CAYMAN ISLANDS

PENAL CODE

(2024 Revision)

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Note (not forming part of this Law): This revision replaces the 2022 Revision which should now be discarded.

CAYMAN ISLANDS

PENAL CODE

(2024 Revision)

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CAYMAN ISLANDS

PENAL CODE

(2024 Revision)

PART I - Preliminary

Short title

1. This Act may be cited as the *Penal Code (2024 Revision).*

Saving of certain laws

2. Nothing in this Act shall affect —

(a) the liability, trial or punishment of a person for an offence against the common law or any other law in force in the Islands;

(b) the power of any court to punish a person for contempt of court;

(c) 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 Act; or

(d) any power of His Majesty, or of the Governor as the representative of His 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.

Interpretation

3. In this Act —

"**attendance order**" means an order made by a court under section 24 of the *Youth Justice Act* (*2021 Revision*);

"**civil partner**" has the meaning assigned by the *Civil Partnership Act, 2020 [Law 35 of 2020]*;

"**civil partnership**" has the meaning assigned by the *Civil Partnership Act, 2020 [Law 35 of 2020]*;

"**Commissioner**" means the Commissioner of Police;

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

"**judicial proceeding**" includes any proceeding had or taken in or before any court, tribunal, commission of inquiry or person in which evidence is 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;

"**law**" includes any order, rule or regulation made under the authority of any law;

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

"**night**" or "**night time**" means the interval between 19.00 hours in the evening and 06.00 hours in the morning of the day following;

"**oath**" includes affirmation or declaration;

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

"**person**" and "**owner**" and other like terms when used with reference to property include corporations of all kinds and any other association of persons capable of owning property, and also when so used include the Crown;

"**person employed in the public service**" includes —

(a) a person holding public office whether temporarily, or permanently by appointment, by election or by the operation of any law;

(b) an arbitrator, umpire or referee in any proceeding or matter with the sanction of any court or in pursuance of any law;

(c) a Justice of the Peace; and

(d) a member of any statutory body, tribunal or commission of inquiry in pursuance of any law;

"**possession**" includes not only having in one's own personal possession, but 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 any other person, and if there are two or more persons and any one of them or more of them with the knowledge and consent of the rest has or have anything in that person's or their custody or possession, it shall be deemed and taken to be in the custody and possession of each and all of them;

"**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 in the Islands but also to persons inhabiting or using any particular place, or any number of persons, and also to such indeterminate persons as may happen to be affected by the conduct in respect of 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;

"**publicly**" when applied to acts done, means either 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 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;

"**summons**" means a witness summons, writ of subpoena or any other process issued by a court for the purpose of securing the attendance of a witness in criminal or civil proceedings and "**summoned**" has a corresponding meaning;

"**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**" includes any document which is the property of any person, and which is evidence of the ownership of any property or of the right to recover or receive any property;

"**vessel**" includes any thing or device capable of being used for conveying goods or passengers from one place to another, and includes a vessel being towed or carried by another vessel whether as cargo or for any other purpose; and

"**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.

Offence committed partly within and partly beyond the jurisdiction

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

Ignorance of the law

5. 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.

Bona fide claim of right

6. A person is not criminally responsible in respect of an offence relating to property, if the act done or omitted to be done by that person with respect to the property was done in the exercise of an honest claim of right and without intention to defraud.

Intention: motive

7. (1) Subject to the express provisions of this Act relating to negligent acts and omissions, a person is not criminally responsible for an act or omission which occurs independently of the exercise of that person's will, or for an event which occurs by accident.

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

(3) 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

8. (1) A person who does or omits to do an act under an honest and reasonable, but mistaken, belief in the existence of a 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 that person believed to exist.

(2) The operation of subsection (1) may be excluded by the express or implied provisions of the law relating to the subject.

Presumption of sanity

9. 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

10. A person is not criminally responsible for an act or omission if, at the time of doing the act or making the omission, that person is through any disease affecting that person's mind incapable of understanding what that person is doing, or of knowing that that person ought not to do the act or make the omission; but a person may be criminally responsible for an act or omission, although that person's mind is affected by disease, if such disease does not in fact produce upon that person's mind one or other of the effects above mentioned in reference to that act or omission.

Intoxication

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

(2) Intoxication shall be a defence to a 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 that person was doing and —

(a) the state of intoxication was caused without that person's 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 subsection (2) is established, then in a case falling under paragraph (a) thereof, the accused shall be discharged, and in a case falling under paragraph (b), section 10 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 that person would not be guilty of the offence.

(5) In this section "**intoxication**" shall be deemed to include a state produced by narcotics or drugs.

Immature age

12. (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 that person had capacity to know that that person ought not to do the act or make the omission.

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

Compulsion

13. A person is not criminally responsible for an offence if it is committed by two or more persons 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 person or persons instantly to kill that person or do that person grievous bodily harm if that person refuses; but threats of future injury do not excuse any offence.

Defence of person or property

14. Subject to any express provisions in this or any other law in operation in the Islands, 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

15. Where any person is charged with a criminal offence arising out of the lawful arrest, or attempted arrest, by that person 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.

Compulsion by spouse or civil partner

16. A person 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 that person's spouse or civil partner, but on a charge against a person other than for treason or murder, it shall be a defence for the accused person to prove that the offence was committed in the presence of and under the coercion of that person's spouse or civil partner.

Person not to be punished twice for the same offence

17. A person shall not be punished twice, either under this or any other law, for the same offence.

Principal offenders

18. (1) When an offence is committed, each of the following persons is deemed to have taken part in committing the offence and to have committed 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 any other person to commit the offence;

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

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

(2) In a case arising out of subsection (1)(d), the accused may be charged with themselves 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 that person had themselves done the act or made the omission the act or omission would have constituted an offence on that person's part commits an offence of the same kind and is liable to the same punishment, as if that person

had themselves done the act or made the omission; and that person may be charged with themselves doing the act or making the omission.

Offences committed by joint offenders in prosecution of a common purpose

19. 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

20. (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 the carrying out of the counsel.

(2) In either case the person who gave the counsel is deemed to have counselled the other person to commit the offence actually committed by that person .

PART II - Punishments

Different kinds of punishments

21. The following punishments may be inflicted by a court —

(a) imprisonment;

(b) fine;

(c) payment of compensation;

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

(e) liability to probation;

(f) forfeiture;

(g) attendance orders; and

(h) any other punishment provided by this or any other law.

Imprisonment

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

(2) Subject to any provision of any other law a person liable to imprisonment may be sentenced to pay a fine in addition to or instead of imprisonment.

(3) Every sentence of imprisonment shall comply and be served in accordance with the *Prisons Act (2021 Revision)*.

(4) Notwithstanding subsection (3), a court which passes a sentence of imprisonment for a term not exceeding two years may order that the sentence shall not take effect unless, within a period of two years from the date of the sentence, the offender commits in the Islands another offence punishable with imprisonment.

(5) The power to suspend a sentence conferred by subsection (4) may not be exercised in respect of a sentence for any offence against —

(a) section 180; or

(b) the *Traffic Act (2023 Revision)* save offences contravening section 89(1) or 133 thereof.

Life imprisonment for second offence

23. (1) This section applies where —

(a) a person is convicted of a Category A offence committed after the 31st August, 2004; and

(b) at the time when that offence was committed, that person was eighteen or over and had been convicted in the Islands of at least one other Category A offence.

(2) Where a person is found guilty by a court of committing a Category A offence for the second time, the court may in its discretion sentence that person to imprisonment for life for that second offence.

(3) When determining whether it would be appropriate not to impose a life sentence, the court shall have regard to the circumstances relating to either of the offences or to the offender.

(4) "**Category A offence**" means an offence triable upon indictment.

Power of court to deal with suspended sentence

24. (1) Where an offender is convicted in the Islands of an offence punishable with imprisonment committed during the continuance of a suspended sentence made under section 22(4) and either the offender is so convicted by or before a court having power under section 25 to deal with the offender in respect of such sentence or the offender subsequently appears or is brought before such a court, then, unless the suspended sentence has already taken effect, that court shall consider the offender's case and deal with the offender by —

(a) ordering that it shall take effect with the original term unaltered;

(b) ordering that it shall take effect with the substitution of a lesser term for the original term;

(c) substituting for the period specified therein a period expiring not later than two years from the date of the substitution; or

(d) making no order with respect to it,

and it shall make an order under paragraph (a) unless it is of opinion that it would be unjust to do so in view of all the circumstances which have arisen since the suspended sentence was passed, including the facts of the subsequent offence, and where it is of that opinion it shall state its reasons.

(2) Where a court orders that a suspended sentence shall take effect, with or without any variation of the original term, it may order that such sentence shall take effect immediately or that the term thereof shall commence on the expiration of another term of imprisonment passed on the offender by that or another court.

(3) Where a court deals with an offender under this section in respect of a suspended sentence it shall notify the court which passed the sentence of the method adopted.

