** Any person who –

(a) being employed in the public service, and being charged with the performance of any duty by virtue of such employment, corruptly solicits, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person on account of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by him in the discharge of the duties of his office; or

(b) corruptly gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt to procure, to, upon, or for any person employed in the public service, or to, upon, or for any other person, any property or benefit of any kind on account of any such act or omission on the part of the person so employed,

is guilty of an offence, and is liable to imprisonment for three years.

**Extortion by public officers.**

**80.** Any person who, being employed in the public service, takes or accepts from any person for the performance of his duty as such officer, any reward beyond his proper pay and emoluments, or any promise of such reward, is guilty of an offence, and is liable to imprisonment for three years.

**Public officers receiving property to show favour.**

**81.** Any person who, being employed in the public service, receives any property or benefit of any kind for himself, on the understanding, express or implied, that he shall favour the person giving the property or conferring the benefit, or any one in whom that person is interested, in any transaction then pending or likely to take place, between the person giving the property or conferring the benefit, or any one in whom he is interested, and any person employed in the public service, is guilty of an offence, and liable to imprisonment for six months.

### **False claims by officials.**

**82.** Any person who, being employed in the public service in such a capacity as to require him or to enable him to furnish returns or statements touching any sum payable or claimed to be payable to himself or to any other person, or touching any other matter required to be certified for the purpose of any payment of money or delivery of goods to be made to any person, makes a return or statement touching any such matter which is, to his knowledge, false in any material particular, is guilty of an offence.

### **Abuse of office.**

**83.** (1) Any person who, being employed in the public service, does or directs to be done, in abuse of the authority of his office, any arbitrary act prejudicial to the rights of another is guilty of an offence.

(2) If the act is done or directed to be done for the purposes of gain he is guilty of an offence, and is liable to imprisonment for three years.

(3) A prosecution for any offence under this or the last preceding section shall not be instituted except with the consent of the Principal Legal Adviser.

### **False certificates by public officers.**

**84.** Any person who, being authorised or required by law to give any certificate touching any matter by virtue whereof the rights of any person may be prejudicially affected, gives a certificate which is, to his knowledge, false in any particular, is guilty of an offence.

### **False assumption of authority.**

**85.** Any person who –

(a) not being a Judicial Officer, assumes to act as a Judicial Officer;

(b) without authority assumes to act as a person having authority by law to administer an oath or take a solemn declaration or affirmation or affidavit or to do any other act of a public nature which can only be done by persons authorised by law to do so; or

(c) represents himself to be a person authorised by law to sign a document testifying to the contents of any register or record kept by lawful authority, or testifying to any fact or event, and signs such document as being so authorised, when he is not, and knows that he is not, in fact, so authorised,

is guilty of an offence.

### **Personating public officers.**

**86.** Any person who –

(a) personates any person employed in the public service on an occasion when the latter is required to do any act or attend in any place by virtue of his employment; or

(b) falsely represents himself to be a person employed in the public service, and assumes to do any act or to attend in any place for the purpose of doing any act by virtue of such employment,

is guilty of an offence, and is liable to imprisonment for three years.

### **Threat of injury to persons employed in public service.**

**87.** Whoever holds out any threat of injury to any person employed in the public service, or to any person in whom he believes that person employed in the public service to be interested, for the purpose of inducing that person employed in the public service to do any act or to forbear or delay to do any act connected with the exercise of the public functions of such person employed in the public service, is guilty of an offence.

## **CHAPTER XI**

### **OFFENCES RELATING TO THE ADMINISTRATION OF JUSTICE**

#### **Perjury and subornation of perjury.**

**88.** (1) Any person who, in any judicial proceeding, or for the purpose of instituting any judicial proceeding, knowingly gives false testimony touching any matter which is material to any question then depending in that proceeding or intended to be raised in that proceeding, is guilty of perjury.

(2) For the purposes of this section –

(a) it is immaterial whether –

(i) the testimony is given on oath or under any other sanction authorised by law, or (where applicable) if he has been admonished in accordance with the proviso to section 119 of the Criminal Procedure Code 2019;

(ii) the false testimony is given orally or in writing (including a statement tendered in evidence in criminal proceedings in pursuance of section 129 of the Criminal Procedure Code 2019);

(iii) the court or tribunal is properly constituted, or is held in the proper place or not, if it actually acts as a court or tribunal in the proceeding in which the testimony is given;

(iv) the person who gives the testimony is a competent witness or not, or whether the testimony is admissible in the proceeding or not, and

(b) The forms and ceremonies used in administering the oath or in otherwise binding the person giving the testimony to speak the truth are immaterial, if he assents to the forms and ceremonies actually used.

(2) Any person who aids, abets, counsels, procures, or suborns another person to commit perjury is guilty of subornation of perjury.

#### **False statements by interpreters.**

**89.** If any person, lawfully sworn as an interpreter in a judicial proceeding, wilfully makes a statement material in the proceeding which he knows to be false, or does not believe to be true, he shall be guilty of perjury.

#### **Punishment of perjury and subornation.**

**90.** Any person who commits perjury or suborns perjury is liable to imprisonment for seven years:

Provided that a child of tender years who commits perjury when giving unsworn evidence under the proviso to section 119 of the Criminal Procedure Code 2019 shall be liable to imprisonment for one month.

#### **Evidence on charge of perjury.**

**91.** A person cannot be convicted of committing perjury or of subornation of perjury solely upon the evidence of one witness as to the falsity of any statement alleged to be false.

#### **Contradictory statements.**

**92.** (1) Where a witness in any judicial proceedings (other than a person accused of an offence in criminal proceedings) has made a statement on oath or affirmation of some fact relevant in the proceedings, contradicting in a material detail a previous statement made on oath or affirmation by the same witness before the same court or any other court or tribunal, such witness, if a court is satisfied that either of such statements was made with intent to deceive, is guilty of an offence.

(2) Upon the trial of any person for an offence under this section, it shall not be necessary to prove the falsity of either of the contradictory statements, but, upon proof that both the statements were made by him, the court, if satisfied

that the statements, or either of them, were or was made with intent to deceive, shall convict the accused.

(3) At the trial of any person for an offence under this section, the record of a court or tribunal containing any statement made on oath or affirmation by the person charged shall be prima facie evidence of such statement.

(4) For the avoidance of doubt, it is hereby declared that a person shall be liable to be convicted of an offence under this section despite the fact that any statement made by him before a court or tribunal was made in reply to a question which he was bound by law to answer, and any such statement shall be admissible in any proceedings under this section.

(5) In this section **statement** includes a written statement tendered in evidence in pursuance of section 129 of the Criminal Procedure Code 2019.

### **Fabricating evidence.**

**93.** Any person who, with intent to mislead any tribunal in any judicial proceeding –

(a) fabricates evidence by any means other than perjury or subornation of perjury; or

(b) knowingly makes use of such fabricated evidence,

is guilty of an offence, and is liable to imprisonment for seven years.

### **False swearing.**

**94.** Any person who swears falsely or makes a false affirmation or declaration before any person authorised to administer an oath or take a declaration upon a matter of public concern, under such circumstances that the false swearing or declaration if committed in a judicial proceeding would have amounted to perjury, is guilty of an offence.

### **Deceiving witness**

**95.** Any person who practices any fraud or deceit, or knowingly makes or exhibits any false statement, representation, token or writing, to any person called or to be called as a witness in any judicial proceeding, with intent to affect the testimony of such person as a witness, is guilty of an offence.

### **Destroying evidence.**

**96.** Any person who, knowing that any book, document or thing of any kind whatsoever, is or may be required in evidence in a judicial proceeding, wilfully removes or destroys it or renders it illegible or undecipherable or incapable of identification, with intent thereby to prevent it from being used in evidence, is guilty of an offence.

### **Conspiracy or attempt to defeat justice and interfere with witnesses.**

**97.** Any person commits an offence who –

(a) conspires with any other person to accuse any person falsely of any crime or conspires or does or attempts to do anything to obstruct, prevent, pervert or defeat the course of justice;

(b) in order to obstruct the due course of justice, dissuades, hinders or prevents any person lawfully bound to appear and give evidence as a witness from so appearing and giving evidence, or endeavours to do so; or

(c) obstructs or in any way interferes with or knowingly prevents the execution of any legal process, civil or criminal.

### **Compounding offences.**

**98.** Any person who asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person upon any agreement or understanding that he will compound an offence, or will abstain from, discontinue, or delay a prosecution for an offence, or will withhold any evidence thereof, is guilty of an offence.

### **Compounding penal actions.**

**99.** Any person who, having brought, or under pretence of bringing, an action against another person upon a penal Ordinance or statute in order to obtain from him a penalty for any offence committed or alleged to have been committed by him, compounds the action without the order or consent of the court in which the action is brought or is to be brought, is guilty of an offence.

### **Concealing offences.**

**100.** (1) Where a person has committed an offence, any other person who, knowing or believing that the offence or some other offence has been committed, and that he has information which might be of material assistance in securing the prosecution or conviction of an offender for it, accepts or agrees to accept for not disclosing that information any consideration other than the making good of loss or injury caused by the offence, or the making of reasonable compensation for that loss or injury, shall be guilty of an offence.

(2) A person shall be deemed to conceal his knowledge of an offence if, without lawful excuse, he fails or refuses to disclose to proper authority all material facts known to him relative to such offence.

### **Advertisements for stolen property.**

**101.** Any person who –

(a) publicly offers a reward for the return of any property which has been stolen or lost, and in the offer makes use of any words purporting that no questions will be asked, or that the person producing such property will be safe from apprehension or inquiry;

(b) publicly offers to return to any person who may have bought, or advanced money by way of loan upon, any stolen or lost property the money so paid or advanced, or any other sum of money or reward for the return of such property; or

(c) prints or publishes any such offer,

is guilty of an offence and is liable to a fine of £1,000.

### **Offences relating to judicial proceedings.**

**102.** (1) Any person who –

(a) within the premises in which any judicial proceeding is being had or taken, or within the precincts of the same, shows disrespect, in speech or manner, to or with reference to such proceeding, or any person before whom such proceeding is being had or taken;

(b) having been called upon to give evidence in a judicial proceeding, without reasonable excuse fails to attend, or having attended, refuses to be sworn or to make an affirmation or, having been sworn or affirmed, refuses without lawful excuse to answer a question or to produce a document, or remains in the room in which such proceeding is being had or taken, after the witnesses have been ordered to leave such room;

(c) causes an obstruction or disturbance in the course of a judicial proceeding; or

(d) while a judicial proceeding is pending, makes use of any speech or writing misrepresenting such proceeding or capable of prejudicing any person in favour of or against any parties to such proceeding, or calculated to lower the authority of any person before whom such proceeding is being had or taken;

(e) publishes a report of the evidence taken in any judicial proceedings which has been directed to be held in private;

(f) attempts wrongfully to interfere with or influence a witness in a judicial proceeding, either before or after he has given evidence, in connection with such evidence;



(g) dismisses an employee because he has given evidence on behalf of a certain party to a judicial proceeding;

(h) wrongfully retakes possession of land from any person who has recently obtained possession by a writ of court; or

(i) commits any other act of intentional disrespect to any judicial proceeding, or to any person before whom such proceeding is being had or taken,

is guilty of an offence, and is liable to imprisonment for three months.

(2) When any offence against paragraphs (a), (b), (c), (d) or (i) of subsection (1) of this section is committed in view of the court, the court may cause the offender to be detained in custody and at any time before the rising of the court on the same day may take cognisance of the offence and sentence the offender to a fine of £500 or to imprisonment for one month.

(3) The provisions of this section shall be deemed to be in addition to and not in derogation from the power of the Supreme Court to punish for contempt of court.

### **Consent of Principal Legal Adviser**

**103.** No prosecution for an offence under sections 90, 92 or 94 of this Code shall be commenced without the consent of the Principal Legal Adviser.

## **CHAPTER XII**

### **RESCUES, ESCAPES AND OBSTRUCTING OFFICERS OF COURT OF LAW**

#### **Rescue.**

**104.** (1) Any person, who by force rescues or attempts to rescue from lawful custody any other person –

(a) is, if such last-named person is under sentence of imprisonment for life, or charged with an offence punishable with imprisonment for life, guilty of an offence, and is liable to imprisonment for life; and

(b) is, if such other person is imprisoned on a charge or under sentence for any offence other than those specified above, guilty of an offence, and is liable to imprisonment for seven years; and

(c) is, in any other case, guilty of an offence.

(2) If the person rescued is in the custody of a private person, the offender must have notice of the fact that the person rescued is in such custody.

### **Escape.**

**105.** Any person who, being in lawful custody, escapes from such custody, is guilty of an offence.

### **Aiding prisoners to escape.**

**106.** Any person who –

(a) aids a prisoner in escaping or attempting to escape from lawful custody, or

(b) conveys anything or causes anything to be conveyed into a prison with intent to facilitate the escape of a prisoner,

is guilty of an offence, and is liable to imprisonment for seven years.

### **Removal, etc., of property under lawful seizure.**

**107.** Any person who, when any property has been attached or taken under the process of authority of any court, knowingly, and with intent to hinder or defeat the attachment or process, receives, removes, retains, conceals or disposes of such property, is guilty of an offence, and is liable to imprisonment for three years.

### **Obstructing court officers.**

**108.** Any person who wilfully obstructs or resists any person lawfully charged with the execution of an order or warrant of any court is guilty of an offence and is liable to imprisonment for one year.

## **CHAPTER XIII**

### **MISCELLANEOUS OFFENCES AGAINST PUBLIC AUTHORITY**

#### **Frauds and breaches of trust by public officers.**

**109.** Any person employed in the public service who, in the discharge of the duties of his office, commits any fraud or breach of trust affecting the public, whether such fraud or breach of trust would have been criminal or not if committed against a private person, is guilty of an offence.

### **Neglect of official duty.**

**110.** Every person employed in the public service who wilfully neglects to perform any duty which he is bound either by common law or by statute or Ordinance to perform, provided that the discharge of such duty is not attended with greater danger than a man of ordinary firmness and activity may be expected to encounter, is guilty of an offence.

### **False information to person employed in the public service.**

**111.** Whoever gives to any person employed in the public service any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause such person employed in the public service –

(a) to do or omit anything which such person employed in the public service ought to do or omit if the true state of facts respecting which such information is given were known to him;

(b) to use the lawful power of such person employed in the public service to the injury or annoyance of any person; or

(c) to devote his time and services to the investigation of such information,

is guilty of an offence and is liable to imprisonment for six months or to a fine of £2,500.

### **Disobedience of statutory duty.**

**112.** Everyone who wilfully disobeys any statute or Ordinance by doing any act which it forbids, or by omitting to do any act which it requires to be done, and which concerns the public or any part of the public, is guilty of an offence, and is liable, unless it appears from the statute or Ordinance that it was the intention of the Legislature to provide some other penalty for such disobedience, to imprisonment for two years.

### **Disobedience of lawful orders.**

**113.** Everyone who disobeys any order, warrant or command duly made, issued or given by any court, officer or person acting in any public capacity and duly authorised in that behalf is guilty of an offence, and is liable, unless any other penalty or mode of proceeding is expressly prescribed in respect of such disobedience, to imprisonment for two years.

### **DIVISION III**

#### **OFFENCES INJURIOUS TO THE PUBLIC IN GENERAL**

##### **CHAPTER XIV**

##### **OFFENCES RELATING TO RELIGION**

###### **Insult to religion of any class.**

**114.** Any person who destroys, damages or defiles any place of worship or any object which is held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, is guilty of an offence.

###### **Disturbing religious assemblies.**

**115.** Any person who voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremony is guilty of an offence.

###### **Trespassing on burial places or place of worship.**

**116.** Every person who with the intention of wounding the feelings of any person or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby, commits any trespass in any place of worship or in any place of burial or cremation or in any place set apart for the performance of funeral rites or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the purpose of funeral ceremonies, is guilty of an offence.

###### **Writing or uttering words with intent to wound religious feelings.**

**117.** Any person who, with the deliberate intention of wounding the religious feelings of any other person, writes any word, or any person who, with the like intention, utters any word or makes any sound in the hearing of any other person or makes any gesture or places any object in the sight of any other person, is guilty of an offence, and is liable to imprisonment for one year.

###### **Hindering burial of dead body, etc.**

**118.** (1) Whoever unlawfully hinders the burial of the dead body of any person, or without lawful authority in that behalf disinters, dissects or harms the dead body of any person, or being under a duty to cause the dead body of any person to be buried, fails to perform such duty, is guilty of an offence.

(2) In this section the word **burial** means burial in earth, interment or any other form of burial or the cremation or any other mode of disposal of a dead body, and **buried** has a corresponding meaning.

## **CHAPTER XV**

### **SEXUAL OFFENCES**

#### **Definition of rape.**

**119.** (1) A person (A) commits an offence of rape if –

(a) he intentionally penetrates the vagina, anus or mouth of another person (B) with his penis;

(b) B does not consent to the penetration; and

(c) A does not reasonably believe that B consents.

(2) Whether a belief is reasonable is to be determined having regard to all the circumstances, including any steps A has taken to ascertain whether B consents.

(3) Section 146 applies to an offence under this section.

(4) A person guilty of an offence under this section is liable on conviction to imprisonment for life.

#### **Assault by penetration.**

**120.** (1) A person (A) commits an offence of assault by penetration if –

(a) he intentionally penetrates the vagina or anus of another person (B) with a part of his body or anything else;

(b) the penetration is sexual;

(c) B does not consent to the penetration; and

(d) A does not reasonably believe that B consents.

(2) Whether a belief is reasonable is to be determined having regard to all the circumstances, including any steps A has taken to ascertain whether B consents.

(3) Section 146 applies to an offence under this section.

(4) A person guilty of an offence under this section is liable on conviction to imprisonment for life.

**Sexual assault.**

**121.** (1) A person (A) commits an offence of sexual assault if –

- (a) he intentionally touches another person (B);
- (b) the touching is sexual;
- (c) B does not consent to the touching; and
- (d) A does not reasonably believe that B consents.

(2) Whether a belief is reasonable is to be determined having regard to all the circumstances, including any steps A has taken to ascertain whether B consents.

(3) Section 146 applies to an offence under this section.

(4) A person guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding 10 years.

**Causing a person to engage in sexual activity without consent.**

**122.** (1) A person (A) commits an offence of causing a person to engage in sexual activity without consent if –

- (a) he intentionally causes another person (B) to engage in an activity;
- (b) the activity is sexual;
- (c) B does not consent to engaging in the activity; and
- (d) A does not reasonably believe that B consents.

(2) Whether a belief is reasonable is to be determined having regard to all the circumstances, including any steps A has taken to ascertain whether B consents.

(3) Section 146 applies to an offence under this section.

(4) A person guilty of an offence under this section, if the activity caused involved –

- (a) penetration of B's anus or vagina;
- (b) penetration of B's mouth with a person's penis;

(c) penetration of a person's anus or vagina with a part of B's body or by B with anything else; or

(d) penetration of a person's mouth with B's penis,

is liable on conviction to imprisonment for life.

(5) Unless subsection (4) applies, a person guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding 10 years.

**Consent of child under 13 to be disregarded.**

**123.** The consent or alleged consent of a child under the age of 13 years to any of the activities constituting offences under sections 119 to 122 shall be disregarded in respect of any such offence.

**Sexual activity with a child.**

**124.** (1) A person (A) commits an offence of sexual activity with a child if –

(a) he intentionally touches another person (B);

(b) the touching is sexual; and

(c) either –

(i) B is under 16 and A does not reasonably believe that B is 16 or over; or

(ii) B is under 13.

(2) A person aged 18 or over guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding 14 years.

(3) A person aged under 18 guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding 5 years.

(4) Section 128 applies to an offence under this section.

**Causing or inciting a child to engage in sexual activity.**

**125.** (1) A person (A) commits an offence of causing or inciting a child to engage in sexual activity if –

(a) he intentionally causes or incites another person (B) to engage in an activity;

(b) the activity is sexual; and

(c) either –

(i) B is under 16 and A does not reasonably believe that B is 16 or over; or

(ii) B is under 13.

(2) A person aged 18 or over guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding 14 years.

(3) A person aged under 18 guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding 5 years.

(4) Section 128 applies to an offence under this section.

**Engaging in sexual activity in the presence of a child.**

**126.** (1) A person (A) commits an offence of engaging in sexual activity in the presence of a child if –

(a) he intentionally engages in an activity;

(b) the activity is sexual;

(c) for the purpose of obtaining sexual gratification, he engages in it –

(i) when another person (B) is present or is in a place from which A can be observed; and

(ii) knowing or believing that B is aware, or intending that B should be aware, that he is engaging in it; and

(d) either –

(i) B is under 16 and A does not reasonably believe that B is 16 or over; or

(ii) B is under 13.

(2) A person aged 18 or over guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding 10 years.

(3) A person aged under 18 guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding 5 years.

(4) Section 128 applies to an offence under this section.



**Causing a child to watch a sexual act.**

**127.** (1) A person (A) commits an offence of causing a child to watch a sexual act if –

(a) for the purpose of obtaining sexual gratification, he intentionally causes another person (B) to watch a third person engaging in an activity, or to look at an image of any person engaging in an activity;

(b) the activity is sexual; and

(c) either –

(i) B is under 16 and A does not reasonably believe that B is 16 or over; or

(ii) B is under 13.

(2) A person aged 18 or over guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding 10 years.

(3) A person aged under 18 guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding 5 years.

(4) Section 128 applies to an offence under this section.

**Exception for spouses and civil partners.**

**128.** (1) Conduct by a person (A) which would otherwise be an offence under any of sections 124 to 127 and 132 against another person (B) is not an offence under that section if at the time –

(a) B is 16 or over; and

(b) A and B are lawfully married or civil partners of each other.

(2) In proceedings for such an offence it is for the defendant to prove that A and B were at the time lawfully married or civil partners of each other.

**Administering a substance with intent to engage in sexual activity.**

**129.** (1) A person commits an offence of administering a substance with intent to engage in sexual activity if he intentionally administers a substance to, or causes a substance to be taken by, another person (B) –

(a) knowing that B does not consent; and

(b) with the intention of stupefying or overpowering B, so as to enable any person to engage in a sexual activity that involves B.

(2) A person guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding 10 years.

**Abduction, threats or false representations and committing an offence with intent to commit a sexual offence.**

**130.** (1) A person (A) commits an offence under this section if –

(a) he with the intention of committing a relevant sexual offence with another (B) of any age, or to cause B to be the subject of a relevant sexual offence with any other person, takes B away, or detains B, against the will of B; or if

(b) by threats, or intimidation, or false pretences, or false representations he procures another person (B) to engage in a sexual activity; or if

(c) he commits any offence with the intention of committing a relevant sexual offence.

(2) In this section, **relevant sexual offence** means any offence under this Part (including an offence of aiding, abetting, counselling or procuring such an offence).

(3) A person guilty of an offence under this section is liable on conviction where the offence is committed by kidnapping or false imprisonment to imprisonment for life.

(4) Unless subsection (3) applies, a person guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding 10 years.

**Trespass with intent to commit a sexual offence.**

**131.** (1) A person commits an offence if –

(a) he is a trespasser on any premises;

(b) he intends to commit a relevant sexual offence on the premises; and

(c) he knows that, or is reckless as to whether, he is a trespasser.

(2) In this section –

**premises** includes a structure or part of a structure;

**relevant sexual offence** has the same meaning as in section 130;

**structure** includes a tent, vehicle or vessel or other temporary or movable structure.

(3) A person guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding 10 years.

**Sexual activity with a child family member.**

**132.** (1) A person (A) commits an offence if –

- (a) (i) he intentionally touches another person (B); or  
(ii) he intentionally incites another person (B) to touch, or allow himself to be touched by A;

and

- (b) the touching is sexual;
- (c) the relation of A to B is within section 133;
- (d) A knows or could reasonably be expected to know that his relation to B is of a description falling within that section; and
- (e) either –
  - (i) B is under 18 and A does not reasonably believe that B is 18 or over; or
  - (ii) B is under 13.

(2) Where in proceedings for an offence under this section it is proved that the other person was under 18, the defendant is to be taken not to have reasonably believed that that person was 18 or over unless sufficient evidence is adduced to raise an issue as to whether he reasonably believed it.

(3) Where in proceedings for an offence under this section it is proved that the relation of the defendant to the other person was of a description falling within section 133, it is to be taken that the defendant knew or could reasonably have been expected to know that his relation to the other person was of that description unless sufficient evidence is adduced to raise an issue as to whether he knew or could reasonably have been expected to know that it was.

(4) A person guilty of an offence under this section, if aged 18 or over at the time of the offence, is liable on conviction to imprisonment for a term not exceeding 14 years.

(5) Unless subsection (4) applies, a person guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding 5 years.

(6) Section 128 applies to an offence under this section.

**Family relationships.**

**133.** (1) The relation of one person (A) to another (B) is within this section if –

(a) one of them is the other's parent, grandparent, brother, sister, half-brother, half-sister, aunt or uncle, and is not so only by reason of lawful adoption; or

(b) A is or has been B's foster parent.

(2) For the purposes of this section –

**aunt** means the sister or half-sister of a person's parent, and **uncle** has a corresponding meaning.

**Sexual activity with a person with a mental disorder impeding choice.**

**134.** (1) A person (A) commits an offence if –

(a) (i) he intentionally touches another person (B); or

(ii) he intentionally causes or incites another person (B) to engage in an activity;

and

(b) the touching or activity is sexual;

(c) B is unable to refuse because of or for a reason related to a mental disorder; and

(d) A knows or could reasonably be expected to know that B has a mental disorder and that because of it or for a reason related to it B is likely to be unable to refuse.

(2) B is unable to refuse if –

(a) he lacks the capacity to choose whether to agree to the touching (whether because he lacks sufficient understanding of the nature or reasonably foreseeable consequences of what is being done, or for any other reason); or

(b) he is unable to communicate such a choice to A.

(3) A person guilty of an offence under this section, if the touching involved –

- (a) penetration of B's anus or vagina with a part of A's body or anything else;
- (b) penetration of B's mouth with A's penis;
- (c) penetration of A's anus or vagina with a part of B's body; or
- (d) penetration of A's mouth with B's penis,

is liable on conviction to imprisonment for life.

(4) Unless subsection (3) applies, a person guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding 14 years.

(5) In this Ordinance **mental disorder** means mental illness, arrested or incomplete development of mind, psychopathic disorder and any other disorder or disability of mind and **mentally disordered** shall be construed accordingly.

#### **Paying for sexual services of a child.**

**135.** (1) A person (A) commits an offence if –

- (a) he intentionally obtains for himself the sexual services of another person (B);
- (b) before obtaining those services, he has made or promised payment for those services to B or a third person, or knows that another person has made or promised such a payment; and
- (c) either –
  - (i) B is under 18, and A does not reasonably believe that B is 18 or over; or
  - (ii) B is under 13.

(2) In this section, **payment** means any financial advantage, including the discharge of an obligation to pay or the provision of goods or services (including sexual services) gratuitously or at a discount.

(3) A person guilty of an offence under this section against a person under 13, where subsection (6) applies, is liable on conviction to imprisonment for life.

(4) Unless subsection (3) applies, a person guilty of an offence under this section against a person under 16 is liable to imprisonment for a term not exceeding 14 years.

(5) Unless subsection (3) or (4) applies, a person guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding 7 years.

(6) This subsection applies where the offence involved –

- (a) penetration of B's anus or vagina with a part of A's body or anything else;
- (b) penetration of B's mouth with A's penis;
- (c) penetration of A's anus or vagina with a part of B's body or by B with anything else; or
- (d) penetration of A's mouth with B's penis.

**Causing, inciting, controlling, arranging, or facilitating child prostitution or pornography.**

**136.** (1) A person (A) commits an offence if –

- (a)
  - (i) he intentionally causes or incites another person (B) to become a prostitute, or to be involved in pornography, in any part of the world;
  - (ii) he intentionally controls any of the activities of another person (B) relating to B's prostitution or involvement in pornography in any part of the world;
  - (iii) he intentionally arranges or facilitates the prostitution or involvement in pornography in any part of the world of another person (B); or
  - (iv) being the owner or occupier of premises, or having or acting or assisting in the management or control thereof, he induces or allows another person (B) to engage in prostitution in or upon such premises,

and

(b) either –

- (i) B is under 18, and A does not reasonably believe that B is 18 or over; or
- (ii) B is under 13.

(2) A person guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding 14 years.

(3) For the purposes of this section a person is involved in pornography if an indecent image of that person is recorded; and similar expressions, and **pornography**, are to be interpreted accordingly.

(4) In this sections **prostitute** means a person (A) whether male or female who, on at least one occasion and whether or not compelled to do so, offers or provides sexual services to another person in return for payment or a promise of payment to A or a third person; and **prostitution** is to be interpreted accordingly.

(5) In subsection (4), **payment** means any financial advantage, including the discharge of an obligation to pay or the provision of goods or services (including sexual services) gratuitously or at a discount.

### **Causing, inciting, or controlling prostitution for gain.**

**137.** (1) A person commits an offence if –

- (a) (i) he intentionally causes or incites another person to become a prostitute in any part of the world; or
- (ii) he intentionally controls any of the activities of another person relating to that person's prostitution in any part of the world,

and

- (b) he does so for or in the expectation of gain for himself or a third person.

(2) A person guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding 7 years.

(3) In this section –

**gain** means:

- (a) any financial advantage, including the discharge of an obligation to pay or the provision of goods or services (including sexual services) gratuitously or at a discount; or
- (b) the goodwill of any person which is or appears likely, in time, to bring financial advantage.

**prostitute** and **prostitution** have the meaning given by section 136(4).

### **Brothels.**

**138.** (1) A person commits an offence if he –

- (a) keeps or manages, or acts or assists in the keeping or management of a brothel;

(b) being the tenant, lessee or occupier or person in charge of any premises, knowingly permits such premises or any part thereof to be used as a brothel; or

(c) being the lessor or landlord of any premises, or the agent of such lessor or landlord, lets the same or any part thereof with the knowledge that such premises or any part thereof are or is to be used as a brothel, or is wilfully a party to the continued use of such premises or any part thereof as a brothel.

(2) In this section –

**brothel** shall mean any premises or part thereof resorted to by persons of both sexes for the purpose of prostitution whether any prostitute involved is male or female, and

**prostitute** and **prostitution** have the meaning given by section 136(4).

(3) A person guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding 2 years.

#### **Soliciting for the purpose of prostitution.**

**139.** (1) A person commits an offence if he solicits another person (or different persons) for the purpose of prostitution –

(a) from a motor vehicle while it is in a street or public place; or

(b) in a street or public place while in the immediate vicinity of a motor vehicle that he has just got out of or off,

persistently or, in such manner or in such circumstances as to be likely to cause annoyance to the person (or any of the persons) solicited, or nuisance to other persons in the neighbourhood.

(2) A person commits an offence if in a street or public place he persistently solicits another person (or different persons) for the purpose of prostitution.

(3) A person guilty of an offence under this section shall be liable on conviction to a fine of £5,000.

#### **Sexual penetration of an adult relative.**

**140.** (1) A person aged 16 or over (A) commits an offence if –

(a) (i) he intentionally penetrates another person's vagina or anus with a part of his body or anything else, or penetrates another person's mouth with his penis; or if



(ii) another person (B) penetrates A's vagina or anus with a part of B's body or anything else, or penetrates A's mouth with B's penis,

(b) the penetration is sexual;

(c) the other person (B) is aged 18 or over;

(d) A is related to B in a way mentioned in subsection (2); and

(e) A knows or could reasonably be expected to know that he is related to B in that way.

(2) The ways that A may be related to B are as parent, grandparent, child, grandchild, brother, sister, half-brother, half-sister, uncle, aunt, nephew or niece.

(3) In subsection (2) –

**uncle** means the brother of a person's parent, and **aunt** has a corresponding meaning;

**nephew** means the child of a person's brother or sister, and **niece** has a corresponding meaning.

(4) Where in proceedings for an offence under this section it is proved that the defendant was related to the other person in any of those ways, it is to be taken that the defendant knew or could reasonably have been expected to know that he was related in that way unless sufficient evidence is adduced to raise an issue as to whether he knew or could reasonably have been expected to know that he was.

(5) A person guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding 2 years.

### **Exposure.**

**141.** (1) A person commits an offence if –

(a) he intentionally exposes his genitals; and

(b) he intends that someone will see them and be caused alarm or distress.

(2) A person guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding 2 years.