(4) Where on consideration of the case of an offender a court makes no order with respect to a suspended sentence, it shall record that fact.

(5) For the purposes of any law conferring rights of appeal in criminal cases, any order made by the court with respect to a suspended sentence shall be treated as a sentence passed on the offender by that court for the offence for which the suspended sentence was passed.

Court by which suspended sentence may be dealt with

25. (1) An offender may be dealt with in respect of a suspended sentence by the Grand Court or, where the sentence was passed by a court of summary jurisdiction, by the court before which the offender appears or is brought.

(2) Where an offender is convicted by a court of summary jurisdiction of an offence punishable with imprisonment and the court is satisfied that the offence was committed during the continuance of a suspended sentence passed by the Grand Court —

(a) the court may, if it thinks fit, commit that offender in custody or on bail to the Grand Court; and

(b) if it does not, shall give written notice of the conviction to the Grand Court.

(3) For the purposes of this section and of section 26, a suspended sentence passed on an offender on appeal shall be treated as having been passed by the court by which the offender was originally sentenced.

Procedure where suspended sentence not dealt with

26. (1) If it appears to the Grand Court, where it has jurisdiction in accordance with subsection (2), or to a justice of the peace that an offender has been convicted in the Islands of an offence punishable with imprisonment committed during the continuance of a suspended sentence and that the offender has not been dealt with in respect of the suspended sentence, that court or justice may, subject to subsections (2) to (4), issue a summons requiring the offender to appear at the place and time specified therein, or a warrant for that person's arrest.

(2) Jurisdiction for the purposes of subsection (1) may be exercised —

(a) if the suspended sentence was passed by the Grand Court, by that court; or

(b) if it was passed by a court of summary jurisdiction, by a justice of the peace.

(3) A justice of the peace shall not issue a summons under this section except on information, and shall not issue a warrant under this section except on information, and shall not issue a warrant under this section except on information in writing and on oath.

(4) Any such summons or warrant shall direct the offender to appear or to be brought before the court by which the suspended sentence was passed.

Partly suspended sentence

27. (1) Notwithstanding section 22(3), a court which passes on an offender who is not less than eighteen years of age a sentence of imprisonment for a term of not less than six months and not exceeding two years may order that, after the offender had served part of the sentence in prison, the remainder of it shall be held in suspense.

(2) The part to be held in suspense shall be not more than seventy-five percent and not less than twenty-five per cent of the whole period of the sentence, and the offender shall not be required to serve that part unless it is restored under subsection (3) and this shall be explained to the offender by the court using ordinary language and stating the substantial effect of that subsection.

(3) If, at any time after the making of the order, the offender commits in the Islands during the whole period of the sentence another offence punishable with imprisonment then, subject to subsection (4), a competent court as defined in

subsection (9) shall restore part of the sentence held in suspense and order the offender to serve it.

(4) If the court, considering the offender's case with a view to exercising the powers of subsection (3), is of the opinion that, in view of all the circumstances which have arisen since the order was made including the facts of the subsequent offence, it would be unjust to restore the part of the sentence held in suspense, it shall either restore a lesser part or declare, with reasons stated, its decision to make no order under the subsection.

(5) Where a court exercises those powers, it may order that the restored part of the original sentence shall take effect immediately or that the term shall commence on the expiration of another term of imprisonment passed on the offender by that or another court.

(6) Where an offender is convicted by a summary court of an offence punishable with imprisonment and the court is satisfied that the offence was committed during the whole period of a sentence passed by the Grand Court with an order under subsection (1) —

(a) it may, if it thinks fit, commit the offender in custody or on bail to the Grand Court; or

(b) if it does not, it shall give written notice of the conviction to the Grand Court.

(7) For the purposes of this section, a sentence of imprisonment passed on an offender on appeal with an order under subsection (1) shall be treated as having been passed (with such an order) by the court by which the offender was originally sentenced.

(8) This section does not apply to a sentence for any offence against —

(a) section 180; or

(b) the *Traffic Act (2023 Revision)* save offences contravening —

(i) section 68(m), 77, 89(2), 91(1), 92, 93(1)(a) to (l) inclusive, 98 or 99; or

(ii) any of the provisions of the said *Traffic Act (2023 Revision)* or any regulations made thereunder which are equivalent to, in substitution for or repeal and replace any offences under section 68(b), (c), (n), (q), (r), (v), or (w) of the **repealed** *Traffic Law (Revised)*.

(9) In this section —

(a) in relation to a sentence of imprisonment part of which is held in suspense, a competent court under subsection (3) is —

(i) the Grand Court; or

(ii) where the sentence was passed by a summary court, any summary court before which the offender appears or is brought;

(b) "**the whole period**" of a sentence means the time which the offender would have had to serve in prison if the sentence had been passed without an order under subsection (1) and the offender had no remission of sentence granted to the offender under section 23[1] (now **repealed**) of the *Prisons Act (2021 Revision)*. [[1] *see note 3 on p. 136*]

Fines

28. Where a fine is imposed under any law, then in the absence of express provisions relating to such fine in such law —

(a) where no limit 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) 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 shall be in the discretion of the court; and

(c) in the case of an offence punishable with imprisonment as well as 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 certain term, which imprisonment shall be in addition to any other imprisonment to which the offender may have been sentenced or to which the offender 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 person 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.

Enforcement by distress warrant of fines, etc.

29. (1) Where default is made in payment of a fine or other sum imposed or adjudged to be paid under any law on a conviction or order of any court, the court may issue a warrant for the levy of such fine or other sum on the immovable and movable property of the offender by distress and sale.

(2) Where a court has power to issue a warrant under subsection (1) it may, if it thinks it expedient to do so, postpone the issue of the warrant until such time and on such conditions, if any, as it thinks just.

(3) A warrant shall not, if it states that the sum has been so adjudged to be paid, be held void by reason of any defect in the warrant.

(4) A person acting under a warrant shall not be deemed to be a trespasser from the beginning by reason only of an irregularity in the execution of the warrant.

(5) Nothing in this section shall prejudice the claim of any person for special damages in respect of any loss caused by a defect in the warrant or any irregularity in its execution.

(6) A person who removes any property marked as an article impounded in the execution of a warrant, or defaces or removes any such mark commits an offence and is liable to a fine of one hundred dollars.

(7) A person who, being charged with the execution of a warrant, wilfully retains from the proceeds of a sale of the goods on which distress is levied, or otherwise exacts, any greater costs and charges than those properly payable, or makes any improper charge, commits an offence and is liable to a fine of one hundred dollars.

Imprisonment in lieu of payment of costs, compensation, or fines, etc.

30. (1) In the absence of express provisions in any law relating thereto, the term of imprisonment ordered by a court in respect of the non-payment of any sum adjudged to be paid —

(a) for costs under section 34;

(b) for compensation under section 33;

(c) in respect of the non-payment of a fine; or

(d) in respect of any sum adjudged to be paid under the provisions of any law,

shall be such term as in the opinion of the court will satisfy the justice of the case, but shall not exceed in any case, the maximum fixed by the following scale —

Amount	*Maximum term*
$100 or less	1 month
More than $100 but no more than $500	2 months
More than $500 but no more than $1000	4 months
More than $1,000 but no more than $15,000	6 months
More than $15,000 but no more than $650,000	5 years
More than $650,000 but no more than $1.3 million	7 years
More than $1.3 million	14 years

(2) Subsection (1) shall be subject to the following —

(a) the term of imprisonment imposed in respect of the non-payment of a fine shall not exceed —

(i) the term of imprisonment that could have been imposed at the time of conviction; or

(ii) in the case of an offence punishable with a fine only, six months; and

(b) where the fine or other sum has been partly paid, the term of imprisonment imposed shall abate and be reduced by the ratio that the amount of the part payment bears to the amount of such fine or other sum.

(3) The imprisonment which is imposed in default of payment of a fine shall terminate whenever the fine is paid or levied by process of law.

(4) Subsections (2)(a)(i) and (ii) shall not apply in relation to any imprisonment ordered for default payment of a confiscation order made under section 15 of the *Proceeds of Crime Act* (*2024 Revision*).

Forfeiture

31. When any person is convicted of an offence under sections 108 or 109, the court may, in addition to or in lieu of any penalty which may be imposed, order the forfeiture to the Crown 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 Cabinet 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.

Suspension or forfeiture of right to carry on business

32. (1) Where a person is convicted of the offence of handling stolen property and such offence arose out of, or was committed in the course of, any trade or business, whether carried on by such person or not, the court by which the conviction is recorded may, in addition to any other penalty which it may impose, make an order, having effect for such period as the court may think fit, prohibiting such person from carrying on or being concerned or employed, directly or indirectly, in carrying on any such trade or business or any branch of any such trade or business of the same or similar character.

(2) Any person who fails to comply with an order made under subsection (1) commits an offence and is liable on conviction to a fine of five hundred dollars and to imprisonment for six months.