### **Voyeurism.**

**142.** (1) A person commits an offence if –

(a) for the purpose of obtaining sexual gratification, he observes another person doing a private act; and

(b) he knows that the other person does not consent to being observed for his sexual gratification.

(2) A person commits an offence if –

(a) he operates equipment with the intention of enabling another person to observe, for the purpose of obtaining sexual gratification, a third person (B) doing a private act; and

(b) he knows that B does not consent to his operating equipment with that intention.

(3) A person commits an offence if –

(a) he records another person (B) doing a private act;

(b) he does so with the intention that he or a third person will, for the purpose of obtaining sexual gratification, look at an image of B doing the act; and

(c) he knows that B does not consent to his recording the act with that intention.

(4) A person commits an offence if he installs equipment, or constructs or adapts a structure or part of a structure, with the intention of enabling himself or another person to commit an offence under subsection (1).

(5) A person guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding 2 years.

(6) For the purposes of this section, a person is doing a private act if the person is in a place which, in the circumstances, would reasonably be expected to provide privacy, and –

(a) the person's genitals, buttocks or breasts are exposed or covered only with underwear;

(b) the person is using a lavatory; or

(c) the person is doing a sexual act that is not of a kind ordinarily done in public.

(7) In this section, **structure** includes a tent, vehicle or vessel or other temporary or movable structure.

### **Intercourse with an animal.**

**143.** (1) A person commits an offence if –

- (a) he intentionally performs an act of penetration with his penis;
- (b) what is penetrated is the vagina or anus of a living animal; and
- (c) he knows that, or is reckless as to whether, that is what is penetrated.

(2) A person (A) commits an offence if –

- (a) A intentionally causes, or allows, A's vagina or anus to be penetrated;
- (b) the penetration is by the penis of a living animal; and
- (c) A knows that, or is reckless as to whether, that is what A is being penetrated by.

(3) A person guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding 2 years.

### **Abortion, and procuring an abortion or articles for use in an abortion.**

**144.** (1) Any person who, with intent to procure miscarriage of a woman, whether she is or is not with child, unlawfully administers to her or causes her to take any poison or other noxious thing, or uses any force of any kind, or uses any other means whatever, is guilty of an offence, and is liable to imprisonment for fourteen years.

(2) Any woman who, being with child, with intent to procure her own miscarriage, unlawfully administers to herself any poison or other noxious thing, or uses any force of any kind, or uses any other means whatever, or permits any such thing or means to be administered or used to her, is guilty of an offence, and is liable to imprisonment for seven years.

(3) Any person who unlawfully supplies to or procures for any person any thing whatever, knowing that it is intended to be unlawfully used to procure the miscarriage of a woman, whether she is or is not with child, is guilty of an offence, and is liable to imprisonment for three years.

(4) For the avoidance of doubt, it is not an offence under this section if the taking or supply of the substance, or any other action to procure the miscarriage of a woman, is under the medical supervision of a person with an internationally recognised medical qualification.

### **Sexual activity in a public place.**

**145.** (1) A person commits an offence if –

- (a) he is in a place to which the public or a section of the public has or is permitted to have access, whether on payment or otherwise;
- (b) he intentionally engages in an activity; and
- (c) the activity is sexual.

(2) For the purposes of this section, an activity is sexual if a reasonable person would, in all the circumstances but regardless of any person's purpose, consider it to be sexual.

(3) A person guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding 6 months.

### **“Consent”.**

**146.** (1) If in proceedings for an offence to which this section applies it is proved –

- (a) that the defendant did the relevant act;
- (b) that any of the circumstances specified in subsection (2) existed; and
- (c) that the defendant knew that those circumstances existed,

the complainant is to be taken not to have consented to the relevant act unless sufficient evidence is adduced to raise an issue as to whether he consented, and the defendant is to be taken not to have reasonably believed that the complainant consented unless sufficient evidence is adduced to raise an issue as to whether he reasonably believed it.

(2) The circumstances are that –

- (a) any person was, at the time of the relevant act or immediately before it began, using violence against the complainant or causing the complainant to fear that immediate violence would be used against him;
- (b) any person was, at the time of the relevant act or immediately before it began, causing the complainant to fear that violence was being used, or that immediate violence would be used, against another person;

(c) the complainant was, and the defendant was not, unlawfully detained at the time of the relevant act;

(d) the complainant was asleep or otherwise unconscious at the time of the relevant act;

(e) because of the complainant's physical disability, the complainant would not have been able at the time of the relevant act to communicate to the defendant whether the complainant consented;

(f) any person had administered to or caused to be taken by the complainant, without the complainant's consent, a substance which, having regard to when it was administered or taken, was capable of causing or enabling the complainant to be stupefied or overpowered at the time of the relevant act.

(3) In subsection (2)(a) and (b), the reference to the time immediately before the relevant act began is, in the case of an act which is one of a continuous series of sexual activities, a reference to the time immediately before the first sexual activity began.

(4) If in proceedings for an offence to which this section applies it is proved that the defendant did the relevant act and that any of the circumstances specified in subsection (5) existed, it is to be conclusively presumed –

(a) that the complainant did not consent to the relevant act; and

(b) that the defendant did not believe that the complainant consented to the relevant act.

(5) The circumstances are that –

(a) the defendant intentionally deceived the complainant as to the nature or purpose of the relevant act;

(b) the defendant intentionally induced the complainant to consent to the relevant act by impersonating a person known personally to the complainant.

### **Interpretation.**

**147.** (1) For the purposes of this Chapter XV (except section 144), penetration, touching or any other activity is **sexual** if a reasonable person would consider that –

(a) whatever its circumstances or any person's purpose in relation to it, it is because of its nature sexual; or

(b) because of its nature it may be sexual and because of its circumstances or the purpose of any person in relation to it (or both) it is sexual.

(2) The following apply for the purposes of this Part –

(a) Penetration is a continuing act from entry to withdrawal;

(b) References to a part of the body include references to a part surgically constructed (in particular, through gender reassignment surgery);

(c) **Image** means a moving or still image and includes an image produced by any means and, where the context permits, a three-dimensional image;

(d) References to observation (however expressed) are to observation whether direct or by looking at an image;

(e) Touching includes touching –

(i) with any part of the body;

(ii) with anything else;

(iii) through anything,

and in particular includes touching amounting to penetration;

(f) **Vagina** includes vulva;

(g) In relation to an animal, references to the vagina or anus include references to any similar part.

***Repealed.***

**148.** *Repealed.*

***Repealed.***

**149.** *Repealed.*

***Repealed.***

**150.** *Repealed.*

***Repealed.***

**151.** *Repealed.*

**CHAPTER XVI**  
**OFFENCES RELATING TO MARRIAGE AND DOMESTIC**  
**OBLIGATIONS**

**Fraudulent pretence of marriage.**

**152.** Any person who wilfully and by fraud causes any woman who is not lawfully married to him to believe that she is lawfully married to him and to cohabit or have sexual intercourse with him in that belief, is guilty of an offence and is liable to imprisonment for ten years.

**Bigamy.**

**153.** Any person who, having a husband or wife living, goes through a ceremony of marriage which is void by reason of its taking place during the life of such husband or wife, is guilty of an offence, and is liable to imprisonment for five years:

Provided that this section shall not extend to any person whose marriage with such husband or wife has been declared void by a court of competent jurisdiction nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage, shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time.

**Marriage ceremony fraudulently gone through without lawful marriage.**

**154.** Any person who dishonestly or with fraudulent intention goes through the ceremony of marriage, knowing that he is not thereby lawfully married, is guilty of an offence, and is liable to imprisonment for five years.

**Desertion of children.**

**155.** Any person who being the parent, guardian or other person having the lawful care or charge of a child under the age of fourteen years, and being able to maintain such child, wilfully and without lawful or reasonable cause deserts the child and leaves it without means of support, is guilty of an offence.

**Neglecting to provide food etc., for children.**

**156.** Any person, who being the parent or guardian or other person having the lawful care or charge of any child of tender years and unable to provide for itself, wilfully ill-treats such child or causes it to be ill-treated, or refuses or neglects (being able to do so) to provide sufficient food, clothes, bedding and other necessities for such child, so as thereby to injure the health of such child, is guilty of an offence.

### **Master not providing for employees or apprentices.**

**157.** Any person who, being legally liable either as master or mistress, to provide for any apprentice or employee necessary food, clothing, or lodging, wilfully and without lawful excuse refuses or neglects to provide the same, or unlawfully and maliciously does or causes to be done any bodily harm to such apprentice or employee so that the life of such apprentice or employee is endangered or that his health has been or is likely to be permanently injured, is guilty of an offence.

### **Child stealing.**

**158.** (1) Any person who, with intent to deprive any parent, guardian or other person who has the lawful care or charge of a child under the age of fourteen years, of the possession of such child, either –

(a) forcibly or fraudulently takes or entices away, or detains the child; or

(b) receives or harbours the child, knowing it to have been so taken or enticed away or detained,

is guilty of an offence, and is liable to imprisonment for seven years.

(2) It is a defence to a charge of any of the offences defined in this section to prove that the accused person claimed in good faith a right to the possession of the child, or, in the case of an illegitimate child, is its mother or claimed to be its father.

## **CHAPTER XVII**

### **NUISANCES AND OFFENCES AGAINST HEALTH AND CONVENIENCE**

#### **Common nuisance.**

**159.** (1) Any person who does an act not authorised by law, or omits to discharge a legal duty, and thereby causes any common injury, or danger, annoyance, or inconvenience to the public, commits the offence of common nuisance and is liable to imprisonment for one year.

(2) It is immaterial that the act or omission complained of is convenient to a larger number of the public than it inconveniences, but the fact that it facilitates the lawful exercise of their rights by a part of the public may show that it is not a nuisance to any of the public.

(3) For the avoidance of doubt, the intentional activation of a fire alarm without good cause is a common nuisance for the purposes of this section.



### **Gaming houses.**

**160.** (1) Any person –

(a) being the owner or occupier, or having the use of any house, room, building or place whether open or enclosed, or ship, boat or other vessel, whether afloat or not, or any vehicle, who shall open, keep or use the same for the purpose of unlawful gaming being carried on therein; and

(b) who, being the owner or occupier of any house, room, building, place, vessel or vehicle as specified in subsection (1)(a), shall knowingly and wilfully permit the same to be opened, kept or used by any other person for the purpose of unlawful gaming being carried on therein; and

(c) having the care or management of or in any manner assisting in conducting the business of any house, room, building, place, vessel or vehicle as specified in subsection (1)(a), opened, kept or used for the purpose of unlawful gaming being carried on therein,

is said to keep a common gaming house.

(2) In this section **unlawful gaming** means any game the chances of which are not alike favourable to all the players, including the banker or other person or persons by whom the game is managed or against whom the other players stake, play or bet.

(3) Any person who keeps a common gaming house is guilty of an offence.

(4) Any person other than the persons mentioned in subsection (1) who is found in a common gaming house shall be deemed, unless the contrary is proved, to be there for the purpose of unlawful gaming, and is guilty of an offence, and is liable to a fine of £500 for the first offence, and for each subsequent offence to a fine of £2,500 or imprisonment for three months.

### ***Repealed.***

**161.** *Repealed.*

### **Presumptions.**

**162.** (1) If any instruments or appliances of gaming are found in any place entered having been suspected of being a common gaming house, or if persons are seen or heard to escape therefrom on the approach or entry of a Police Officer, or if any person having authority to enter or go to such place is unlawfully prevented from, or obstructed or delayed in entering or approaching

the same or any part thereof, it shall be presumed, until the contrary be proved, that the place is a common gaming house, and that the same is so kept or used by the occupier thereof.

(2) If, in the case of a place suspected of being a common gaming house is entered and any passage, staircase, or means of access to any part thereof is unusually narrow or steep or otherwise difficult to pass, or any part of the premises is provided with unusual or unusually numerous means for preventing or obstructing an entry or with unusual contrivances for enabling persons therein to see or ascertain the approach or entry of persons or for giving the alarm or for facilitating escape from the premises, it shall be presumed, until the contrary be proved, that the place is a common gaming house, and that the same is so kept or used by the occupier thereof.

### **Lotteries.**

**163.** (1) Any person who opens, keeps, or uses any place for carrying on a lottery not authorised by the Commissioner's Representative is guilty of an offence, and any person who in any way infringes or fails to comply with any of the conditions (if any) laid down when such authorisation as above mentioned is given, is guilty of an offence and is liable to imprisonment for six months.

(2) Any person who prints or publishes, or causes to be printed or published, any advertisement or other notice of or relating to any lottery not so authorised or of or relating to the sale of any ticket or chance or of any share in any ticket or chance in any lottery not so authorised, is guilty of an offence and is liable to a fine of £5,000.

(3) In this section **lottery** includes any scheme or device for the sale, gift, disposal or distribution of any property depending upon or to be determined by lot or chance, whether by the throwing or casting of dice, or by the drawing of tickets, cards, lots, numbers or figures or by means of a wheel or trained animal, or otherwise howsoever.

(4) When any person is convicted of an offence under this section, the court may, in addition to or in lieu of any penalty which may be imposed, order the forfeiture to Her Majesty of any instrument or thing used in connection with the lottery concerning which the conviction has taken place.

### **Keeper of premises defined.**

**164.** Any person who appears, acts or behaves as master or mistress, or as the person having the care or management of any such house, room, set of rooms, or place as is mentioned in sections 160 and 163, is to be taken to be the keeper thereof, whether he is or is not the real keeper.

### **Traffic in obscene publications.**

**165.** (1) Any person who –

(a) for the purpose of or by way of trade or for the purpose of distribution for profit or public exhibition, makes, produces or has in his possession any one or more obscene writings, drawings, prints, paintings, printed matter, pictures, posters, emblems, photographs, cinematograph films, videotapes or any other obscene objects or any other object tending to corrupt morals;

(b) for any of the purposes above-mentioned imports, conveys or exports, or causes to be imported, conveyed or exported any such matters or things, or in any manner whatsoever puts any of them in circulation;

(c) carries on or takes part in any business, whether public or private, concerned with any such matters or things, or deals in any such matters or things in any manner whatsoever, or distributes any of them, or exhibits any of them publicly, or makes a business of lending any of them;

(d) advertises or makes known by any means whatsoever with a view to assisting the circulation of, or traffic in, any such matters or things, that a person is engaged in any of the acts referred to in this section, or advertises or makes known how, or from whom, any such matters or things can be procured either directly or indirectly; or

(e) publicly exhibits any indecent show or performance or any show or performance tending to corrupt morals,

is guilty of an offence, and is liable to imprisonment for two years or to a fine of £5,000.

(2) If, in respect of any of the offences specified in paragraphs (a), (b), (c) or (d) of subsection (1), any constitutive element thereof is committed in the Territory such commission shall be sufficient to render the person accused of such offence triable therefor in the Territory.

(3) A court, on convicting any person of an offence against this section, may order to be destroyed any matter or thing made, possessed or used for the purpose of such offence.

(4) A court may, on the application of a public prosecutor, order the destruction of any obscene matter or thing to which this section relates, whether any person may or may not have been convicted under the provisions of this section in respect of such obscene matter or thing.

*(5) Repealed.*

*(6) Repealed.*

### **Idle and disorderly persons.**

**166.** The following persons –

- (a) every common prostitute behaving in a disorderly or indecent manner in any public place;
- (b) every person wandering or placing himself in any public place to beg or gather alms, or causing or procuring or encouraging any child or children so to do;
- (c) every person playing at any game of chance for money or money's worth in any public place, or on private property without the consent of the occupier;
- (d) every person who in any public place conducts himself in a manner likely to cause a breach of the peace;
- (e) every person who without lawful excuse publicly does any indecent act;
- (f) every person who in any public place solicits for immoral purposes;
- (g) every person wandering about and endeavouring by the exposure of wounds or deformation to obtain or gather alms; and
- (h) every person found drunk and incapable or drunk and disorderly in any street or public place,

shall be deemed idle and disorderly persons, and shall be liable to imprisonment for two months or to a fine of £1,000.

### **Rogues and vagabonds.**

**167.** The following persons –

- (a) every person convicted of an offence under the last preceding section after having been previously convicted as an idle and disorderly person;
- (b) every person going about as a gatherer or collector of alms, or endeavouring to procure charitable contributions of any nature or kind, under any false or fraudulent pretence;
- (c) every suspected person or reputed thief who has no visible means of subsistence and cannot give a good account of himself;
- (d) every person found wandering in or upon or near any premises or in any road or highway or any place adjacent thereto or in any

public place at such time and under such circumstances as to lead to the conclusion that such person is there for an illegal or disorderly purpose,

shall be deemed to be rogues and vagabonds, and shall be guilty of an offence, and shall be liable for the first offence to imprisonment for three months, and for every subsequent offence to imprisonment for one year.

### **Offences relating to improper use of uniform.**

**168.** (1) Any person who, not being a person serving in Her Majesty's naval, military or air forces or in any constabulary or police force in the United Kingdom or in any British possession, wears without the permission of the Commissioner's Representative the uniform of any of those forces or any dress having the appearance or bearing of any of the regimental or other distinctive marks of such uniform, is guilty of an offence and is liable to imprisonment for one month or to a fine of £500.

(2) Nothing in this section shall prevent any person from wearing any uniform or dress in the course of a stage play performed in any place in which stage plays may lawfully be publicly performed, or in the course of a music-hall or circus performance, or in the course of any bona fide military representation.

(3) Any person who unlawfully wears the uniform of any of the forces specified in subsection (1), or any dress having the appearance or bearing any of the regimental or other distinctive marks of any such uniform, in such a manner or in such circumstances as to be likely to bring contempt on that uniform, or employs any other person so to wear such uniform or dress, is guilty of an offence, and is liable to imprisonment for three months or to a fine of £1,000.

(4) Any person who, not being in any service specified in subsection (1) or having previously received the written permission of the Commissioner's Representative so to do, imports or sells or has in his possession for sale any such uniform as specified in subsection (1), or the buttons or badges appropriate thereto, is guilty of an offence, and is liable to imprisonment for six months or to a fine of £2,000.

(5) When any person shall have been convicted of any offence under this section, the uniform, dress, button, badge or other thing in respect of which the offence has been committed shall be forfeited unless the Commissioner's Representative shall otherwise order.

### **Negligent act likely to spread disease dangerous to life.**

**169.** Any person who unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, is guilty of an offence.

### **Adulteration of food or drink intended for sale.**

**170.** Any person who adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, is guilty of an offence.

### **Sale of noxious food or drink.**

**171.** Any person who sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing, or having reason to believe that the same is noxious as food or drink, is guilty of an offence.

### **Sale of alcoholic beverages.**

**171A.** (1) Save in accordance with a licence granted by the Commissioner's Representative, but subject to subsection (12), no person may sell alcoholic beverages at any place within the Territory.

(2) The Commissioner's Representative may grant a licence to any person to sell alcoholic beverages on any premises specified in the licence.

(3) A licence granted under subsection (2) shall specify whether the alcoholic beverages whose sale it licences on the premises specified therein are for consumption either on or off those premises or are for consumption either only on or only off those premises.

(4) Without prejudice to the generality of section 27 of the Interpretation and General Provisions Ordinance 1993, a licence granted under this section –

(a) may be general or subject to conditions;

(b) may be limited with respect to the times at which, the circumstances in which and the persons to whom or for whom alcoholic beverages (or any particular kinds of such beverages) may be sold and with respect to the kinds and quantities of such beverages that may be sold;

(c) may be expressed to be of indefinite duration or for a limited or specified period or occasion only; and

(d) may be revoked by the Commissioner's Representative at any time.

(5) Any person who contravenes subsection (1) is guilty of an offence under this section.

(6) Where alcoholic beverages are sold on any premises in contravention of subsection (1), every occupier of the premises who is proved to have been privy or consenting to the sale is guilty of an offence under this section.

(7) Every person who is guilty of an offence under this section is liable, on conviction, to a fine of £10,000 or to imprisonment for 6 months or to both such a fine and such imprisonment; and the court by which he is convicted may, on application made by or with the authority of the Principal Legal Adviser, order the forfeiture to the Crown, for disposal as the Commissioner may direct, of any alcoholic beverages found in the place where the offence was committed and any equipment or utensils used in connection with the commission of the offence, including any equipment that was used on the occasion of the offence for the entertainment of persons then present.

(8) Despite section 169(1) of the Criminal Procedure Code 2019, the Magistrate's Court, on convicting a person of an offence under this section, has jurisdiction to impose on him any fine to which he is liable under this section; and, despite section 197(1) of that Code, any court may, in such a case, order that person to pay to the Crown such costs as it thinks proper in addition to any other penalty imposed.

*(9) Repealed.*

*(10) Repealed.*

(11) For the purposes of this section and of any licence granted thereunder –

**alcoholic beverages** means beverages consisting of or containing spirits, wine (including made wine), beer, cider (including perry) or any other fermented, distilled or spiritous liquor;

**place** includes premises;

**premises** means any building or structure (whether movable or immovable) and also includes any public place;

**public place** means any place (including a place in the open air) to which members of the public, or any class thereof, may resort whether as of right or by permission of the occupier;

**sell** includes offer or expose for sale; and a person is deemed to sell alcoholic beverages if he makes them available at any place to persons who have paid or given consideration (whether in money or in any other form and whether to himself or to another person) for admission to that place.

(12) (a) Nothing in this section applies to the sale of alcoholic beverages on exempt United States premises, that is to say, such premises, owned or operated by a United States authority or agency, as are for the time being notified to the Commissioner's

Representative by the Commanding Officer as being approved by the Commanding Officer for the purposes of such sale.

(b) The Commissioner's Representative shall maintain, and post in a part of his office to which the public has access, a list of exempt United States premises notified in accordance with paragraph (a).

(c) In any proceedings for an offence under this section, a certificate by the Commissioner's Representative as to whether, at any material time, particular premises were notified to him as exempt United States premises in accordance with paragraph (a) shall, irrespective of the contents of the list maintained in accordance with paragraph (b), be conclusive as to that matter; and a certificate which purports to be a certificate by the Commissioner's Representative and to be signed by him shall, in any such proceedings, be accepted as such without further proof unless credible evidence to the contrary is adduced.

(d) In this subsection the **Commanding Officer** means the United States Navy Officer in command of the facility described in paragraph (1)(a) of the Exchange of Notes of 25 February 1976 between the Government of the United Kingdom and the Government of the United States of America concerning a United States Navy Support Facility on Diego Garcia.

(13) (a) Any person who consumes an alcoholic beverage in a designated public place is guilty of an offence and is liable upon conviction to a fine of £500.

(b) For the purposes of this sub-section a **designated public place** means –

(i) any public open space which is not part of premises which have the benefit of a licence issued under sub-section (2) for the sale and consumption of alcoholic beverages on the premises;

(ii) any public highway (including any footway adjacent thereto);

(iii) any bus stop;

(iv) any public transport vehicle; or

(v) any other vehicle on any public highway or in any public parking place.

(c) For the purposes of this sub-section a **designated public place** does not include –



(i) any building or living quarters owned by the government of the United Kingdom or the government of the United States; nor

(ii) any specified area as defined in section 176(2).

**Adulteration of drugs.**

**172.** Any person who adulterates any drug or medical preparation in such a manner as to lessen the efficacy or change the operation of such drug or medical preparation, or to make it noxious, intending that it shall be sold or used for, or knowing it to be likely that it will be sold or used for, any medicinal purpose as if it had not undergone such adulteration, is guilty of an offence.

**Sale of adulterated drugs.**

**173.** Any person who, knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, sells the same, or offers or exposes it for sale, or issues it from any dispensary for medicinal purposes as unadulterated, or causes it to be used for medicinal purposes by any person not knowing of the adulteration, is guilty of an offence.

**Fouling water.**

**174.** Any person who voluntarily corrupts or fouls the water of any river, stream, spring or reservoir, whether public or private, so as to render it less fit for the purpose for which it is ordinarily used, is guilty of an offence.

**Fouling air.**

**175.** Any person who voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighbourhood or passing along a public way, is guilty of an offence.

**Lighting fires, etc.**

**176.** (1) The following persons commit and are liable to be punished as for a common nuisance –

(a) any person who lights a fire in any forest, plantation or field for the purpose of burning any dried, dead or decayed matter or for the purpose of clearing any ground or of burning any charcoal kiln, without having previously obtained written permission from the Commissioner's Representative; provided that the permission so granted shall not be a defence to any other action criminal or civil to which such person may be subject under any law in the event of the fire causing damage to property;

(b) any person who carries fire or a lighted naked torch or candle or any other lighted thing in any street, road, way, lane, track, foot-path, square or open space to which the public have access, or in any forest, plantation or field, except in a lantern or with such other precautionary means to guard against fire or with the permission of the Commissioner's Representative and subject to such conditions as he may lay down;

(c) any person who wilfully obstructs any auction sale by force, or who by threatening to use force prevents any person from coming forward to bid or from bidding;

(d) any person who –

(i) in any place where the public have or are allowed to have access, uses any indecent or obscene language at or against any other person with intent to annoy and to the annoyance of that person; or

(ii) disturbs the public peace;

(e) any person who –

(i) sends any message by telephone which is grossly offensive or of an indecent, obscene or menacing character;

(ii) sends any message by telephone, or any telegram, which he knows to be false, for the purpose of causing annoyance, inconvenience or needless anxiety to any other person; or

(iii) persistently makes telephone calls without reasonable cause and for any such purpose as specified in subsection (e)(i) or (ii);

(f) any person who contravenes or fails to comply with regulations made by the Commissioner who is hereby empowered to make such regulations, controlling, regulating or prohibiting –

(i) the operation or use of loud-speakers, megaphones and any other device for amplifying sound; and

(ii) the making of noise or the playing of music;

(g) any person who allows a dog in his custody or under his control to bark or whine persistently after having been warned that such barking or whining causes or would cause annoyance to any other person;

(h) any person who allows any animal belonging to himself to stray;

(i) any person who, within such areas as may be prescribed by the Commissioner by notice published in the *Gazette*, is found in possession of a catapult;

(j) any person who, without lawful authority or reasonable excuse, the proof whereof shall lie upon him –

(i) writes upon, marks, soils or defaces any building, road, pavement, wall, fence or paling, whether public or private property, with chalk or paint or in any other way whatsoever; or

(ii) affixes any poster or other paper against or upon any building, road, pavement, wall, fence or paling, whether public or private property;

(k) any person who deposits or throws away or allows to be deposited or thrown away any litter or refuse –

(i) on private property without the consent of the owner or occupier thereof; or

(ii) on the coastal area or in any public place, except in receptacles specially provided for the purpose;

(l) any person who lights a fire within the coastal area, except –

(i) in a fireplace or receptacle provided for that purpose by the Government of the Territory or by the United States authorities and located in a specified area; or

(ii) where permitted in accordance with regulations issued pursuant to section 3(1) of the Protection and Preservation of Wild Life Ordinance 1970.

(m) any person who urinates or defecates in a public place, except in a place set aside for those purposes.

(2) In this section –

**public place** means any place to which the public have or are allowed to have access;

**coastal area** means any part of the shore or beach, together with the land area bordering the shoreline;

**refuse** includes glass, bottles, tins and any object whatsoever which may be injurious to persons;

**specified area** means an area specified for picnics and swimming by the Commissioner's Representative by posting a notice in a part of his office to which the public have access and by sending a copy of the notice to the Commanding Officer (as defined in section 171A(12)(d) of this Code).

## **DIVISION IV**

### **OFFENCES AGAINST THE PERSON**

#### **CHAPTER XVIII**

#### **MURDER AND MANSLAUGHTER**

##### **Manslaughter.**

**177.** Any person who by an unlawful act, being an act which a reasonable person would realise to be likely to cause harm to some person; or by an unlawful omission, causes the death of another person is guilty of manslaughter. An unlawful omission is an omission amounting to culpable negligence to discharge a duty tending to the preservation of life or health, whether such omission is or is not accompanied by an intention to cause death or bodily harm.

##### **Murder.**

**178.** Any person who of malice aforethought causes the death of another person by an unlawful act or omission is guilty of murder.

##### **Punishment of murder.**

**179.** Any person convicted of murder shall be sentenced to imprisonment for life.

##### **Punishment of manslaughter.**

**180.** Any person who commits manslaughter is liable to imprisonment for life.

##### **Malice aforethought.**

**181.** Malice aforethought shall be deemed to be established by evidence proving any one or more of the following circumstances –

- (a) an intention to cause the death of or to do grievous harm to any person, whether such person is the person actually killed or not;

(b) knowledge that the act or omission causing death will probably cause the death of or grievous harm to some person, whether such person is the person actually killed or not, although such knowledge is accompanied by indifference whether death or grievous bodily harm is caused or not, or by a wish that it may not be caused.

### **Persons suffering from diminished responsibility.**

**182.** (1) Where a person kills or is a party to the killing of another, he shall not be convicted of murder if he was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for his acts and omissions in doing or being a party to the killing.

(2) On a charge of murder it shall be for the defence to prove that the person charged is by virtue of this section not liable to be convicted of murder.

(3) A person who but for this section would be liable to be convicted of murder shall be liable instead to be convicted of manslaughter. In such a case the court instead of or in addition to inflicting any punishment which it may inflict on a conviction for manslaughter, may order the convicted person to be detained in custody during Her Majesty's pleasure and thereafter he shall be detained in such custody as the Commissioner shall from time to time direct.

(4) The fact that one party to a killing is by virtue of this section not liable to be convicted of murder shall not affect the question whether the killing amounted to murder in the case of any other party to it.

### **Killing on provocation.**

**183.** When a person who unlawfully kills another under circumstances which, but for the provisions of this section, would constitute murder, does the act which causes death in the heat of passion caused by sudden provocation as defined in section 184(1), and before there is time for his passion to cool, he is guilty of manslaughter only.

### **Provocation defined.**

**184.** (1) The term **provocation** means and includes, except as otherwise provided in this section, any wrongful act or insult of such a nature as to be likely, when done to an ordinary person, or in the presence of an ordinary person to another person who is under his immediate care, or to whom he stands in a conjugal, parental, filial or fraternal relation, or in the relation of master or employee, to deprive him of the power of self-control and to induce him to assault the person by whom, the act or insult is done or offered.

(2) When an act of provocation is done or offered by one person to another, or in the presence of another to a person who is under the immediate

care of that other, or to whom the latter stands in any such relation as specified in subsection (1), the former is said to give the latter provocation for an assault.

(3) A lawful act is not provocation to any person for an assault.

(4) An act which a person does in consequence of incitement given by another person in order to induce him to do the act and thereby to furnish an excuse for committing an assault is not provocation to that other person for an assault.

(5) An arrest which is unlawful is not necessarily provocation for an assault, but it may be evidence of provocation to a person who knows of the illegality.

(6) Where on a charge of murder there is evidence on which the court can find that the person charged was provoked (whether by things done or by things said or by both together) to lose his self-control, in determining the question whether the provocation was enough to make an ordinary person do as he did, the court shall take into account everything both done and said according to the effect which, in its opinion, it would have on an ordinary person.

(7) For the purposes of this section the expression **an ordinary person** shall mean an ordinary person of the community to which the accused belongs.

### **Causing death defined.**

**185.** A person is deemed to have caused the death of another person although his act is not the immediate or not the sole cause of death in any of the following cases –

(a) if he inflicts bodily injury on another person in consequence of which that other person undergoes surgical or medical treatment which causes death. In this case it is immaterial whether the treatment was proper or mistaken if it was employed in good faith and with common knowledge and skill; but the person inflicting the injury is not deemed to have caused the death if the treatment which was its immediate cause was not employed in good faith or was so employed without common knowledge or skill;

(b) if he inflicts a bodily injury on another which would not have caused death if the injured person had submitted to proper surgical or medical treatment or had observed proper precautions as to his mode of living;

(c) if by actual or threatened violence he causes such other person to perform an act which causes the death of such person, such act being a means of avoiding such violence which in the circumstances would appear natural to the person whose death is so caused;

(d) if by any act or omission he hastened the death of a person suffering under any disease or injury which apart from such act or omission would have caused death;

(e) if his act or omission would not have caused death unless it had been accompanied by an act or omission of the person killed or of other persons.

**When a child deemed to be a person capable of being killed.**

**186.** A child becomes a person capable of being killed when it has completely proceeded in a living state from the body of its mother, whether it has breathed or not, and whether it has an independent circulation or not, and whether the navel-string is severed or not.

**Limitation as to time of death.**

**187.** (1) A person is not deemed to have killed another if the death of that person does not take place within a year and a day of the cause of death.