Compensation

33. Any person who is convicted of an offence may be adjudged to make compensation to any person injured by that person's offence or by any other similar offences committed by that person which are taken into consideration by the court in determining sentence. Any such compensation may be in addition to or in substitution for any other punishment.

Costs

34. Subject to limitations imposed by any other law, 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

35. A person convicted of an offence not punishable with imprisonment for life may, instead of, or in addition to, any punishment to which that person is liable, be ordered to enter into that person's own recognisances, with or without sureties, in such amount as the court thinks fit, that that person 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 recognisance, with sureties if so directed, is entered into; but so that the imprisonment for not entering into the recognisance shall not extend for a period longer than one year, and shall not, together with the fixed term of imprisonment if any, extend for a term longer than the longest term for which that person might be sentenced to be imprisoned without fine.

Security for coming up for judgment

36. When a person is convicted of any offence not punishable with imprisonment for life, the court may, instead of passing sentence, discharge the offender upon the offender entering upon the offender's own recognisance, with or without sureties, in such sum as the court thinks fit, conditioned that that offender shall appear and receive judgment at some future sitting of the court or when called upon.

Forfeiture of recognisance

37. (1) Where a recognisance has been entered into before a court under section 35 or 36 and the recognisance appears to the court to be forfeited, the court may, subject to subsection (2), declare the recognisance to be forfeited and adjudge the persons bound thereby, whether as principal or sureties, or any of them, to pay the sum in which they are respectively bound.

(2) Where a recognisance is conditioned to keep the peace and be of good behaviour, the court shall not declare it forfeited except by order made on complaint.

(3) The court which declares a recognisance to be forfeited under subsection (1) may, at any time, instead of adjudging any person to pay the whole sum in which that person is bound, remit the whole or any part thereof either absolutely or on such conditions as it thinks just.

(4) Payment of any sum adjudged to be paid under this section may be enforced by any court as if it were a fine.

(5) Where any person has entered into a recognisance under section 36 and in breach of that recognisance fails to appear and receive judgment at such future

sitting of the court or when called upon, the court may, without prejudice to its power to declare the recognisance to be forfeited, issue a warrant for that person's arrest.

General punishment for offences

38. (1) When, in this Act, no punishment is specially provided for any offence it is punishable with imprisonment for four years and with a fine.

(2) Subject to this Act, where a person eighteen years of age or older is convicted of an offence under this Act or any other law and a person under the age of eighteen is the accomplice or an accessory after the fact of that person in the commission of that offence, the court may in its discretion impose a penalty which is twice the maximum prescribed for that offence, except where the penalty is life imprisonment.

Sentence cumulative unless otherwise ordered

39. Where a person after conviction for an offence is convicted of another offence, either before sentence is passed upon that person under the first conviction or before the expiration of that sentence, any sentence which is passed upon that person 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 (c)(i) or of any part thereof.

Escaped convicts to serve unexpired sentences when recaptured

40. If a sentence is passed under this Act upon an escaped convict, such sentence shall run consecutively or concurrently as the court may order, with the unexpired portion of the sentence which the convict was undergoing when that convict escaped.

Discharge of offender without punishment

41. (1) Where, in a trial, a court thinks that the charge is proved, but is of the 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 either —

(a) discharging the accused absolutely; or

(b) if the court thinks fit, discharge the accused subject to the condition that the accused commits no offence during such period not exceeding three years from the date of the order, as may be specified in the order.

(2) An order made under subsection (1) shall, for the purpose of revesting or restoring stolen property and of enabling a court to make any order in that behalf, have the like effect as a conviction.

(3) Where any charge is dismissed under subsection (1) the court may order the accused person to pay the whole or any part of the costs of and incidental to the prosecution.

Community service orders

42. (1) Where a person, including any young person, of or over the age of seventeen years is convicted of any offence (other than an offence in respect of which the punishment is forfeiture) the court before whom that person is convicted may with that person's consent and subject to sections 43 to 45, in addition to or instead of dealing with that person in any way, make a community service order.

(2) A community service order made under subsection (1) shall require the convicted person to perform unpaid work in accordance with section 43 for a specified number of hours (being in the aggregate not less than forty nor more than two hundred and forty).

(3) A court shall not make a community service order in respect of a person convicted of an offence unless the court —

(a) has been notified by the Cabinet that arrangements exist for work to be performed under such orders;

(b) is satisfied after considering a report by a probation officer about such person and that person's circumstances and (if the court thinks it necessary) hearing a probation officer, that the person is a suitable person to perform work under such an order; and

(c) is satisfied that provision can be made under the arrangements referred to in paragraph (a) for that person to perform such work.

(4) Where a court makes community service orders in respect of two or more offences of which the convicted person has been convicted, it may direct that the hours of work specified in any of those orders shall be concurrent with or additional to those specified in any other of those orders.

(5) A community service order shall specify the area in which the convicted person will reside; and the functions conferred by sections 43 to 45 on the relevant officer shall be discharged by a probation officer.

(6) Before making a community service order the court shall explain to the convicted person —

(a) the purpose and effect of the order;

(b) the consequences which may follow under section 44 if the convicted person fails to comply with any of its requirements; and

(c) that the court has the power to review the order on the application either of the convicted person or of a probation officer.

(7) The court by which a community service order is made shall forthwith serve copies thereof on the convicted person and on the relevant officer.

(8) This section does not apply to a person convicted of any offence under the *Misuse of Drugs Act* (*2017 Revision*).

Obligations of persons subject to community service order

43. (1) A person in respect of whom a community service order is in force shall —

(a) report to the relevant officer, and notify that officer of any change of address from time to time; and

(b) perform for the number of hours specified in the order such work at such times as that person may be instructed by the relevant officer.

(2) Subject to section 45, the work required to be performed under a community service order shall be performed during the period of twelve months from the date of the order.

(3) The instructions given by the relevant officer under this section shall, so far as practicable, avoid any conflict with the convicted person's religious beliefs and any interference with the times, if any, at which that person normally works or attends a school or other educational establishment.

Breach of community service order

44. (1) If at any time while a community service order is in force in respect of any person, it appears on information to the court that made the order that that person has failed to comply with any of the requirements of section 43 (including any failure satisfactorily to perform the work which that person has been instructed to do), it may issue a summons directing that person to appear before it, or may, if the information is in writing and on oath, issue a warrant for that person's arrest and for that person to be brought before it.

(2) If it is proved to the satisfaction of the court that the convicted person has failed without reasonable excuse to comply with any of the requirements of section 43, it may, without prejudice to the continuance of the order, impose on that convicted person a fine of two thousand dollars or may revoke the order and impose in substitution therefor, in addition to any other sentence either by way of fine or imprisonment, or both, which may have already been imposed at the time of the conviction a further fine or a further term of imprisonment, or both, but not so as to cause the further fine or further term of imprisonment when added to any fine or term of imprisonment imposed at the time of the original conviction to exceed the maximum fine or the maximum term of imprisonment laid down in the law in respect of contravention of which the convicted person was originally sentenced; and where no fine or imprisonment was imposed at

the time of the original conviction then the court before whom that convicted person appears or is brought may impose such fine or imprisonment or both, as could have been imposed at that time.

Amendment of community service order

45. Where a community service order is in force in respect of a convicted person and, on the convicted person's application or that of the relevant officer, it appears to the court that made the order that, having regard to circumstances which have arisen since the order was made, it would be in the interests of justice to do so the court may extend the order for a further period of twelve months.

Sexual harm prevention order

45A.(1) The Director of Public Prosecutions, after consultation with the Royal Cayman Islands Police Service or any other relevant agency may apply to a court for a sexual harm prevention order.

(2) Where a person, including a young person, of or over the age of seventeen is dealt with by the court for any offence of a sexual or indecent nature and the court is satisfied on a balance of probabilities that it is necessary for the purpose of —

(a) protecting the public or a particular member of the public from sexual harm from that person; or

(b) protecting children or vulnerable persons or a particular child or vulnerable person from sexual harm from that person,

the court, upon an application pursuant to subsection (1), may instead of or in addition to any sentence, make a sexual harm prevention order.

(3) A sexual harm prevention order shall prohibit a person from doing anything described in the order and may include such conditions as the court considers necessary including a prohibition on travel both within and outside the Islands and shall be for a fixed period of at least five years.

(4) Before making a sexual harm prevention order the court shall explain to the convicted person —

(a) the purpose and effect of the order;

(b) the consequences which may follow under section 45C if the person fails to comply with any of its requirements; and

(c) that the court has the power to review or vary the order on the application either of the person or the Director of Public Prosecutions.

Interim sexual harm prevention order

45B.(1) The Director of Public Prosecutions, after consultation with the Royal Cayman Islands Police Service or any other relevant agency may apply to a court for an interim sexual harm prevention order.

(2) Where a person, including a young person, of or over the age of seventeen is charged with any offence of a sexual or indecent nature and the court is satisfied on a balance of probabilities that it is necessary for the purpose of —

(a) protecting the public or a particular member of the public from sexual harm from that person; or

(b) protecting children or vulnerable persons or a particular child or vulnerable person from sexual harm from that person,

the court may, upon an application pursuant to subsection (1), make an interim sexual harm prevention order.