(2) The period specified in subsection (1) is reckoned inclusive of the day on which the last unlawful act contributing to the cause of death was done.

(3) When the cause of death is an omission to observe or perform a duty, the period is reckoned inclusive of the day on which the omission ceased.

(4) When the cause of death is in part an unlawful act, and in part an omission to observe or perform a duty, the period is reckoned inclusive of the day on which the last unlawful act was done or the day on which the omission ceased, whichever is the later.

## **CHAPTER XIX**

### **DUTIES RELATING TO THE PRESERVATION OF LIFE AND HEALTH**

**Responsibility of person who has charge of another.**

**188.** It is the duty of every person having charge of another who is unable by reason of age, sickness, unsoundness of mind, detention or any other cause to withdraw himself from such charge, and who is unable to provide himself with the necessaries of life, whether the charge is undertaken under a contract, or is imposed by law, or arises by reason of any act, whether lawful or unlawful, of the person who has such charge, to provide for that other person the necessaries of life; and he is held to have caused any consequences which result to the life or health of the other person by reason of any omission to perform that duty.

**Duty of head of family.**

**189.** It is the duty of every person who, as head of a family, has charge of a child under the age of fourteen years, being a member of his household, to provide the necessaries of life for such child; and he is held to have caused any consequences which result to the life or health of the child by reason of any omission to perform that duty, whether the child is helpless or not.

**Duty of masters.**

**190.** It is the duty of every person who as master or mistress has contracted to provide necessary food, clothing, or lodging for any employee or apprentice under the age of sixteen years to provide the same and he or she is held to have caused any consequences which result to the life or health of the employee or apprentice by reason of any omission to perform that duty.

**Duty of persons doing dangerous acts.**

**191.** It is the duty of every person who, except in a case of necessity, undertakes to administer surgical or medical treatment to any other person, or to do any other lawful act which is or may be dangerous to human life or health, to have reasonable skill and to use reasonable care in doing such act; and he is held to have caused any consequences which result to the life or health of any person by reason of any omission to observe or perform that duty.

**Duty of persons in charge of dangerous things.**

**192.** It is the duty of every person who has in his charge or under his control anything, whether living or inanimate, and whether moving or stationary, of such a nature that, in the absence of care or precaution in its use or management, the life, safety, or health of any person may be endangered, to use reasonable care and take reasonable precautions to avoid such danger; and he is held to have caused any consequences which result to the life or health of any person by reason of any omission to perform that duty.

**CHAPTER XX****OFFENCES CONNECTED WITH MURDER AND SUICIDE****Attempt to murder.**

**193.** Any person who –

(a) attempts unlawfully to cause the death of another; or

(b) with intent unlawfully to cause the death of another does any act, or omits to do any act, which it is his duty to do, such act or



omission being of such a nature as to be likely to endanger human life,

is guilty of an offence, and is liable to imprisonment for life.

**Accessory after the fact to murder.**

**194.** Any person who becomes an accessory after the fact to murder is guilty of an offence, and is liable to imprisonment for seven years.

**Written threats to murder.**

**195.** Any person who, knowing the contents thereof, directly or indirectly causes any person to receive any writing threatening to kill any person is guilty of an offence, and is liable to imprisonment for seven years.

**Conspiracy to murder.**

**196.** Any person who conspires with any other person to kill any person, whether such person is in the Territory or elsewhere, is guilty of an offence, and is liable to imprisonment for fourteen years.

**Complicity in another's suicide.**

**197.** Any person who aids, abets, counsels or procures the suicide of another, or an attempt by another to commit suicide, is guilty of an offence, and is liable to imprisonment for fourteen years.

**Suicide pacts.**

**198.** (1) It shall be manslaughter, and shall not be murder, for a person acting in pursuance of a suicide pact between him and another to kill the other or be a party to the other being killed by a third person.

(2) Where it is shown that a person charged with the murder of another killed the other or was a party to his being killed, it shall be for the defence to prove that the person charged was acting in pursuance of a suicide pact between him and the other.

(3) For the purposes of this section **suicide pact** means a common agreement between two or more persons having for its object the death of all of them, whether or not each is to take his own life, but nothing done by a person who enters into a suicide pact shall be treated as done by him in pursuance of the pact unless it is done while he has the settled intention of dying in pursuance of the pact.

**Infanticide.**

**199.** Where a woman by any wilful act or omission causes the death of her child being a child under the age of twelve months, but at the time of the act or

omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child, then, despite the fact that the circumstances were such that but for this section the offence would have amounted to murder, she shall be guilty of infanticide, and may for such offence be dealt with and punished as if she had been guilty of the offence of manslaughter of the child.

#### **Killing unborn child.**

**200.** Any person who, when a woman is about to be delivered of a child, prevents the child from being born alive by any act or omission of such a nature that, if the child had been born alive and had then died, he would be deemed to have unlawfully killed the child, is guilty of an offence and is liable to imprisonment for life.

#### **Concealing the birth of a child.**

**201.** Any person who, when a woman is delivered of a child endeavours, by any secret disposition of the dead body of the child to conceal the birth, whether the child died before, at, or after its birth, is guilty of the offence of concealment of birth and is liable to imprisonment for two years.

## **CHAPTER XXI**

### **OFFENCES ENDANGERING LIFE OR HEALTH**

#### **Disabling in order to commit an offence.**

**202.** Any person who, by any means calculated to choke, suffocate or strangle, and with intent to commit or to facilitate the commission of an offence, or to facilitate the flight of an offender after the commission or attempted commission of an offence, renders or attempts to render any person incapable of resistance, is guilty of an offence, and is liable to imprisonment for life.

#### **Stupefying in order to commit an offence.**

**203.** Any person who, with intent to commit or to facilitate the commission of an offence, or to facilitate the flight of an offender after the commission or attempted commission of an offence, administers or attempts to administer any stupefying or overpowering drug or thing to any person, is guilty of an offence, and is liable to imprisonment for life.

#### **Acts intended to cause grievous harm or resist arrest.**

**204.** Any person who, with intent to maim, disfigure or disable any person, or to do some grievous harm to any person, or to resist or prevent the lawful arrest or detention of any person –

- (a) unlawfully wounds or does any grievous harm to any person by any means whatever;
- (b) unlawfully attempts in any manner to strike any person with any kind of projectile or with a spear, sword, knife, or other dangerous or offensive weapon;
- (c) unlawfully causes any explosive substance to explode;
- (d) sends or delivers any explosive substance or other dangerous or noxious thing to any person;
- (e) causes any such substance or thing to be taken or received by any person;
- (f) puts any corrosive fluid or any destructive or explosive substance in any place; or
- (g) unlawfully casts or throws any such fluid or substance at or upon any person, or otherwise applies any such fluid or substance to the person of any person,

is guilty of an offence, and is liable to imprisonment for life.

#### **Preventing escape from wreck.**

**205.** Any person who unlawfully –

- (a) prevents or obstructs any person who is on board of, or is escaping from, a vessel which is in distress or wrecked, in his endeavours to save his life; or
- (b) obstructs any person in his endeavours to save the life of any person so situated,

is guilty of an offence, and is liable to imprisonment for life.

#### **Grievous harm.**

**206.** Any person who unlawfully does grievous harm to another is guilty of an offence, and is liable to imprisonment for seven years.

#### **Attempting to injure by explosive substances.**

**207.** Any person who unlawfully, and with intent to do any harm to another, puts an explosive substance in any place whatever, is guilty of an offence, and is liable to imprisonment for fourteen years.

### **Maliciously administering poison with intent to harm.**

**208.** Any person who unlawfully, and with intent to injure or annoy another, causes any poison or noxious thing to be administered to, or taken by, any person, and thereby endangers his life, or does him some grievous harm, is guilty of an offence and is liable to imprisonment for fourteen years.

### **Wounding and similar acts.**

**209.** Any person who –

(a) unlawfully wounds another; or

(b) unlawfully, and with intent to injure or annoy any person, causes any poison or other noxious thing to be administered to, or taken by, any person,

is guilty of an offence, and is liable to imprisonment for five years.

### **Failure to supply necessities.**

**210.** Any person who, being charged with the duty of providing for another the necessities of life, without lawful excuse fails to do so, whereby the life of that other person is or is likely to be permanently injured, is guilty of an offence, and is liable to imprisonment for three years.

### **Surgical operations.**

**211.** A person is not criminally responsible for performing in good faith and with reasonable care and skill a surgical operation upon any person for his benefit, or upon an unborn child for the preservation of the mother's life, if the performance of the operation is reasonable, having regard to the patient's state at the time, and to all the circumstances of the case.

### **Excess of force.**

**212.** Any person authorised by law or by the consent of the person injured by him to use force is criminally responsible for any excess, according to the nature and quality of the act which constitutes the excess.

### **Consent.**

**213.** Despite anything contained in section 212 of this Code, consent by a person to the causing of his own death or his own maim does not affect the criminal responsibility of any person by whom such death or maim is caused.

## **CHAPTER XXII**

### **CRIMINAL RECKLESSNESS AND NEGLIGENCE**

#### **Reckless and negligent acts.**

**214.** Any person who in a manner so rash or negligent as to endanger human life or to be likely to cause harm to any person –

- (a) drives any vehicle or rides on any public way;
- (b) navigates, or takes part in the navigation or working of, any vessel;
- (c) does any act with fire or any combustible matter, or omits to take precautions against any probable danger from any fire or any combustible matter in his possession;
- (d) omits to take precautions against any probable danger from any animal in his possession;
- (e) gives medical or surgical treatment to any person whom he has undertaken to treat;
- (f) dispenses, supplies, sells, administers, or gives away any medicine or poisonous or dangerous matter;
- (g) does any act with respect to, or omits to take proper precautions against any probable danger from, any machinery of which he is solely or partly in charge; or
- (h) does any act with respect to, or omits to take proper precautions against, any probable danger from, any explosive in his possession,

is guilty of an offence.

#### **Other negligent acts causing harm.**

**215.** Any person who unlawfully does any act, or omits to do any act which it is his duty to do, not being an act or omission specified in the preceding section, by which act or omission harm is caused to any person, is guilty of an offence, and is liable to imprisonment for six months.

#### **Dealing in poisonous substances in negligent manner.**

**216.** Whoever does with any poisonous substance any act in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such care with any

poisonous substance in his possession as is sufficient to guard against probable danger to human life from such poisonous substance, is guilty of an offence, and is liable to imprisonment for six months or to a fine of £5,000.

**Exhibition of false light, mark or buoy.**

**217.** Any person who exhibits any false light, mark or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator, is guilty of an offence, and is liable to imprisonment for seven years.

**Conveying person by water for hire in unsafe or overloaded vessel.**

**218.** Any person who knowingly or negligently conveys, or causes to be conveyed, for hire, any person by water in any vessel, when that vessel is in such a state or so loaded as to be unsafe, is guilty of an offence.

## **CHAPTER XXIII**

### **ASSAULTS**

**Common assault.**

**219.** Any person who unlawfully assaults another is guilty of an offence, and, if the assault is not committed in circumstances for which a greater punishment is provided in this Code, is liable to imprisonment for one year.

**Assault occasioning actual bodily harm.**

**220.** Any person who commits an assault occasioning actual bodily harm is guilty of an offence, and is liable to imprisonment for five years.

**Assaults on person protecting wreck.**

**221.** Any person who assaults and strikes or wounds any Magistrate, officer or other person lawfully authorised in or on account of the execution of his duty in or concerning the preservation of any vessel in distress, or of any vessel or goods or effects wrecked, stranded or cast on shore, or lying under water, is guilty of an offence, and is liable to imprisonment for seven years.

**Assaults punishable with five year's imprisonment.**

**222.** Any person who –

- (a) assaults any person with intent to commit an offence or to resist or prevent the lawful apprehension or detainer of himself or of any other person for any offence;

(b) assaults, resists, or wilfully obstructs any Police Officer in the due execution of his duty, or any person acting in aid of such officer;

(c) assaults, resists, or obstructs any person engaged in the lawful execution of process, or in making a lawful distress, with intent to rescue any property lawfully taken under such process or distress; or

(d) assaults any person on account of any act done by him in the execution of any duty imposed on him by law,

is guilty of an offence, and is liable to imprisonment for five years.

## **CHAPTER XXIV**

### **OFFENCES AGAINST LIBERTY**

#### **Definition of kidnapping.**

**223.** Any person who steals and carries away or secretes any person without the consent of that person, or of some person legally authorised to consent on behalf of that person, is said to kidnap that person, and any person who takes or entices any minor under fourteen years of age if a male, or under sixteen years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such person.

#### **Definition of abduction.**

**224.** Any person who by force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person.

#### **Punishment for kidnapping.**

**225.** Any person who kidnaps any person is guilty of an offence, and is liable to imprisonment for fourteen years.

#### **Punishment for abduction.**

**226.** Any person who abducts any person is guilty of an offence, and is liable to imprisonment for five years.

#### **Kidnapping or abduction in order to murder.**

**227.** Any person who kidnaps or abducts any person in order that such person may be murdered, or may be so disposed of as to be put in danger of being murdered, is guilty of an offence, and is liable to imprisonment for life.

**Abduction with intent to confine person.**

**228.** Any person who abducts any person with intent to cause that person to be secretly and wrongfully confined, is guilty of an offence, and is liable to imprisonment for fourteen years.

**Kidnapping or abduction in order to subject person to grievous bodily harm, slavery, etc.**

**229.** Any person who kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected, to grievous harm, or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, is guilty of an offence, and is liable to imprisonment for life.

**Wrongfully concealing or keeping in confinement, kidnapped or abducted person.**

**230.** Any person who, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or confines such person, is guilty of an offence, and shall be punished in the same manner as if he had kidnapped or abducted such person with the same intention or knowledge, or for the same purpose, as that with or for which he conceals or detains such person in confinement.

**Abducting child under fourteen years with intent to steal from its person.**

**231.** Any person who abducts any child under the age of fourteen years with the intention of taking dishonestly any movable property from the person of such child, is guilty of an offence, and is liable to imprisonment for ten years.

**Buying or disposing of any person as a slave.**

**232.** Any person who imports, exports, removes, buys, sells or disposes of any person as a slave, or accepts, receives or detains against his will any person as a slave, is guilty of an offence, and is liable imprisonment for seven years.

**Habitual dealing in slaves.**

**233.** Any person who habitually imports, exports, removes, buys, sells, traffics or deals in slaves is guilty of an offence, and is liable to imprisonment for ten years.

**Unlawful compulsory labour.**

**234.** Any person who unlawfully compels any person to labour against the will of that person is guilty of an offence.



**DIVISION V**  
**OFFENCES RELATING TO PROPERTY**  
**CHAPTER XXV**  
**THEFT, ROBBERY, BURGLARY, ETC.**

**Basic definition of theft.**

**235.** (1) A person is guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it; and **thief** and **steal** shall be construed accordingly.

(2) It is immaterial whether the appropriation is made with a view to gain, or is made for the thief's own benefit.

(3) The five following sections of this Code shall have effect as regards the interpretation and operation of this section (and, except as otherwise provided by this Code shall apply only for the purposes of this section);

Provided that section 239(1) shall apply generally for the purposes of this Chapter and Chapters XXVI and XXVII of this Code.

**“Dishonestly”**

**236.** (1) A person's appropriation of property belonging to another is not to be regarded as dishonest –

(a) if he appropriates the property in the belief that he has in law the right to deprive the other of it, on behalf of himself or of a third person;

(b) if he appropriates the property in the belief that he would have the other's consent if the other knew of the appropriation and the circumstances of it; or

(c) (except where the property came to him as trustee or personal representative) if he appropriates the property in the belief that the person to whom the property belongs cannot be discovered by taking reasonable steps.

(2) A person's appropriation of property belonging to another may be dishonest despite the fact that he is willing to pay for the property.

**“Appropriates”**

**237.** (1) Any assumption by a person of the rights of an owner amounts to an appropriation, and this includes, where he has come by the property (innocently

or not) without stealing it, any later assumption of a right to it by keeping or dealing with it as owner.

(2) Where property or a right or interest in property is or purports to be transferred for value to a person acting in good faith, no later assumption by him of rights which he believed himself to be acquiring shall, by reason of any defect in the transferor's title, amount to theft of the property.