(3) An interim sexual harm prevention order shall prohibit the person charged from doing anything described in the order and may include such conditions as the court considers necessary including a prohibition on travel both within and outside the Islands and shall be for a fixed period.

(4) Before making an interim sexual harm prevention order the court shall explain to the person charged —

(a) the purpose and effect of the order;

(b) the consequences which may follow under section 45C if the person fails to comply with any of its requirements; and

(c) that the court has the power to review or vary the order on the application either of the person charged or the Director of Public Prosecutions.

Breach of sexual harm prevention order or interim sexual harm prevention order an offence

45C.(1) If at any time while a sexual harm prevention order or interim sexual harm prevention order is in force in respect of any person, it appears on information to the court that made the order that the person has failed to comply with any of the requirements of the order, or has attempted to do so, the court may issue a summons directing the person to appear before the court, or may, if the information is in writing and on oath, issue a warrant for the person's arrest and for the person to be brought before the court.

(2) If at any time while a sexual harm prevention order or interim sexual harm prevention order is in force in respect of any person, a constable may arrest that person, without a warrant, where the constable reasonably suspects that the person has failed to comply with any of the requirements of the order, or has attempted to do so.

(3) A person who, without reasonable excuse fails to comply with any of the requirements of the order, or attempts to do so, commits an offence and is liable on summary conviction, to imprisonment for a term not exceeding four years or to a fine not exceeding three thousand dollars or to both.

(4) Where a person is convicted of failing to comply with any of the requirements of the order, or attempting to do so, that person may be committed to the Grand Court and the Grand Court shall have the same sentencing powers of the Summary Court and may impose such a sentence in addition to any other sentence.

Amendment of sexual harm prevention order or interim sexual harm prevention order

45D. Where a sexual harm prevention order or interim sexual harm prevention order is in force in respect of a person and, on that person's application or that of the Director of Public Prosecutions, it appears to the court that made the order that, having regard to circumstances which have arisen since the order was made, it would be in the interests of justice to do so, the court may vary, renew or discharge the order.

Meaning of sexual harm

45E. For the purpose of sections 45A, 45B and 45C, "**sexual harm**" from a person means physical or psychological harm caused by a person committing a sexual offence.

Rules of Court

45F. The Rules Committee established under section 19 of the *Grand Court Act* (*2015 Revision*) shall make Rules regulating the procedures in respect of the making of an application and the granting of a sexual harm prevention order and an interim sexual harm prevention order.

Order applicable to prior acts etc.

45G. For the purpose of sections 45A and 45B, an order may be made in relation to an act, behaviour, conviction or finding which occurred before the 26th May 2017, the date of commencement of the *Penal Code (Amendment) Law, 2017 [Law 32 of 2017]*.

PART III - Offences Against Public Order

Treason by the law of England

46. 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, commits treason and is liable to imprisonment for life.

Instigating treason

47. A person who instigates any foreigner to invade the Islands with an armed force commits treason and is liable to imprisonment for life.

Concealment of treason

48. A person who, knowing that any person intends to commit treason, does not give information thereof with all reasonable despatch to the Cabinet, a magistrate or a constable or use other reasonable endeavours to prevent the commission of the offence commits concealment of treason and is liable to imprisonment for life.

Treasonable offences

49. A person who forms an intention to effect any of the following purposes, that is to say —

(a) to depose the Sovereign from the style, honour and royal name of the Crown of the United Kingdom, or of any other of His dominions or countries;

(b) to levy war against the Sovereign in any part of His dominions, or country which has been declared to be under His protection or mandate, in order by force or constraint to compel the Sovereign to change His 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 His dominions, or of any country which has been declared to be under His protection or mandate; or

(c) to instigate any foreigner to make an armed invasion of any of the Sovereign's dominions or of any country which has been declared to be under His protection or mandate,

and manifests such intention by any overt act, or by publishing any printing or writing, commits an offence and is liable to imprisonment for life.

Limitations, etc.

50. (1) A person cannot be tried for an offence under sections 46 to 49 unless the prosecution is commenced within two years after the offence is committed.

(2) A person charged with an offence under sections 46 to 49 cannot be convicted, except on that person's own plea of guilty, or on the evidence in open court of two witnesses at least to one overt act of the kind of 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 offence.

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

Definition of overt act

51. In the case of any offences defined in this Part, when the manifestation of 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.

Interpretation

52. For the purposes of sections 53 to 58 —

"**import**" includes —

(a) to bring into the Islands; and

(b) to bring into the territorial waters of the Islands, whether or not the matter so brought is brought ashore or whether there is or is not an intention to bring the same ashore;

"**publication**" includes all written and printed matter, and any gramophone or other record, perforated roll, recording tape, cinematograph film or other contrivance by means of which any words or ideas may be mechanically produced, represented or conveyed and everything, whether of a nature similar to the foregoing or not, containing any visible representation, or by its form, shape or other characteristics, or in any manner is capable of producing, representing or conveying words or ideas, and every copy or reproduction of any publication;

"**periodical publication**" includes every publication issued periodically or in parts or numbers at intervals whether regular or irregular;

"**seditious publication**" means a publication having a seditious intention; and

"**seditious words**" mean words having a seditious intention.

Power to prohibit importation of publications

53. (1) If the Cabinet is of the opinion that any publication, or all publications published by any particular person, would be contrary to the public interest, it may by order prohibit the importation of such publication or publications and, in the case of a periodical publication may, by the same or a subsequent order, prohibit the importation of any past or future issue thereof.

(2) The Collector of Customs or the Postmaster General —

(a) may destroy or order the destruction of; or

(b) shall deal with in such manner as the Cabinet may direct,

any publication in respect of which an order has been made under subsection (1), whether or not any person has been convicted of any offence under any law in respect of such publication.

Offences in relation to publications, the importation of which is prohibited

54. (1) A person who imports, sells, offers for sale, distributes or reproduces any publication, the importation of which is prohibited under section 53, or any extract therefrom, commits an offence and is liable to a fine of one thousand dollars and to imprisonment for three years and such publication shall be forfeited to the Crown.

(2) A person who, without lawful excuse, has in that person's possession any publication the importation of which is prohibited under section 53, or any extract therefrom, commits an offence and is liable to a fine of five hundred dollars and to imprisonment for two years and such publication shall be forfeited to the Crown.

Delivery of prohibited publication to a constable

55. (1) Any person to whom any publication the importation of which is prohibited under section 53 or any extract therefrom, is sent without that person's knowledge or privity or in response to a request made before the prohibition of the importation of such publication came into effect, shall forthwith if or as soon as the nature of its contents have become known to that person, or in the case of a publication or extract therefrom coming into the possession of such person before an order prohibiting its importation has been made, forthwith upon the coming into effect of an order prohibiting the importation of such publication deliver such publication or extract therefrom to the nearest constable, and in default thereof commits an offence and is liable to a fine of five hundred dollars and to imprisonment for two years and such publication shall be forfeited to the Crown.

(2) A person who complies with subsection (1) or is convicted of an offence under that subsection shall not be liable to be convicted for having imported or having in that person's possession the same publication or extract therefrom.

Power to examine

56. (1) Any person employed in the public service authorised in that behalf by the Cabinet, acting in its discretion, may detain, open and examine any package or article which that person suspects to contain any publication or extract therefrom which it is an offence under section 54 to import and during such examination may detain any person importing, distributing or posting such package or article or in whose possession such package or article is found.

(2) If any such publication or extract therefrom is found in such package or article the whole package or article may be impounded and retained and the person importing, distributing or posting it, or in whose possession it is found may forthwith be arrested and proceeded against.

Seditious intention

57. (1) A seditious intention is an intention —

(a) to bring into hatred or contempt or to excite disaffection against the person of the Sovereign, His heirs or successors or the Government of the Islands by law established;

(b) to excite the inhabitants of the Islands to attempt to procure the alteration, otherwise than by lawful means, of any matter in the Islands as by law established;

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

(d) to raise discontent or disaffection amongst the inhabitants of the Islands; or

(e) to promote ill-will or hostility between different classes of the population of the Islands:

Provided that an act, speech or publication is not seditious by reason only that it intends —

(i) to show that the Crown has been misled or mistaken in any of its measures;

(ii) to point out errors or defects in the Government or Constitution of the Islands;

(iii) to persuade the inhabitants of the Islands to attempt to procure by lawful means the alteration of any matter in the Islands as by law established; or

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

(2) 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 flow from that person's conduct at the time and under the circumstances in which that person so conducted themselves.

Seditious offences

58. (1) A person who —

(a) does or attempts to do, or makes any preparation to do any act with a seditious intention;

(b) utters any seditious words;

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

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

commits an offence and is liable to a fine of one thousand dollars and to imprisonment for five years and any seditious matter shall be forfeited to the Crown.

(2) A person who without lawful excuse has in that person's possession any seditious publication commits an offence and is liable to a fine of five hundred dollars and to imprisonment for three years and any such publication shall be forfeited to the Crown.

(3) It shall be a defence to a charge under subsection (2) that, if the person charged did not know that the publication was seditious when it came into that person's possession, the person did, as soon as the nature of the publication became known to them, deliver it to the nearest constable.

(4) Any printing machine which has been or is reasonably suspected of being used for or in connection with the printing or reproduction of a seditious publication may be seized or otherwise secured by a constable pending the trial and conviction or discharge or acquittal of any person accused of printing or reproducing any seditious publication; and when any person is accused of printing or reproducing a seditious publication, the court may, in addition to any other penalty which it may impose, order that the printing machine on which the publication was printed or reproduced shall be either confiscated for a period not exceeding one year, or be forfeited to the Crown, and may make such order whether or not the person convicted is, or was at the time when the publication was printed or reproduced, the owner of the printing machine. A printing machine forfeited under this subsection shall be sold and the proceeds, less expenses, shall be paid into the general revenue.

(5) When a proprietor, publisher, printer or editor of a newspaper is convicted of printing or publishing a seditious publication in a newspaper, the court may, in addition to any other punishment it may impose, and whether or not it has made an order under subsection (4), make an order prohibiting any further publication of the newspaper for one year or less.

(6) The court may at any time on the application of the Director of Public Prosecutions and on the taking of such security, if any, for good behaviour as the court may see fit to order, revoke any order made by it forfeiting or confiscating a printing machine or prohibiting further publication of any newspaper.

(7) A court, before ordering the forfeiture or confiscation of a printing machine under this section, shall be satisfied that the printing machine was the printing machine upon or by which the seditious publication was printed or reproduced.

(8) In any case in which a printing machine has been secured or confiscated under this section, the Commissioner may, in the Commissioner's discretion, cause

the printing machine or any part thereof to be removed or any part of the machine to be sealed so as to prevent its use but so that the owner of the machine or the owner's agents shall have reasonable access to it to keep it in working order.

(9) Neither the Commissioner nor any person acting in pursuance of the powers conferred by this section shall be liable for any damage caused to a printing machine, whether by neglect or otherwise, unless such damage is done wilfully.

(10) A person who uses or attempts to use a printing machine confiscated under subsection (4) commits an offence and is liable to a fine of five hundred dollars and to imprisonment for three years.

(11) A person who prints or publishes a newspaper in contravention of an order under subsection (5) commits an offence and is liable to a fine of five hundred dollars and to imprisonment for three years.

(12) In this section the expression "**printing machine**" includes a printing press, copying press, type-setting machine, photographic, duplicating or engraving apparatus, or other machine or apparatus used for or in connection with printing or reproducing publications, and the type, appurtenances and equipment thereof.

Legal proceedings

59. (1) No prosecution for an offence under section 58 shall be begun except within six months after the offence is committed, save that where a person leaves the Islands within six months of committing such offence, the prosecution may be begun within six months from the date when such person returns to the Islands after so leaving them.

(2) No person shall be prosecuted for an offence under section 58 without the written consent of the Director of Public Prosecutions.

Evidence

60. No person shall be convicted of an offence under section 58 upon the uncorroborated testimony of one witness.

Unlawful oaths to commit offences punishable with imprisonment for life

61. A person who —

(a) administers or is present at and consents to the administration of any oath, or engagement in the nature of an oath, purporting to bind the person who takes it to commit any offence punishable with imprisonment for life; or

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

commits an offence and is liable to imprisonment for life.

Other unlawful oaths to commit offences

62. A person who —

(a) administers or is present at and consents to the administration of any oath, or engagement in the nature of an oath, purporting to bind the person who takes it —

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

(ii) to commit any offence not punishable with imprisonment for life;

(iii) to disturb the public peace;

(iv) to be a member of any association, society or confederacy, formed for the purpose of doing any such act as aforesaid;

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

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

(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 themselves or any other person, or the import of such oath or engagement; or

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

commits an offence and is liable to imprisonment for ten years.

Unlawful drilling

63. (1) A person who —

(a) without the permission of the Cabinet, acting in its discretion, trains or drills any other person in 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 Cabinet, acting in its discretion, for the purpose of training or drilling any other persons in the use of arms or the practice of military exercises, movements or evolutions,

commits an offence and is liable to imprisonment for seven years.

(2) A person who, at any meeting or assembly held without the permission of the Governor, acting in that person's discretion, is trained or drilled in 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 commits an offence and is liable to imprisonment for two years.

Publication of false statement, etc., likely to cause fear and alarm to the public

64. (1) A person who publishes any false statement, rumour or report which is likely to cause fear or alarm to the public or to disturb the public peace commits an offence and is liable to a fine of five thousand dollars and to imprisonment for five years.

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

Defamation of foreign princes, etc.

65. A person who, without such justification or excuse as would be sufficient on the defamation of a private person, publishes in any manner whatsoever anything tending to degrade, revile, or expose to hatred or contempt any foreign prince, potentate, ambassador or other foreign dignitary with intent to disturb peace and friendship between the United Kingdom or the Islands and the country to which such prince, potentate, ambassador or dignitary belongs commits an offence.

Foreign enlistment

66. A person who not being licensed in writing by the Cabinet, acting in its discretion, in that behalf —

(a) being a British subject, accepts or agrees to accept any commission or engagement in the air, military or naval service of any foreign state at war with any friendly state, or, whether a British subject or not, induces any other person to accept or agree to accept any commission or engagement in the air, military or naval service of any foreign state as aforesaid; or

(b) being a British subject, quits or goes on board any ship or aircraft with a view to quitting the Islands, with intent to accept any commission or engagement in the air, military or naval service of any foreign state at war with a friendly state, or, whether a British subject or not, induces any other person to quit or go on board any ship or aircraft with a view to quitting the Islands with the like intent,

commits an offence.

Piracy

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

Definitions of unlawful assembly and riot

68. (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 reasonable occasion provoke other persons to commit a breach of the peace, they are an unlawful assembly.

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

(3) When an unlawful assembly has begun to execute the purpose for which it is 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 for unlawful assembly

69. A person who takes part in an unlawful assembly commits an offence and is liable to imprisonment for three years.

Punishment for riot

70. A person who takes part in a riot commits an offence and is liable to imprisonment for four years.

Making proclamation for rioters to disperse

71. Any justice of the peace or gazetted police officer 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 that person's view, may make or cause to be made a proclamation in the name of the Sovereign, in such form as that person thinks fit, commanding the rioters or persons so assembled to disperse peaceably.

Dispersion of rioters after proclamation made

72. If, upon the expiration of a reasonable time after proclamation made under section 71, or after the making of such proclamation has been prevented by force, twelve or more persons continue riotously assembled together, any person authorised to make proclamation or any constable or other person acting in aid of such constable may do all things necessary for the dispersing of persons so continuing assembled, or for the apprehending of 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 for any criminal or civil proceeding for having, by the use of such force, caused harm or death to any person.

Rioting after proclamation

73. If proclamation is made, commanding persons engaged in a riot, or assembled with the purpose of committing a riot, to disperse, every person who, at the expiration of a reasonable time from the making of such proclamation, takes or continues to take part in the riot or assembly commits an offence and is liable to imprisonment for life.

Preventing or obstructing the making of a proclamation

74. A person who forcibly prevents or obstructs the making of such proclamation as in section 71 is mentioned commits an offence and is liable to imprisonment for life; 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 liable to imprisonment for life.

Rioters demolishing buildings, etc.

75. Any persons, who, being riotously assembled together, unlawfully pull down or destroy or begin to pull down or destroy any building or structure commit an offence and each such person is liable to imprisonment for life.

Riotously preventing the sailing of a ship or take off of an aircraft

76. All persons commit an offence who, being riotously assembled, unlawfully and with force prevent, hinder or obstruct the loading or unloading or the sailing or navigating of any ship, hovercraft or aircraft or, unlawfully or with force board any ship, hovercraft or aircraft with intention so to do.