## **“Property”**

**238.** (1) **Property** has the meaning ascribed to it in section 5 of this Code.

(2) A person cannot steal land, or things forming part of land and severed from it by him or by his directions, except in the following cases, that is to say –

(a) when he is a trustee or personal representative, or is authorised by power of attorney, or as liquidator of a company, or otherwise, to sell or dispose of land belonging to another, and he appropriates the land or anything forming part of it by dealing with it in breach of the confidence reposed in him;

(b) when he is not in possession of the land and appropriates anything forming part of the land by severing it or causing it to be severed, or after it has been severed; or

(c) when, being in possession of the land under a tenancy, he appropriates the whole or part of any fixture or structure let to be used with the land.

For the purposes of this subsection **land** does not include incorporeal hereditaments; **tenancy** means a tenancy for years or any less period and includes an agreement for such a tenancy, but a person who after the end of a tenancy remains in possession as statutory tenant or otherwise is to be treated as having possession under the tenancy, and **let** shall be construed accordingly.

(3) A person who picks mushrooms growing wild on any land, or who picks flowers, fruit or foliage from a plant growing wild on any land, does not (although not in possession of the land) steal what he picks, unless he does it for reward or for sale or other commercial purpose.

For the purposes of this subsection **mushroom** includes any fungus, and **plant** includes any shrub or tree.

(4) Wild creatures, tamed or untamed, shall be regarded as property; but a person cannot steal a wild creature not tamed nor ordinarily kept in captivity, or the carcase of any such creature, unless either it has been reduced into possession by or on behalf of another person and possession of it has not since

been lost or abandoned, or another person is in course of reducing it into possession.

**“Belonging to another”**

**239.** (1) Property shall be regarded as belonging to any person having possession or control of it, or having in it any proprietary right or interest (not being an equitable interest arising only from an agreement to transfer or grant an interest).

(2) Where property is subject to a trust, the persons to whom it belongs shall be regarded as including any person having a right to enforce the trust, and an intention to defeat the trust shall be regarded accordingly as an intention to deprive of the property any person having that right.

(3) Where a person receives property from or on account of another, and is under an obligation to the other to retain and deal with that property or its proceeds in a particular way, the property or proceeds shall be regarded (as against him) as belonging to the other.

(4) Where a person gets property by another's mistake, and is under an obligation to make restoration (in whole or in part) of the property or its proceeds or of the value thereof, then to the extent of that obligation the property or proceeds shall be regarded (as against him) as belonging to the person entitled to restoration, and an intention not to make restoration shall be regarded accordingly as an intention to deprive that person of the property or proceeds.

(5) Property of a corporation sole shall be regarded as belonging to the corporation despite a vacancy in the corporation.

**“With the intention of permanently depriving the other of it”**

**240.** (1) A person appropriating property belonging to another without meaning the other permanently to lose the thing itself is nevertheless to be regarded as having the intention of permanently depriving the other of it if his intention is to treat the thing as his own to dispose of regardless of the other's rights; and a borrowing or lending of it may amount to so treating it if, but only if, the borrowing or lending is for a period and in circumstances making it equivalent to an outright taking or disposal.

(2) Without prejudice to the generality of subsection (1) above, where a person, having possession or control (lawfully or not) of property belonging to another, parts with the property under a condition as to its return which he may not be able to perform, this (if done for purposes of his own and without the other's authority) amounts to treating the property as his own to dispose of regardless of the other's rights.

**Theft.**

**241.** A person guilty of theft is liable to imprisonment for ten years.

### **Robbery.**

**242.** (1) A person is guilty of robbery if he steals, and immediately before or at the time of doing so, and in order to do so, he uses force on any person or puts or seeks to put any person in fear of being then and there subjected to force.

(2) A person guilty of robbery, or of an assault with intent to rob, is liable to imprisonment for life.

### **Burglary.**

**243.** (1) A person is guilty of burglary if –

(a) he enters any building or part of a building as a trespasser (whether or not the trespass would amount to an offence under section 245 below) and with intent to commit any such offence as is mentioned in subsection (2) below; or

(b) having entered any building or part of a building as a trespasser he steals or attempts to steal anything in the building or that part of it or inflicts or attempts to inflict on any person therein any grievous bodily harm.

(2) The offences referred to in subsection (1)(a) above are offences of stealing anything in the building or part of a building in question, of inflicting on any person therein any grievous bodily harm or raping any woman therein, and of doing unlawful damage to the building or anything therein.

(3) References in subsections (1) and (2) above to a building shall apply also to an inhabited vehicle or vessel, and shall apply to any such vehicle or vessel at times when the person having a habitation in it is not there as well as at times when he is.

(4) A person guilty of burglary is liable to imprisonment for fourteen years.

### **Aggravated burglary.**

**244.** (1) A person is guilty of aggravated burglary if he commits any burglary and at the time has with him any firearm or imitation firearm, any weapon of offence, or any explosive; and for this purpose –

(a) **firearm** includes any article referred to in section 71(8)(b) above, and **imitation firearm** means anything which has the appearance of being a firearm, whether capable of being discharged or not; and

(b) **weapon of offence** means any article made or adapted for use for causing injury to or incapacitating a person, or intended by the person having it with him for such use.

(2) A person guilty of aggravated burglary is liable to imprisonment for life.

### **Criminal trespass.**

**245.** (1) Any person who enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person lawfully in possession of such property or who having lawfully entered into or upon such property unlawfully remains there with intent thereby to intimidate, insult or annoy any such person or with intent to commit any offence, is guilty of an offence and is liable to imprisonment for one year.

(2) If the property upon which the offence is committed is any vessel or any building or tent used as a human dwelling or any building used as a place of worship or as a place for the custody of property, the offender is liable to imprisonment for two years.

### **Taking motor vehicle or other conveyance without authority.**

**246.** (1) Subject to subsections (4) and (5) below, a person is guilty of an offence if, without having the consent of the owner or other lawful authority, he takes any conveyance for his own or another's use or, knowing that any conveyance has been taken without such authority, drives it or allows himself to be carried in or on it.

(2) A person guilty of an offence under subsection (1) above is liable to imprisonment for three years.

(3) If on a trial for theft the court is not satisfied that the accused committed theft, but it is proved that the accused committed an offence under subsection (1) above, the court may find him guilty of the offence under subsection (1).

(4) Subsection (1) above shall not apply in relation to pedal cycles; but, subject to subsection (5) below, a person who, without having the consent of the owner or other lawful authority, takes a pedal cycle for his own or another's use, or rides a pedal cycle knowing it to have been taken without such authority, is guilty of an offence and is liable to a fine of £500.

(5) A person does not commit an offence under this section by anything done in the belief that he has lawful authority to do it or that he would have the owner's consent if the owner knew of his doing it and the circumstances of it.

(6) For the purposes of this section –

(a) **conveyance** means any conveyance constructed or adapted for the carriage of a person or persons whether by land, water or air, except that it does not include a conveyance constructed or adapted for use only under the control of a person not carried in or on it, and **drive** shall be construed accordingly; and

(b) **owner**, in relation to a conveyance which is the subject of a hiring agreement or hire-purchase agreement, means the person in possession of the conveyance under that agreement.

### **Abstracting electricity.**

**247.** A person who dishonestly uses without due authority, or dishonestly causes to be wasted or diverted, any electricity is guilty of an offence and is liable to imprisonment for five years.

### **Going equipped for stealing, etc.**

**248.** (1) A person is guilty of an offence if, when not at his place of abode, he has with him any article for use in the course of or in connection with any burglary, theft or cheat.

(2) A person guilty of an offence under this section is liable to imprisonment for three years.

(3) Where a person is charged with an offence under this section, proof that he had with him any article made or adapted for use in committing a burglary, theft or cheat shall be evidence that he had it with him for such use.

(4) For the purposes of this section an offence under section 246(1) of this Code of taking a conveyance shall be treated as theft, and **cheat** means an offence under section 250 of this Code.

### **Forfeiture.**

**249.** When any person is convicted of an offence under this Chapter the court may order that any article referred to in subsection (1) of section 248 above carried or used in connection with any such offence or found in the possession of or under the control of such person at the time of his arrest shall be forfeited to Her Majesty.

## CHAPTER XXVI

### FRAUD AND BLACKMAIL

#### **Obtaining property by deception.**

**250.** (1) A person who by any deception dishonestly obtains property belonging to another, with the intention of permanently depriving the other of it, is guilty of an offence, and is liable to imprisonment for ten years.

(2) For the purposes of this section a person is to be treated as obtaining property if he obtains ownership, possession or control of it, and **obtain** includes obtaining for another or enabling another to obtain or to retain.

(3) Section 240 above shall apply for the purposes of this section, with the necessary adaptation of the reference to appropriating, as it applies for the purposes of section 235.

(4) For the purposes of this Chapter **deception** means any deception (whether deliberate or reckless) by words or conduct as to fact or as to law, including a deception as to the present intentions of the person using the deception or any other person.

#### **Obtaining pecuniary advantage by deception.**

**251.** (1) A person who by any deception dishonestly obtains for himself or another any pecuniary advantage is guilty of an offence, and is liable to imprisonment for five years.

(2) The cases in which a pecuniary advantage within the meaning of this section is to be regarded as obtained for a person are cases where –

(a) any debt or charge for which he makes himself liable or is or may become liable (including one not legally enforceable) is reduced or in whole or in part evaded or deferred;

(b) he is allowed to borrow by way of overdraft, or to take out any policy of insurance or annuity contract, or obtains an improvement of the terms on which he is allowed to do so; or

(c) he is given the opportunity to earn remuneration or greater remuneration in an office or employment, or to win money by betting.

#### **Obtaining services by deception.**

**252.** (1) A person who by any deception dishonestly obtains services from another is guilty of an offence, and is liable to imprisonment for five years.

(2) It is an obtaining of services where the other is induced to confer a benefit by doing some act, or causing or permitting some act to be done, on the understanding that the benefit has been or will be paid for.

### **Evasion of liability by deception.**

**253.** (1) Subject to subsection (2) below, where a person by any deception –

(a) dishonestly secures the remission of the whole or part of any existing liability to make a payment, whether his own liability or another's;

(b) with intent to make permanent default in whole or in part on any existing liability to make a payment, or with intent to let another do so, dishonestly induces the creditor or any person claiming payment on behalf of the creditor to wait for payment (whether or not the due date for payment is deferred) or to forgo payment; or

(c) dishonestly obtains any exemption from or abatement of liability to make a payment,

he is guilty of an offence, and is liable to imprisonment for five years.

(2) For the purposes of this section **liability** means legally enforceable liability, and subsection (1) shall not apply in relation to a liability that has not been accepted or established to pay compensation for a wrongful act or omission.

(3) For the purposes of subsection (1)(b) a person induced to take in payment a cheque or other security for money by way of conditional satisfaction of a pre-existing liability is to be treated not as being paid but as being induced to wait for payment.

(4) For the purposes of subsection (1)(c) **obtains** includes obtaining for another or enabling another to obtain.

### **Making off without payment.**

**254.** (1) Subject to subsection (3) below, a person who, knowing that payment on the spot for any goods supplied or service done is required or expected from him, dishonestly makes off without having paid as required or expected and with intent to avoid payment of the amount due is guilty of an offence.

(2) For the purposes of this section **payment on the spot** includes payment at the time of collecting goods on which work has been done or in respect of which service has been provided.

(3) Subsection (1) above shall not apply where the supply of the goods or the doing of the service is contrary to law, or where the service done is such that payment is not legally enforceable.



### **False accounting.**

**255.** (1) Where a person dishonestly, with a view to gain for himself or another or with intent to cause loss to another –

(a) destroys, defaces, conceals or falsifies any account or any record or document made or required for any accounting purpose; or

(b) in furnishing information for any purpose produces or makes use of any account, or any such record or document as specified in subsection (1)(a), which to his knowledge is or may be misleading, false or deceptive in a material particular, he is guilty of an offence, and is liable to imprisonment for seven years.

(2) For the purposes of this section a person who makes or concurs in making in an account or other document an entry which is or may be misleading, false or deceptive in a material particular, or who omits or concurs in omitting a material particular from an account or other document, is to be treated as falsifying the account or document.

### **Liability of company officers for certain offences by company.**

**256.** (1) Where an offence committed by a body corporate under sections 250, 251, 252, 253 or 255 of this Code is proved to have been committed with the consent or connivance of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate is guilty of that offence, and is liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, this section shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

### **False statements by company directors, etc.**

**257.** (1) Where an officer of a body corporate or unincorporated association (or person purporting to act as such) with intent to deceive members or creditors of the body corporate or association about its affairs, publishes or concurs in publishing a written statement or account which to his knowledge is or may be misleading, false or deceptive in a material particular, he is guilty of an offence, and is liable to imprisonment for seven years.

(2) For the purposes of this section, a person who has entered into a security for the benefit of a body corporate or association is to be treated as a creditor of it.

(3) Where the affairs of a body corporate or association are managed by its members, this section shall apply to any statement which a member publishes

or concurs in publishing in connection with his functions of management as if he were an officer of the body corporate or association.

#### **Suppression, etc., of documents.**

**258.** (1) A person who dishonestly, with a view to gain for himself or another or with intent to cause loss to another, destroys, defaces or conceals any valuable security, any will or other testamentary document or any original document of or belonging to, or filed or deposited in, any court of justice or any government department, is guilty of an offence and is liable to imprisonment for seven years.

(2) A person who dishonestly, with a view to gain for himself or another or with intent to cause loss to another, by any deception procures the execution of a valuable security is guilty of an offence, and is liable to imprisonment for seven years; and this subsection shall apply in relation to the making, acceptance, indorsement, alteration, cancellation or destruction in whole or in part of a valuable security, and in relation to the signing or sealing of any paper or other material in order that it may be made or converted into, or used or dealt with as, a valuable security, as if that were the execution of a valuable security.

#### **Obtaining registration, etc., by deception.**

**259.** Any person who wilfully procures or attempts to procure for himself or any other person any registration, licence or certificate under any law by deception, is guilty of an offence, and is liable to imprisonment for one year.

#### **False declaration for passport.**

**260.** Any person who makes a statement which is to his knowledge untrue for the purpose of procuring a passport, whether for himself or for any other person, is guilty of an offence.

#### **Possession of false weights, etc.**

**261.** (1) Any hawker, shop-keeper, druggist or other trader who, for the purposes of trade, has in his possession or in his shop, warehouse or place of business any instrument for weighing or any weight or any measure of length or capacity which is false, is guilty of an offence, and is liable to a fine of £500 unless he proves that he did not know that any such article was false.

(2) In case of a subsequent conviction for a similar offence within twelve months of the first conviction the offender is liable to imprisonment for one year or a fine of £2,500.

#### **Use of false instrument for weighing or false weight.**

**262.** (1) Any person who fraudulently uses any instrument for weighing, which he knows to be false, is guilty of an offence, and is liable to imprisonment for one year or to a fine of £2,500.

(2) Any person who fraudulently uses any false weight or false measure of length or capacity, or fraudulently uses any weight or any measure of length or capacity as a different weight or measure from what it is in fact, is guilty of an offence, and is liable to imprisonment for one year or to a fine of £2,500.

### **Blackmail.**

**263.** (1) A person is guilty of blackmail if, with a view to gain for himself or another or with intent to cause loss to another, he makes any unwarranted demand with menaces; and for this purpose a demand with menaces is unwarranted unless the person making it does so in the belief –

(a) that he has reasonable grounds for making the demand; and

(b) that the use of the menaces is a proper means of reinforcing the demand.

(2) The nature of the act or omission demanded is immaterial, and it is also immaterial whether the menaces relate to action to be taken by the person making the demand.

(3) A person guilty of blackmail is liable to imprisonment for fourteen years.

## **CHAPTER XXVII**

### **OFFENCES RELATING TO GOODS STOLEN, ETC.**

#### **Handling stolen goods.**

**264.** (1) A person handles stolen goods if (otherwise than in the course of the stealing) knowing or believing them to be stolen goods he dishonestly receives the goods, or dishonestly undertakes or assists in their retention, removal, disposal or realisation by or for the benefit of another person, or if he arranges to do so.

(2) A person guilty of handling stolen goods is liable to imprisonment for fourteen years.

#### **Scope of offences relating to stolen goods.**

**265.** (1) The provisions of this Code relating to goods which have been stolen shall apply whether the stealing occurred in the Territory or elsewhere, and whether it occurred before or after the commencement of this Code, provided that the stealing (if not an offence under this Code) amounted to an offence where and at the time when the goods were stolen; and references to stolen goods shall be construed accordingly.