Vandalising the flag of the Islands

77. A person who unlawfully damages or destroys the flag of the Islands commits an offence.

Definition of prohibited, offensive and restricted weapons

78. (1) In sections 79 to 83 —

"**dagger**" includes any sword, or any knife or other instrument having a blade ending in a sharp point, which is not primarily designed for use in a profession, craft or business, or for domestic use:

Provided that any such sword, knife or other instrument when worn or carried by any person shall be deemed to be a dagger unless it is designed primarily for use in a profession, craft or business exercised or carried on by such person or for domestic use, and is being worn or carried by such person for the purpose of its use in such profession, craft or business, or for domestic use;

"**flick knife**" means any knife which has a blade which opens automatically by hand pressure applied to a button, spring or other device in or attached to the handle of the knife;

"**firearm**" means any machine gun, submachine gun, rifle, shot gun, revolver, pistol, air gun, air pistol or any lethal barrelled weapon from which any shot, bullet or other missile can be discharged or noxious fumes can be emitted except any air rifle, air gun or air pistol of a type prescribed by the Cabinet and of a calibre so prescribed, and includes any component part of any such weapon and accessory to any such weapon designed or adapted to diminish the noise or flash caused by firing the weapon;

"**gravity knife**" means any knife which has a blade which is released from the handle or sheath thereof by the force of gravity or the application of centrifugal force and which, when released, is locked in place by means of a button, spring, lever or other device;

"**knife**" includes any cutting instrument, not being a dagger, whether ending in a sharp point or not;

"**offensive weapon**" means any object made or adapted for use for causing injury to the person or intended by the person having the object with them for such use by that person;

"**prohibited weapon**" means any machine gun, submachine gun, automatic rifle or any weapon of any description or design, adapted for the discharge of any noxious liquid or gas and includes any blackjack, bludgeon, cross-bow, flick knife, gravity knife or knuckle duster; and

"**restricted weapon**" means —

(a) a machete or knife;

(b) a softball bat, baseball bat, cricket bat or any similar bat; or

(c) an object similar to an object referred to in paragraph (a) or (b), made or adapted for use for causing injury to any person or capable of being used for causing injury to any person.

(2) In the definition of "**prohibited weapon**" in subsection (1) —

"**automatic rifle**" means any rifle so designed or adapted that, if pressure is applied to the trigger, missiles continue to be discharged until the pressure is removed from the trigger or until the magazine containing the missiles is empty;

Restriction on importation, etc., of prohibited weapons

79. A person who imports, manufactures, sells or hires or offers for sale or hire, or has in that person's possession any prohibited weapon commits an offence and is liable to a fine of ten thousand dollars and to imprisonment for ten years.

Restriction on carrying offensive weapons

80. A person who wears or carries any offensive weapon, not being a prohibited weapon, outside that person's own house and premises commits an offence and is liable to a fine of five thousand dollars and to imprisonment for four years:

Provided that, if the offensive weapon is a firearm, no person shall be deemed to have committed an offence against this section if such person is in possession of a firearm licence and a permit in writing, signed by the Commissioner, giving such person permission to carry such firearm outside that person's house or premises:

Provided further that if the offensive weapon is a knife, no person shall be deemed to have committed an offence against this section if the person shall prove that that person was wearing or carrying such knife outside that person's own house and premises for some lawful purpose for which such knife was necessary.

Restriction on carrying restricted weapons by night

81. (1) Subject to subsection (2), a person who without any lawful excuse (the proof of which excuse shall be on such person) has or carries any restricted weapon, not being a prohibited weapon, by night —

(a) in a cinema, theatre or other place of public assembly;

(b) in a club, restaurant, recreation hall or bar;

(c) in a place of public entertainment of any kind or a place of general resort, admission to which is obtained by payment or to which the public have access;

(d) in or upon the car park, parking lot or precincts of a place referred to in paragraph (a), (b) or (c); or

(e) in or on a vehicle that is in or upon the car park, parking lot or precincts of a place referred to in paragraph (a), (b) or (c),

commits an offence and is liable to a fine of five thousand dollars and to imprisonment for four years.

(2) If the restricted weapon is a machete or knife, no person shall be deemed to have committed an offence against this section if the person shall prove that that person had or was carrying such machete or knife for some lawful purpose for which such machete or knife was necessary.

Power of search

82. Any constable who suspects that any person has concealed about that person's person any offensive, restricted or prohibited weapon may request such person to accompany that constable to the nearest police station where the senior police officer on duty may cause the person to be searched. Any person who refuses to accompany a constable when so required for the purposes of this section commits an offence and may be arrested without a warrant and is liable to a fine of two thousand dollars.

Forfeiture, etc.

83. (1) Any offensive, restricted or prohibited weapon in respect of which any person has been convicted under this Part shall be forfeited to the Crown.

(2) Nothing in this Act shall prevent —

(a) any person from carrying a clasp knife, provided that it has not a blade of more than four inches in length whether ending in a sharp point or not provided that it is not so constructed as to be convertible by means of a spring or other device into a dagger, flick knife, gravity knife or knife with a fixed blade; or

(b) any constable from wearing or carrying any firearm, sword or staff issued for the purposes of that constable's duty.

Forcible entry

84. (1) A person who, in order to take possession thereof, enters any lands or tenements in a violent manner, whether such violence consists in actual force applied to any person or in threats or in breaking open any house or in collecting an unusual number of people, commits forcible entry.

(2) It is immaterial whether such person is entitled to enter on the land or not, provided that a person who enters upon lands or tenements of that person's own, but which are in the custody of that person's servants or bailiffs, does not commit the offence of forcible entry.

Forcible detainer

85. A 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 commits the offence of forcible detainer.

Affray

86. (1) A person who uses or threatens unlawful violence towards another person and whose conduct is such as would cause a person of reasonable firmness present at the scene to fear for their personal safety commits affray and is liable to imprisonment for four years.

(2) Where two or more persons use or threaten unlawful violence, it is the conduct of them taken together that shall be considered for the purposes of subsection (1).

(3) For the purposes of this section —

(a) a threat shall not be made by the use of words alone; and

(b) a person of reasonable firmness need not actually be, or be likely to be, present at the scene.

(4) An affray may be committed in a public place or a private place.

(5) A constable may arrest, without a warrant, anyone that constable reasonably suspects is committing an affray.

Challenge to fight a duel

87. A 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 commits an offence.

Causing fear, or provocation of violence

88. (1) A person who —

(a) uses towards another person threatening, abusive or insulting words or behaviour; or

(b) distributes or displays to another person any writing, sign or other visible representation which is threatening, abusive or insulting,

with intent to cause that person to believe that immediate unlawful violence will be used against that person or another by any person, or to provoke the immediate use of unlawful violence by that person or another, or whereby that person is likely to believe that such violence will be used or it is likely that such violence will be provoked commits an offence and is liable to imprisonment for three years or, if the offence is committed in the night, to imprisonment for four years.

(2) An offence under this section may be committed in a public place or a private place.

(3) A constable may arrest, without a warrant, anyone that constable reasonably suspects is committing an offence under this section.

Intentional harassment, alarm or distress

88A. (1) A person who, with intent to cause a person harassment, alarm or distress —

(a) uses threatening, abusive or insulting words or behaviour, or disorderly behaviour; or

(b) displays any writing, sign or other visible representation which is threatening, abusive or insulting,

thereby causing that or another person harassment, alarm or distress commits an offence and is liable to imprisonment for three years or, if the offence is committed in the night, to imprisonment for four years.

(2) An offence under this section may be committed in a public place or a private place.

(3) It is a defence for the accused to prove that the accused's conduct was reasonable.

(4) A constable may arrest, without a warrant, anyone that constable reasonably suspects is committing an offence under this section.

Harassment, alarm or distress

88B.(1) A person who —

(a) uses threatening, abusive or insulting words or behaviour, or disorderly behaviour; or

(b) displays any writing, sign or other visible representation which is threatening, abusive or insulting,

within the hearing or sight of a person likely to be caused harassment, alarm or distress commits an offence and is liable to imprisonment for three years or, if the offence is committed in the night, to imprisonment for four years.

(2) An offence under this section may be committed in a public place or a private place, but a person commits an offence under this section only if that person intends that person's words or behaviour, or the writing, sign or other visible representation, to be threatening, abusive or insulting, or is aware that it may be threatening, abusive or insulting or (as the case may be) that person intends that person's behaviour to be or is aware that it may be disorderly.

(3) It is a defence for the accused to prove —

(a) that the accused had no reason to believe that there was any person within hearing or sight who was likely to be caused harassment, alarm or distress; or

(b) that the accused's conduct was reasonable.

(4) A constable may arrest, without a warrant, anyone that constable reasonably suspects is committing an offence under this section.

Threat to kill

88C.(1) A person who without lawful excuse makes to another person a threat, intending that person would fear it would be carried out, to —

(a) kill; or

(b) cause serious harm to,

that person or a third person commits an offence and is liable to imprisonment for ten years.

(2) A threat may be committed in a public place or a private place.

(3) A constable may arrest, without a warrant, anyone that constable reasonably suspects is committing an offence under this section.

Assembling for the purpose of smuggling

89. Any two or more persons who assemble together for the purposes of unshipping, carrying, or concealing any goods subject to customs duty and is liable to forfeiture under any law relating to customs, commits an offence and each of them is liable to a fine of one thousand dollars and to imprisonment for two years.

PART IV - Offences Against the Administration of Lawful Authority

Repealed

90.to 96. Repealed by section 47 of the *Anti-Corruption Law, 2008 [Law 11 of 2008]*.

Unauthorised administration of oaths

97. A person who administers an oath, or takes a solemn declaration or affidavit touching any matter with respect to which that person has not by law any authority so to do commits an offence and is liable to imprisonment for two years.

False assumption of authority

98. A person who —

(a) not being a judicial officer or notary public assumes to act as such; or

(b) falsely represents themselves to be a person authorised by law to sign a document testifying to the contents of any register or record kept by a lawful authority, or testifying to any fact or event and signs such document as being so authorised,

commits an offence.

Personating public officers

99. A person who —

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

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

commits an offence and is liable to imprisonment for four years.

Threat of injury to persons employed in the public service

100. A person who holds out any threat of injury to any person employed in the public service or to any person in whom the person 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 commits an offence.

Perjury and subornation of perjury

101. (1) A 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, commits the offence of perjury.

(2) It is immaterial —

(a) whether the testimony is given on oath or under any other sanction authorised by law;

(b) what forms and ceremonies are used in administering the oath or in otherwise binding the person giving the testimony to speak the truth if such person assents to the forms and ceremonies actually used;

(c) whether the false testimony is given orally or in writing;

(d) whether the court or tribunal is constituted, or is held in the proper place, if it actually acts as a court or tribunal in the proceeding in which the testimony is given; or

(e) whether the person who gives the testimony is a competent witness.

(3) A person who aids, abets, counsels, procures or suborns another person to commit perjury commits the offence of subornation of perjury.

(4) A person who lawfully sworn as an interpreter in a judicial proceeding wilfully makes a statement material in the proceedings which that person knows to be false or does not believe to be true commits perjury.

(5) A person who commits perjury or suborns perjury is liable to imprisonment for seven years.

Evidence on charge of perjury

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

Fabricating evidence

103. A person who, with intent to mislead any court or tribunal in any judicial proceeding, fabricates evidence by means other than perjury or knowingly makes use of such fabricated evidence commits an offence and is liable to imprisonment for seven years.

False swearing

104. A 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, commits an offence.

Deceiving witnesses

105. A person who practises any fraud or deceit, or knowingly makes or exhibits any 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 commits an offence.

Destroying evidence

106. A 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 indecipherable or incapable of identification, with intent thereby to prevent it from being used in evidence commits an offence.

Conspiracy to defeat justice and interference with witnesses

107. (1) A person who —

(a) accuses any person falsely of any crime;

(b) in order to obstruct the 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 so to do; or

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

commits an offence and is liable to imprisonment for five years.

(2) A person who conspires with any other person to commit an offence specified in subsection (1) commits an offence and is liable to imprisonment for two years.

Compounding of offences

108. A person who asks, receives or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for themselves or any other person upon any agreement or understanding that that person will compound or conceal an offence, or will abstain from, discontinue or delay a prosecution for an offence, or will withhold any evidence thereof commits an offence.

Compounding penal actions

109. A person who having brought, or under the pretence of bringing, an action against any person under a penal law in order to obtain from that person compensation or damages for an offence committed or alleged to have been committed by such person, compounds the action without the order or consent of the court in which the action is brought or to be brought, commits an offence.

Advertisements for stolen property

110. A 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 not be seized or molested;

(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 such an offer,

commits an offence.

Offences relating to judicial proceedings

111. (1) A person who, in any judicial proceedings —

(a) wilfully insults or shows disrespect to —

(i) the court;

(ii) any judge or magistrate when exercising the judge's or magistrate's functions with respect to such judicial proceedings; or

(iii) any attorney appearing in, any party to, or any witness giving or intending to give evidence in, such judicial proceeding;

(b) wilfully —

(i) interrupts any such judicial proceedings;

(ii) causes a disturbance in the course of any such judicial proceedings; or

(iii) otherwise misconducts himself or herself in the course of any such judicial proceedings;

(c) having been duly summoned to give evidence —

(i) fails to attend or to attend after adjournment of the court after being ordered to attend the adjourned hearing;

(ii) refuses to be sworn or make an affirmation;

(iii) after being sworn or affirmed, refuses without lawful excuse to answer a question or produce a document;

(iv) after giving evidence, departs without obtaining the permission of the court or remains in court after being ordered to leave; or

(d) attempts wrongfully to interfere with or influence a witness, either before or after he or she has given evidence, in connection with such evidence,

commits an offence and is liable on conviction to a term of imprisonment of four years.

(2) Subject to subsection (3), where it appears to the court that an offence against subsection (1)(a), (b) or (c) has been committed in view of the court, the court may cause the alleged offender to be remanded in custody until the rising of the court on the same day and then, or at any earlier time, take cognizance of the offence; and, if satisfied that the alleged offender has committed the offence, sentence the offender to a fine of five hundred dollars or, in default of payment, to imprisonment for six months.

(3) The court shall not make a determination of guilt pursuant to subsection (2) without first satisfying itself of the matters specified in section 12(1) of the *Contempt of Court Act, 2022 [Act 21 of 2022]*.

(4) This section is in addition to and not in derogation of the power of the Grand Court to punish for contempt of court.

Rescue

112. (1) A person who by force rescues or attempts to rescue from lawful custody any person —

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

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

(c) in any other case, commits an offence:

Provided that 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 lawful custody.

Escape

113. A person who being in lawful custody escapes from such custody commits an offence.

Permitting prisoner to escape

114. A person who having another person in that person's custody intentionally or negligently permits that person to escape commits an offence.

Aiding prisoner to escape

115. A 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,

commits an offence and is liable to imprisonment for seven years.

Removal, etc., of property under lawful seizure

116. A person who when any property has been attached or taken under the process or 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 commits an offence and is liable to imprisonment for three years.

Obstructing court officers

117. A person who wilfully obstructs or resists any person lawfully charged with the execution of an order or warrant of any court, commits an offence.

Frauds and breaches of trust by public officers

118. A person who being employed in the public service, in the discharge of that person's duties, 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, commits an offence.

Neglect of official duty

119. A person who being employed in the public service wilfully neglects to perform any duty which that person is lawfully bound to perform, provided that the discharge of such duty is not attended with greater danger than a person of ordinary firmness and activity may be expected to encounter, commits an offence.

False information to public officer

120. A person who gives to any person employed in the public service any information in the truth of which that person does not believe intending thereby to cause, or knowing it to be likely that that person 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 not to do or omit if the true state of facts respecting which such information is given were known to that person; or

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

commits an offence and is liable to a fine of four hundred dollars and to imprisonment for three years.

Disobedience of lawful duty

121. A person who wilfully disobeys any law by doing any act which such law forbids, or by omitting to do any act which such law requires to be done, and which concerns the public or any part of the public, commits an offence and, unless the law provides some other penalty, is liable to imprisonment for two years.

PART V - Offences Injurious to the Public in General

A - Offences Relating to Religion

Insult to religion of any class

122. A 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 commits an offence.

Disturbing religious assemblies

123. A person who unlawfully causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremony commits an offence.

Trespassing, etc., on burial places

124. A person who with the intention of wounding the feelings of any person or insulting the religion of any person, or with 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 sepulture or in any place set apart for the performance of funeral rites or as a depository for the remains of the dead, or offers indignity to any human corpse, or causes disturbance to any persons assembled for the purpose of funeral ceremonies commits an offence.

Writing or uttering words, etc., with intent to wound religious feelings

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

Hindering burial of dead body, etc.

126. (1) A person who 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, commits an offence.

(2) In this section —

"**burial**" means burial in earth, interment in any form of sepulture, or the cremation or any other mode of disposal of a dead body and "buried" has a corresponding meaning.

B - Offences against Morality

Rape

127. (1) A person who rapes another person commits an offence.

(2) A person commits rape if —

(a) the person has unlawful sexual intercourse (whether vaginal or anal) with another person who at the time of intercourse did not consent to it; and

(b) at the time the person knows that the other person does not consent to the intercourse or the person is reckless as to whether the other person consents to it.

(3) A person also commits rape if the person induces another person to have sexual intercourse with them by impersonating their spouse or civil partner.

(4) If, at a trial for a rape offence, the jury has to consider whether a person believed that the person was consenting to sexual intercourse, the presence or the absence of reasonable grounds for such belief is a matter to which the jury is to have regard in conjunction with any other relevant matters in considering whether the person so believed.

(5) In subsection (4) —

"**rape offence**" means a rape or attempted rape, or aiding, abetting, counselling or procuring rape or attempted rape, or incitement to rape.

(6) For the purposes of this section, a person is deemed not to have consented to sexual intercourse if that person's acquiescence is obtained —

(a) by threat of force or use of force;

(b) by means of threats or intimidation of any kind;

(c) by fear of bodily harm;

(d) by means of false representations as to the nature of the act; or,

(e) in the case of a married woman, by personating her husband.

(7) On a trial for rape, the jury may find the accused guilty of —

(a) sexual intercourse with a girl under the age of twelve years;

(b) sexual intercourse with a girl under the age of sixteen years;

(c) indecent assault on a person;

(d) administering drugs to obtain or facilitate intercourse; or

(e) common assault.