(2) For the purposes of those provisions references to stolen goods shall include, in addition to the goods originally stolen and parts of them (whether in their original state or not) –

(a) any other goods which directly or indirectly represent or have at any time represented the stolen goods in the hands of the thief as being the proceeds of any disposal or realisation of the whole or part of the goods stolen or of goods so representing the stolen goods; and

(b) any other goods which directly or indirectly represent or have at any time represented the stolen goods in the hands of a handler of the stolen goods or any part of them as being the proceeds of any disposal or realisation of the whole or part of the stolen goods handled by him or of goods so representing them.

(3) No goods shall be regarded as having continued to be stolen goods after they have been restored to the person from whom they were stolen or to other lawful possession or custody, or after that person and any other person claiming through him have otherwise ceased as regards those goods to have any right to restitution in respect of the theft.

(4) For the purposes of the provisions of this Code relating to goods which have been stolen (including subsections (1) to (3) above) goods obtained in the Territory or elsewhere either by blackmail or in the circumstances described in section 250(1) of this Code shall be regarded as stolen; and **steal**, **theft** and **thief** shall be construed accordingly.

## **DIVISION VI**

### **CRIMINAL DAMAGE TO PROPERTY**

#### **CHAPTER XXVIII**

#### **OFFENCES CAUSING DAMAGE TO PROPERTY**

##### **Destroying or damaging property.**

**266.** (1) A person who without lawful excuse destroys or damages any property belonging to another intending to destroy or damage any such property or being reckless as to whether any such property would be destroyed or damaged is guilty of an offence.

(2) A person who without lawful excuse destroys or damages any property, whether belonging to himself or another –

(a) intending to destroy or damage any property or being reckless as to whether any property would be destroyed or damaged; and

(b) intending by the destruction, or damage to endanger the life of another or being reckless as to whether the life of another would be thereby endangered,

is guilty of an offence.

(3) An offence committed under this section, by destroying or damaging property by fire is termed, and shall be charged as, arson.

### **Threats to destroy or damage property.**

**267.** A person who without lawful excuse makes to another a threat, intending that that other would fear it would be carried out –

(a) to destroy or damage any property belonging to that other or a third person; or

(b) to destroy or damage his own property in a way which he knows is likely to endanger the life of that other or a third person,

is guilty of an offence.

### **Possessing anything with intent to destroy or damage property.**

**268.** A person who has anything in his custody or under his control intending without lawful excuse to use it or cause or permit another to use it –

(a) to destroy or damage any property belonging to some other person; or

(b) to destroy or damage his own or the user's property in a way which he knows is likely to endanger the life of some other person,

is guilty of an offence.

### **Punishment of offences.**

**269.** (1) A person guilty of arson under section 266 above or of an offence under section 266(2) above (whether arson or not) is liable to imprisonment for life.

(2) A person guilty of any other offence under this Chapter is liable to imprisonment for ten years.

**“Without lawful excuse”**

**270.** (1) This section applies to any offence under section 266 (1) above and any offence under section 267 or 268 above other than one involving a threat by the person charged to destroy or damage property in a way which he knows is likely to endanger the life of another or involving an intent by the person charged to use or cause or permit the use of something in his custody or under his control so to destroy or damage property.

(2) A person charged with an offence to which this section applies shall, whether or not he would be treated for the purposes of this Chapter as having a lawful excuse apart from this subsection, be treated for those purposes as having a lawful excuse –

(a) if at the time of the act or acts alleged to constitute the offence he believed that the person or persons whom he believed to be entitled to consent to the destruction of or damage to the property in question had so consented, or would have so consented to it if he or they had known of the destruction or damage and its circumstances; or

(b) if he destroyed or damaged or threatened to destroy or damage the property in question or, in the case of a charge of an offence under section 268 above, intended to use or cause or permit, the use of something to destroy or damage it, in order to protect property belonging to himself or another or a right or interest in property which was or which he believed to be vested in himself or another, and at the time of the act or acts alleged to constitute the offence he believed –

(i) that the property, right or interest was in immediate need of protection; and

(ii) that the means of protection adopted or proposed to be adopted were or would be reasonable having regard to all the circumstances.

(3) For the purpose of this section it is immaterial whether a belief is justified or not if it is honestly held.

(4) For the purposes of subsection (2) above a right or interest in property includes any right or privilege in or over land, whether created by grant, licence or otherwise.

(5) This section shall not be construed as casting doubt on any defence recognised by law as a defence to criminal charges.

## **Interpretation.**

**271.** (1) In this Chapter **property** means property of a tangible nature, whether real or personal, including money and including wild creatures which have been tamed, or are ordinarily kept in captivity, and any other wild creatures or their carcasses if, but only if, they have been reduced into possession which has not been lost or abandoned or are in the course of being reduced into possession; but not including mushrooms growing wild on any land or flowers, fruit or foliage of a plant growing wild on any land.

For the purposes of this subsection **mushroom** includes any fungus and **plant** includes any shrub or tree.

(2) Property shall be treated for the purposes of this Chapter as belonging to any person –

(a) having the custody or control of it;

(b) having in it any proprietary right or interest (not being an equitable interest arising only from an agreement to transfer or grant an interest); or

(c) having a charge on it.

(3) Where property is subject to a trust, the persons to whom it belongs shall be so treated as including any person having a right to enforce the trust.

(4) Property of a corporation sole shall be so treated as belonging to the corporation despite a vacancy in the corporation.

## **DIVISION VII**

### **FORGERY, COINING AND COUNTERFEITING, ETC.**

#### **CHAPTER XXIX**

#### **DEFINITIONS**

### **Definition of forgery.**

**272.** Forgery is the making of a false document with intent to defraud or to deceive.

### **Document.**

**273.** The term **document** in this division of this Code does not include a trade mark or any other sign used in connection with articles of commerce though they may be written or printed.

### **Making a false document.**

**274.** Any person makes a false document who –

- (a) makes a document purporting to be what in fact it is not;
- (b) alters a document without authority in such a manner that if the alteration had been authorised it would have altered the effect of the document;
- (c) introduces into a document without authority whilst it is being drawn up matter which if it had been authorised would have altered the effect of the document;
- (d) signs a document –
  - (i) in the name of any person without his authority whether such name is or is not the same as that of the person signing;
  - (ii) in the name of any fictitious person alleged to exist whether the fictitious person is or is not alleged to be of the same name as the person signing;
  - (iii) in the name represented as being the name of a different person from that of the person signing it and intended to be mistaken for the name of that person;
  - (iv) in the name of a person personated by the person signing the document, provided that the effect of the instrument depends upon the identity between the person signing the document and the person whom he professes to be.

### **Intent to defraud.**

**275.** An intent to defraud is presumed to exist if it appears that at the time when the false document was made there was in existence a specific person ascertained or unascertained capable of being defrauded thereby, and this presumption is not rebutted by proof that the offender took or intended to take measures to prevent such person from being defrauded in fact, nor by the fact that he had or thought he had a right to the thing to be obtained by the false document.



## **CHAPTER XXX**

### **PUNISHMENTS FOR FORGERY**

#### **General punishment for forgery.**

**276.** Any person who forges any document is guilty of an offence, and is liable, unless owing to the circumstances of the forgery or the nature of the thing forged some other punishment is provided, to imprisonment for three years.

#### **Imprisonment for life.**

**277.** Any person who forges any will, document of title to land, judicial record, power of attorney, bank note, currency note, bill of exchange, promissory note or other negotiable instrument, policy of insurance, cheque or other authority for the payment of money by a person carrying on business as a banker, is liable to imprisonment for life and the court may in addition order that any such document used in the commission of the offence shall be forfeited to Her Majesty.

#### **Imprisonment for ten years.**

**278.** Any person who forges any other judicial document or any official document is liable to imprisonment for ten years.

#### **Imprisonment for seven years.**

**279.** Any person who –

(a) forges any stamp whether impressed or adhesive used for the purposes of revenue or accounting by any Government department;

(b) without lawful excuse, the proof whereof shall lie upon him, makes or has knowingly in his possession any die or instrument capable of making the impression of any such stamp;

(c) fraudulently cuts, tears in any way, or removes from any material any stamp used for the purposes of revenue or accounting by the Government, with intent that another use shall be made of such stamp or any part thereof;

(d) fraudulently mutilates any stamp used for the purposes of revenue or accounting by the Government, with intent that another use shall be made of such stamp;

(e) fraudulently fixes or places upon any material or upon any stamp used for the purposes of revenue or accounting by the Government, any stamp or part of a stamp which whether

fraudulently or not has been cut, torn, or in any way removed from any other material or out of or from any other stamp;

(f) fraudulently erases or otherwise either really or apparently removes from any stamped material any name, sum, date, or other matter or thing whatsoever written thereon with the intent that another use shall be made of the stamp upon such material; or

(g) knowingly and without lawful excuse, the proof whereof shall lie upon him, has in his possession any stamp or part of a stamp which has been fraudulently cut, torn, or otherwise removed from any material, or any stamp which has been fraudulently mutilated, or any stamped material out of which any name, sum, date, or other matter or thing has been fraudulently erased or otherwise really or apparently removed,

is liable to imprisonment for seven years.

#### **Uttering false documents.**

**280.** Any person who knowingly and either fraudulently or with intent to deceive utters a false document is guilty of an offence of the same kind, and is liable to the same punishment, as if he had forged the thing in question.

#### **Uttering cancelled or exhausted documents.**

**281.** Any person who knowingly utters as and for a subsisting and effectual document, any document which has by any lawful authority been ordered to be revoked, cancelled, or suspended, or the operation of which has ceased by effluxion of time, or by death, or by the happening of any other event, is guilty of an offence of the same kind, and is liable to the same punishment, as if he had forged the document.

#### **Procuring execution of documents by false pretences.**

**282.** Any person who, by means of any false and fraudulent representations as to the nature, contents, or operation of a document, procures another to sign or execute the document, is guilty of an offence of the same kind, and is liable to the same punishment as if he had forged the document.

#### **Obliterating crossings on cheques.**

**283.** Any person who, with intent to defraud –

(a) obliterates, adds to, or alters the crossing on a cheque; or

(b) knowingly utters a crossed cheque, the crossing on which has been obliterated, added to, or altered,

is guilty of an offence and is liable to imprisonment for seven years.

**Making documents without authority.**

**284.** Any person who, with intent to defraud or to deceive –

(a) without lawful authority or excuse, makes, signs, or executes, for or in the name or on account of another person, whether by procuration or otherwise, any document or writing; or

(b) knowingly utters any document or writing so made, signed, or executed by another person,

is guilty of an offence, and is liable to imprisonment for seven years.

**Demanding property upon forged testamentary instruments.**

**285.** Any person who procures the delivery or payment to himself or any other person of any property or money by virtue of any probate or letters of administration granted upon a forged testamentary instrument, knowing the testamentary instrument to have been forged, or upon or by virtue of any probate or letters of administration obtained by false evidence, knowing the grant to have been so obtained, is guilty of an offence of the same kind, and is liable to the same punishment, as if he had forged the document or thing by virtue whereof he procures the delivery or payment.

**Importing or purchasing forged notes.**

**286.** Any person who, without lawful authority or excuse, the proof of which lies on him, imports into the Territory, or purchases or receives from any person, or has in his possession, a forged bank note or currency note, whether filled up or in blank, knowing it to be forged, is guilty of an offence, and is liable to imprisonment for seven years.

**Falsifying warrants for money payable under public authority.**

**287.** Any person who, being employed in the public service, knowingly and with intent to defraud makes out or delivers to any person a warrant for the payment of any money payable by public authority, for a greater or less amount than that to which the person on whose behalf the warrant is made out is entitled, is guilty of an offence, and is liable to imprisonment for seven years.

**Falsification of register.**

**288.** Any person who, having the actual custody of any register or record kept by lawful authority, knowingly permits any entry which in any material particular is to his knowledge false to be made in the register or record, is guilty of an offence and is liable to imprisonment for seven years.

**Sending false certificate of marriage to registrar.**

**289.** Any person who signs or transmits to a person authorised by law to register marriages, a certificate of marriage, or any document purporting to be a certificate of marriage, which in any material particular is to his knowledge false, is guilty of an offence, and is liable to imprisonment for seven years.

**False statements for registers of births, deaths and marriages.**

**290.** Any person who knowingly and with intent to procure the same to be inserted in a register of births, deaths, or marriages, makes any false statement touching any matter required by law to be registered in any such register, is guilty of an offence, and is liable to imprisonment for three years.

**CHAPTER XXXI**

**OFFENCES RELATING TO COIN AND TO  
BANK AND CURRENCY NOTES**

**Definitions.**

**291.** In this Chapter –

**coin** includes any coin coined in any of Her Majesty's mints, or lawfully current by virtue of any Order in Council, Ordinance, proclamation or otherwise in the Territory or in any part of Her Majesty's dominions, and any coin of a Commonwealth Country or foreign Sovereign or State;

**counterfeit coin** means coin not genuine but resembling or apparently intended to resemble or pass for genuine coin; and includes genuine coin prepared or altered so as to pass for coin of a higher denomination;

**utter** includes tender and pass.

**Counterfeiting coin.**

**292.** Any person who makes or begins to make any counterfeit coin is guilty of an offence, and is liable to imprisonment for life.

**Preparations for coining.**

**293.** (1) Any person who –

- (a) gilds or silvers any piece of metal of a fit size or figure to be coined, with intent that it shall be coined into counterfeit coin;

(b) makes any piece of metal into a fit size or figure to facilitate the coining from it of any counterfeit coin, with intent that such counterfeit coin shall be made from it; or

(c) without lawful authority or excuse, the proof of which lies on him –

(i) buys, sells, receives, pays or disposes of any counterfeit coin at a lower rate than it imports or is apparently intended to import, or offers to do any such thing;

(ii) brings or receives into the Territory any counterfeit coin, knowing it to be counterfeit;

(iii) makes or mends, or begins or prepares to make or mend, or has in his possession, or disposes of any stamp or mould which is adapted to make the resemblance of both or either of the sides of any coin, or any part of either side thereof, knowing the same to be a stamp or mould or to be so adapted;

(iv) makes or mends, or begins or prepares to make or mend, or has in his possession, or disposes of any tool, instrument or machine which is adapted and intended to be used for marking coin round the edges with marks or figures apparently resembling those on the edges of any coin, knowing the same to be so adapted and intended; or

(v) makes or mends, or begins or prepares to make or mend, or has in his possession, or disposes of any press for coinage, or any tool, instrument, or machine which is adapted for cutting round blanks out of gold, silver, or other metal, knowing such press, tool, instrument, or machine to have been used or to be intended to be used for making any counterfeit coin,

is guilty of an offence.

(2) If the offence is committed with respect to coin current in the Territory, he is liable to imprisonment for life.

(3) If the offence is committed with respect to any other coin, he is liable to imprisonment for seven years.

#### **Making or having in possession paper or implements for forgery.**

**294.** Any person who, without lawful authority or excuse, the proof of which lies on him –

(a) makes, uses, or knowingly has in his custody or possession any paper intended to resemble and pass as a special paper such as is provided and used for making any bank note or currency note;

(b) makes, uses, or knowingly has in his custody or possession any frame, mould, or instrument for making such paper, or for producing in or on such paper any words, figures, letters, marks, lines, or devices peculiar to and used in or on any such paper;

(c) engraves or in any other manner makes upon any plate, wood, stone, or other material, any words, figures, letters, marks, lines or devices, the print whereof resembles in whole or in part any words, figures, letters, marks, lines or devices peculiar to and used in or on any bank note or currency note;

(d) uses or knowingly has in his custody or possession any plate, wood, stone, or other material, upon which any such words, figures, letters, marks, lines or devices have been engraved or in any other manner made;

(e) uses or knowingly has in his custody or possession any paper upon which any such words, figures, letters marks, lines or devices have been printed or in any other manner made,

is guilty of an offence, and is liable to imprisonment for seven years.

### **Clipping.**

**295.** Any person who deals with any current coin in such a manner as to diminish its weight with intent that when so dealt with it may pass as current coin, is guilty of an offence and is liable to imprisonment for seven years.

### **Melting down of currency.**

**296.** Any person who melts down, breaks up, defaces by stamping thereon any name, word or mark, or uses otherwise than as currency any coin current for the time being in the Territory is guilty of an offence, and is liable to imprisonment for six months or to a fine of £10,000.

### **Impounding and destruction of counterfeit coin.**

**297.** Any officer of the Government or the manager of any bank who receives, during the performance of his duties, any coin which he has reasonable ground for believing to be counterfeit coin shall impound such coin and transmit it to the Commissioner who may cut, deface or destroy it with or without compensation, as he thinks fit, if in his opinion it is counterfeit.

For the purposes of this section the decision of the Commissioner that a coin is counterfeit and that compensation shall be granted or withheld shall be final, and

no person shall be entitled to claim and no proceedings or action shall be brought against the Commissioner, the Government, the officer of the Government concerned, the manager of the bank concerned or his bank in respect of any loss or damage suffered by reason of such impounding and cutting, defacing or destruction.

**Possession of clippings.**

**298.** Any person who unlawfully has in his possession or disposes of any filings, or clippings of gold or silver, or any gold or silver in bullion, dust, solution, or any other state, obtained by dealing with current gold or silver coin in such a manner as to diminish its weight, knowing the same to have been so obtained, is guilty of an offence, and is liable to imprisonment for seven years.

**Uttering counterfeit coin.**

**299.** Any person who utters any counterfeit coin, knowing it to be counterfeit, is guilty of an offence.

**Repeated uttering.**

**300.** Any person who –

(a) utters any counterfeit coin, knowing it to be counterfeit and at the time of such uttering has in his possession any other counterfeit coin;

(b) utters any counterfeit coin, knowing it to be counterfeit, and either on the same day or on any of the ten days next ensuing, utters any other counterfeit coin, knowing it to be counterfeit; or

(c) receives, obtains, or has in his possession any counterfeit coin, knowing it to be counterfeit, with intent to utter it,

is guilty of an offence, and is liable to imprisonment for three years.

**Uttering metal or coin not current as coin.**

**301.** (1) Any person who, with intent to defraud, utters as and for coin any metal or piece of metal is guilty of an offence, and is liable to imprisonment for one year.

(2) Any person who, with intent to defraud, utters as and for coin lawfully current in the Territory by virtue of any Order in Council, Ordinance, proclamation or otherwise, any coin not so lawfully current is guilty of an offence, and is liable to imprisonment for one year.

### **Selling articles bearing an imitation of currency.**

**302.** Any person who, without lawful authority or excuse, the proof of which lies upon him, sells or offers or exposes for sale any article which bears a design in imitation of any currency or bank note or coin in current use in the Territory or elsewhere is guilty of an offence, and is liable to imprisonment for six months.

### **Exporting counterfeit coin.**

**303.** Any person who, without lawful authority or excuse, the proof, of which lies on him, exports or puts on board of a vessel or vehicle of any kind for the purpose of being exported from the Territory, any counterfeit coin whatever, knowing it to be counterfeit, is guilty of an offence.

### **Forfeiture and search warrants.**

**304.** When any person is convicted of an offence under this Chapter, or the preceding Chapter, the court shall order the forfeiture to Her Majesty of any forged bank note or currency note or of any counterfeit coin or stamp, mould, tool, instrument, machine, press, or any coin, bullion, or metal, or any article bearing a design in imitation of any currency, bank note or coin used or employed in the commission of any such offence.

## **COUNTERFEIT STAMPS**

### **Possession of die used for purpose of making stamps.**

**305.** Any person who, without lawful authority or excuse, the proof of which lies on him –

(a) makes or mends, or begins or prepares to make or mend, or uses, or knowingly has in his possession, or disposes of any die, plate or instrument capable of making an impression resembling that made by any die, plate or instrument used for the purpose of making any stamp, whether impressed or adhesive, which is used for the purposes of the public revenue or of the postal services in the Territory or in any part of Her Majesty's dominions, or in any Commonwealth country or foreign country, or capable of producing in or on paper any words, figures, letters, marks, or lines resembling any words, figures, letters, marks or lines used in or on any paper specially provided by the proper authority for any such purpose;

(b) knowingly has in his possession or disposes of any paper or other material which has on it the impression of any such die, plate or instrument, or any paper which has on it or in it any such words, figures, letters, marks or lines as described in subsection (a);



(c) fraudulently and with intent that use may be made of any such stamp as described in subsection (a), or of any part of it, removes the stamp from any material in any way whatever;

(d) fraudulently and with intent that use may be made of any part of such stamp, mutilates the stamp;

(e) fraudulently fixes or places upon any material or upon any such stamp, any stamp or part of a stamp which has been in any way removed from any other material, or out of or from any other stamp;

(f) fraudulently, and with intent that use may be made of any such stamp which has been already impressed upon or attached to any material, erases or otherwise removes, either really or apparently, from such material anything whatever written on it;

(g) knowingly has in his possession or disposes of anything obtained or prepared by any such unlawful act as specified in this section; or

(h) fraudulently or with intent to cause loss to the Government, uses for any purpose a stamp issued by Government for the purpose of revenue which he knows to have been before used,

is guilty of an offence, and is liable to imprisonment for seven years, and any die, plate, instrument, paper or other thing as described in this section which is found in his possession shall be forfeited to Her Majesty.

#### **Paper and dies for postage stamps.**

**306.** (1) Any person who, without lawful authority or excuse, the proof of which lies on him –

(a) makes, or begins or prepares to make, or uses for any postal purpose, or has in his possession, or disposes of any imitation or representation on paper or any other material, of any stamp used for denoting any rate of postage of the Territory, or of any part of Her Majesty's dominions, or of any Commonwealth country or foreign country; or

(b) makes or mends, or begins or prepares to make or mend, or uses, or has in his possession, or disposes of any die, plate, instrument, or material for making any such imitation or representation,

is guilty of an offence, and is liable to imprisonment for one year, or to a fine of £5,000 and any stamps, and any other things as described in this

section, which are found in his possession, shall be forfeited to Her Majesty.

(2) For the purposes of this section a stamp purporting to denote a rate of postage of any country is to be taken to be a stamp used for postal purposes in that country until the contrary is shown.

## **CHAPTER XXXII**

### **PERSONATION**

#### **Personation in general.**

**307.** (1) Any person who, with intent to defraud any person, falsely represents himself to be some other person, living or dead, is guilty of an offence.

(2) If the representation is that the offender is a person entitled by will or operation of law to any specific property and he commits the offence to obtain such property or possession thereof, he is liable to imprisonment for seven years.

#### **Falsely acknowledging deeds, etc.**

**308.** Any person who, without lawful authority or excuse, the proof of which lies on him, makes, in the name of any other person, before any court or person lawfully authorised to take such an acknowledgment, an acknowledgment of liability of any kind, or an acknowledgment of a deed or other instrument, is guilty of an offence.

#### **Personation of a person named in a certificate.**

**309.** Any person who utters any document which has been issued by lawful authority to another person, and whereby that other person is certified to be a person possessed of any qualification recognised by law for any purpose, or to be the holder of any office, or to be entitled to exercise any profession, trade or business, or to be entitled to any right or privilege or to enjoy any rank or status, and falsely represents himself to be the person named in the document, is guilty of an offence of the same kind and is liable to the same punishment as if he had forged the document.

#### **Lending, etc., certificate for personation.**

**310.** Any person who, being a person to whom any document has been issued by lawful authority whereby he is certified to be a person possessed of any qualification recognised by law for any purpose, or to be the holder of any office, or to be entitled to exercise any profession, trade or business, or to be entitled to any right or privilege, or to enjoy any rank or status, sells, gives or lends the document to another person with intent that that other may represent himself to be the person named therein, is guilty of an offence.

### **Personation of person named in a testimonial of character.**

**311.** Any person who, for the purpose of obtaining any employment, utters any document of the nature of a testimonial of character given to another person, is guilty of an offence, and is liable to imprisonment for one year.

### **Lending, etc., testimonial for personation.**

**312.** Any person who, being a person to whom any such document as is mentioned in the last preceding section has been given, gives, sells or lends such document to another person with the intent that that other person may utter such document for the purpose of obtaining any employment, is guilty of an offence.

## **CHAPTER XXXIII**

### **SECRET AND CORRUPT PRACTICES**

#### **Interpretation.**

**313.** (1) For the purpose of this Chapter, the expression **consideration** includes valuable consideration of any kind; the expression **agent** includes any person employed by or acting for another; and the expression **principal** includes an employer.

(2) A person serving under the Crown or under any municipal council or board or under any other public body entrusted with the expenditure of any Government funds or grants, and a member of any such municipal council or board or other public body is an agent within the meaning of this Chapter.

#### **Corrupt practices.**

**314.** If any –

(a) agent corruptly accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gift or consideration as an inducement or reward for doing or forbearing to do or for having done or forborne to do, any act in relation to his principal's affairs or business or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business;

(b) person corruptly gives or agrees to give or offers any gift or consideration to any agent as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; or

(c) person knowingly gives to any agent, or if any agent knowingly uses with intent to deceive his principal, any receipt, account or other document in respect of which the principal is interested, and which contains any statement which is false or erroneous or defective in any material particular, and which to his knowledge is intended to mislead the principal,

he is guilty of an offence, and is liable to imprisonment for two years or to a fine of £20,000.

#### **Secret commission on Government contracts.**

**315.** Any person convicted of an offence under this Chapter shall, where the matter or transaction in relation to which the offence was committed was a contract or a proposal for a contract with the Government or any Government department or a municipal council or board or other public body entrusted with the expenditure of any Government funds or grants, or a sub-contract to execute any work comprised in such contract, be liable to imprisonment for seven years, or to a fine of £30,000.

#### **Presumption as to corrupt practices.**

**316.** Where in any proceedings against a person for an offence under this Chapter it is proved that any money, gift or other consideration has been paid or given to or received by a person in the employment of the Crown or any Government department or a municipal council or board or other public body entrusted with the expenditure of any Government funds or grants, by or from a person or agent of a person holding or seeking to obtain a contract from the Crown or any Government department or municipal council or board or other public body entrusted with the expenditure of any Government funds or grants, the money, gift or consideration shall be deemed to have been paid or given and received corruptly as such inducement or reward as is mentioned in this Chapter, unless the contrary is proved.

#### **Consent of the Principal Legal Adviser to prosecution.**

**317.** A prosecution for an offence under this Chapter shall not be instituted without the consent of the Principal Legal Adviser.

**DIVISION VIII**  
**ATTEMPTS AND CONSPIRACIES TO COMMIT CRIMES, AND**  
**ACCESSORIES AFTER THE FACT**

**CHAPTER XXXIV**

**ATTEMPTS**

**Attempt defined.**

**318.** (1) When a person, intending to commit an offence, begins to put his intention into execution by an act which goes so far towards the commission of that offence as to be more than a merely preparatory act, but does not fulfil his intention to such an extent as to commit the offence, he is deemed to attempt to commit the offence.

(2) It is immaterial, except so far as regards punishment, whether the offender does all that is necessary on his part for completing the commission of the offence, or whether the complete fulfilment of his intention is prevented by circumstances independent of his will, or whether he desists of his own motion from the further prosecution of his intention.

**Attempts to commit offences.**

**319.** Any person who attempts to commit an offence is guilty of an offence.

**Punishment of attempts to commit certain offences.**

**320.** Any person who attempts to commit an offence of such a kind that a person convicted of it is liable to the punishment of imprisonment for a term of fifteen years or upwards, with or without other punishment, is liable, if no other punishment is provided, to imprisonment for seven years.

***Repealed.***

**321.** *Repealed.*

**CHAPTER XXXV**

**CONSPIRACY**

**Conspiracy to commit an offence.**

**322.** (1) Subject to the following provisions of this Chapter, if a person agrees with any other person or persons that a course of conduct shall be pursued which will necessarily amount to or involve the commission of any offence or offences

by one or more of the parties to the agreement if the agreement is carried out in accordance with their intentions, he is guilty of conspiracy to commit the offence or offences in question.

(2) Where liability for any offence may be incurred without knowledge on the part of the person committing it of any particular fact or circumstance necessary for the commission of the offence, a person shall nevertheless not be guilty of conspiracy to commit that offence by virtue of subsection (1) above unless he and at least one other party to the agreement intend or know that that fact or circumstance shall or will exist at the time when the conduct constituting the offence is to take place.

(3) Where in pursuance of any agreement the acts in question in relation to any offence are to be done in contemplation or furtherance of a trade dispute that offence shall be disregarded for the purposes of subsection (1) above provided that it is an offence which is not punishable with imprisonment except in default of payment of a fine.

(4) In this Chapter –

**offence** means an offence triable in the Territory, except that it includes murder despite the fact that the murder in question would not be so triable if committed in accordance with the intentions of the parties to the agreement;

**trade dispute** means any dispute or difference between employers and workmen or between workmen and workmen connected with the employment or non-employment or the terms of employment, or with the conditions of labour, of any person.

### **Penalties for conspiracy to commit an offence.**

**323.** (1) A person guilty by virtue of section 322 above of conspiracy to commit any offence or offences is liable –

(a) in a case falling within subsection (2) or (3) below, to imprisonment for a term related in accordance with that subsection to the gravity of the offence or offences in question (referred to below in this section as the relevant offence or offences); and

(b) in any other case, to a fine.

Paragraph (b) above shall not be taken as prejudicing the application of section 27(2) of this Code in a case falling within subsection (2) or (3) below.

(2) Where the relevant offence or any of the relevant offences is an offence of any of the following descriptions, that is to say –

(a) murder, or any other offence the sentence for which is fixed by law; or

(b) an offence for which a sentence extending to imprisonment for life is provided,

the person convicted is liable to imprisonment for life.

(3) Where in a case other than one to which subsection (2) above applies the relevant offence or any of the relevant offences is punishable with imprisonment, the person convicted is liable to imprisonment for a term not exceeding the maximum term provided for that offence or (where more than one such offence is in question) for any one of those offences (taking the longer or the longest term as the limit for the purposes of this section where the terms provided differ).

### **Other conspiracies.**

**324.** Any person who conspires with any other person or persons –

(a) to defraud any person; or

(b) to engage in conduct which tends to corrupt public morals or outrages public decency, but would not amount to or involve the commission of an offence if carried out by a single person otherwise than in pursuance of an agreement,

is guilty of an offence, and is liable if the offence is under paragraph (a) above to imprisonment for five years and if it is under paragraph (b) to imprisonment for six months.

### **Exemptions from liability for conspiracy.**

**325.** (1) A person shall not by virtue of section 322 above be guilty of conspiracy to commit any offence if he is an intended victim of that offence.

(2) A person shall not by virtue of section 322 above be guilty of conspiracy to commit any offence or offences if the only other person or persons with whom he agrees are (both initially and at all times during the currency of the agreement) persons of any one or more of the following descriptions, that is to say –

(a) his spouse;

(b) a person under the age of ten years;

(c) an intended victim of that offence or of each of those offences.

### **Supplementary.**

**326.** (1) The rules laid down by sections 322 and 325 above shall apply for determining whether a person is guilty of an offence of conspiracy under any enactment other than section 322 above, but conduct which is an offence under any such other enactment shall not also be an offence under section 322 above.

(2) Incitement and attempt to commit the offence of conspiracy (whether the conspiracy incited or attempted would be an offence at common law or under section 322 above or any other enactment) shall cease to be offences.

(3) The fact that the person or persons who, so far as appears from the charge on which any person has been convicted of conspiracy, were the only other parties to the agreement on which his conviction was based have been acquitted of conspiracy by reference to that agreement (whether after being tried with the person convicted or separately) shall not be a ground for quashing his conviction unless under all the circumstances of the case his conviction is inconsistent with the acquittal of the other person or persons in question.

(4) Any rule of law or practice inconsistent with the provisions of subsection (3) above is hereby abolished.

## **CHAPTER XXXVI**

### **ACCESSORIES AFTER THE FACT**

#### **Definition of accessories after the fact.**

**327.** (1) A person who receives or assists another who is, to his knowledge, guilty of an offence, in order to enable him to escape punishment, is said to become an accessory after the fact to the offence.

(2) A wife does not become an accessory after the fact to an offence of which her husband is guilty by receiving or assisting him in order to enable him to escape punishment; or by receiving or assisting, in her husband's presence and by his authority, another person who is guilty of an offence in the commission of which her husband has taken part, in order to enable that other person to escape punishment; nor does a husband become an accessory after the fact to an offence of which his wife is guilty by receiving or assisting her in order to enable her to escape punishment.

#### **Punishment of accessories after the fact.**

**328.** Any person who becomes an accessory after the fact to an offence is guilty of an offence, and is liable, if no other punishment is provided, to imprisonment for three years.