(8) The use in this Act of the word **"man"** without the addition of the word **"boy"** or *vice versa* shall not prevent the provision applying to any person to whom it would have applied if both words had been used and similarly with the words **"woman"** and **"girl"**.

Punishment of rape

128. A person who commits rape is liable to imprisonment for life.

Attempted rape

129. A person who attempts to commit rape is liable to imprisonment for fourteen years.

Taking away a person against their will for purpose of marriage or carnal knowledge

130. A person who with intent to marry or carnally know a woman of any age, or to cause her to be married or carnally known by any other person, takes her away or detains her against her will, commits an offence and is liable to imprisonment for ten years.

Taking a person under sixteen from lawful care

131. A person who unlawfully takes an unmarried girl under the age of sixteen years out of the custody or protection of her father, mother or other person having the lawful care or charge of her, and against the will of such father, mother or other person, commits an offence.

Indecent assaults

132. (1) It is an offence for a person to make an indecent assault on a woman.

(2) A girl under the age of sixteen cannot in law give any consent which would prevent an act being an assault for the purposes of this section.

(3) Where a marriage or civil partnership is invalid under the *Marriage Act* (*2010 Revision*) or the *Civil Partnership Act, 2020 [Law 35 of 2020]* (one person being under the age of sixteen), the invalidity does not make the other person an offender under this section by reason of the said person's incapacity to consent while under that age, if the other person believes the said person to be their spouse or civil partner and has reasonable cause for the belief.

(4) A person with a mental disorder cannot in law give any consent which would prevent an act being an assault for the purposes of this section, but a second person is only to be treated as having committed indecent assault on a person with a mental disorder by reason of the person's incapacity to consent, if the second person knew or had reason to suspect the person to have a mental disorder.

(5) A person who commits an offence under this section is liable on conviction on indictment to imprisonment for ten years.

Assault by penetration

132A. (1) Subject to subsection (2), a person, (A) who, for the purpose of obtaining sexual gratification intentionally and without consent, penetrates (whether orally, vaginally or anally) another person (B), with an object or with any part of A's body, commits an offence and is liable on —

(a) summary conviction; or

(b) conviction on indictment,

to imprisonment for a term of ten years.

(2) A child under the age of sixteen cannot consent to a penetration under this section.

Insulting the modesty of a woman

133. A person who, with intent to insult the modesty of any woman, utters any word, makes any sound or gesture or exhibits any object intending that such word or sound shall be heard, or that such gesture or object shall be seen by such woman, or intrudes upon the privacy of such woman, commits an offence and is liable to imprisonment for three years.

Defilement of girls under sixteen years of age, etc.

134. (1) A person who unlawfully and carnally —

(a) knows any girl under the age of twelve years commits an offence and is liable to imprisonment for twenty years; or

(b) knows any girl between the ages of twelve and sixteen years commits an offence and is liable to imprisonment for twelve years.

(2) A person who attempts to commit an offence under subsection (1) is liable to imprisonment for ten years.

(3) It shall be a sufficient defence to a charge under subsection (1) relating to a girl between the ages of twelve and sixteen years if it shall be made to appear to the court or jury before whom the charge is brought that the person so charged had reasonable cause to believe and did in fact believe that the girl was of or above the age of sixteen years.

(4) It shall be no defence to a charge under this section to prove that the girl consented to the act of unlawful and carnal knowledge.

Gross indecency

134A.(1) A person who commits an act of gross indecency with or towards a child under the age of sixteen or who incites a child under that age to do such an act with that person or another person commits an offence and is liable to imprisonment for twelve years.

(2) A constable may arrest, without a warrant, anyone the constable reasonably suspects has committed an offence under this section.

Sexual assault of a mentally impaired person

135. A person who has engaged or attempts to engage in an activity that is sexual in nature with a person who —

(a) has a mental impairment, within the meaning of the *Mental Health Act (2023 Revision)*; or

(b) has a mental disorder impeding choice,

under circumstances not amounting to rape but which prove that the first-mentioned person knew or could reasonably be expected to know at the time of the commission of the activity, that the second-mentioned person was suffering from a mental impairment or mental disorder impeding choice, commits an offence and is liable to imprisonment for twelve years.

Procuration

136. A person who —

(a) procures or attempts to procure any person, to become either in the Islands or elsewhere a common prostitute; or

(b) procures or attempts to procure any person to leave their usual place of abode in the Islands with intent that that person may, for the purpose of prostitution become an inmate of or frequent a brothel in the Islands or elsewhere,

commits an offence:

Provided that no person shall be convicted of such offence upon the evidence of one witness only, unless such witness be corroborated in some material particular by evidence implicating the accused.

Administering drugs, etc., to a person

137. (1) A person who applies, administers to or causes to be taken by another person any drug, matter or thing with intent to stupefy or overpower that other person so as to enable any person to have unlawful carnal knowledge of such person commits an offence.

(2) No person shall be convicted of an offence under subsection (1) upon the evidence of one witness only, unless that witness is corroborated in some material particular by evidence implicating the accused.

Detention in a brothel, etc.

138. A person who detains any person against their will —

(a) in or upon any premises with intent that that person may be unlawfully and carnally known by any particular person or generally; or

(b) in any brothel,

commits an offence.

Person living on earnings of prostitution or persistently soliciting

139. (1) Every person who —

(a) knowingly lives wholly or in part on the earnings of prostitution; or

(b) in any public place persistently solicits or importunes for immoral purposes,

commits an offence.

(2) Where a person is proved to live with or to be habitually in the company of a prostitute or is proved to have exercised control, direction or influence over the movements of a prostitute in such manner as to show that the person is aiding, abetting or compelling the said person's prostitution with another person, or generally, that person shall, unless that person shall satisfy the court to the contrary, be deemed to be knowingly living on the earnings of prostitution.

Brothels

140. A person who keeps a house, room, set of rooms or place of any kind whatsoever for the purposes of prostitution commits an offence.

Attempts to procure abortion

141. (1) A person who with intent to procure the miscarriage of a woman, whether the woman is or is not with child, unlawfully administers to that woman any poison or other noxious thing, or uses any force of any kind, or other means whatsoever to that purpose commits an offence.

(2) Notwithstanding subsection (1) no person commits such offence unless it is proved that the act alleged to constitute the offence was not done in good faith for the purpose only of preserving the life of the mother.

(3) Notwithstanding subsections (1) and (2) a health practitioner registered to practise medicine under the *Health Practice Act* (*2021Revision*) has not committed an offence under subsection (1) in respect of any act if such act is first certified in writing by two such registered health practitioners acting in good faith, one of whom is registered by the Medical and Dental Council as an obstetrician, a gynaecologist or is employed as a Government Medical Officer in either capacity, as being necessary for the purpose of preserving the life of the mother.

Attempt by woman with child to procure abortion

142. 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 whatsoever to that purpose, or permits any such thing or means to be administered to her commits an offence.

Supplying drugs or instruments to procure abortion

143. A person who unlawfully procures for or supplies to any person any thing whatsoever, knowing that it is intended to be unlawfully used to procure the miscarriage of a woman, whether she is or is not with child, commits an offence.

Unnatural offences

144. (1) A person who has carnal knowledge of any person against the order of nature,[2] or has carnal knowledge of any animal or who permits a male person so to have carnal knowledge of that person commits an offence and is liable to imprisonment for ten years.

(2) A person who attempts to commit an offence under subsection (1) commits an offence. [[2] *see note 2 on p. 136*]

Indecent assault on a male person

145. (1) A person who makes an indecent assault on a male person commits an offence.[3]

(2) A boy under the age of sixteen cannot in law give any consent which would prevent an act from being an assault for the purpose of this section.

(3) A male person with a mental disorder cannot in law give any consent which would prevent an act being an assault for the purpose of this section, but a person is only to be treated as having committed an indecent assault on a person with a mental disorder by reason of that incapacity to consent, if that person knew or had reason to suspect the said person to have a mental disorder.

(4) A person who commits an indecent assault on a male person is liable on conviction on indictment to imprisonment for ten years.

(5) A male person who commits, is party to the commission of or who procures or attempts to procure the commission by any male person of an act of gross indecency with another male person commits an offence. [[3] *see note 2 on p. 136*]

Incest

146. (1) Any person who has carnal knowledge of a person who is, to that person's knowledge, that person's grand-daughter, grand-son, daughter, son, sister, brother, mother or father commits an offence and is liable to imprisonment, if the offence is with a minor under thirteen, for life, otherwise for twenty years.

(2) It is immaterial that the carnal knowledge was had with the consent of the other person.

(3) Any person who attempts to commit an offence under subsection (1) commits an offence and is liable to imprisonment, if the offence is with a minor under thirteen, for ten years, otherwise for seven years.

(4) On the conviction before any court of any person of an offence under this section, or of an attempt to commit the same, against any person under the age of eighteen years, it shall be in the power of the court to divest the offender of all authority over such person, and if the offender is the guardian of such person, to remove the offender from such guardianship, and in any case to appoint any person or persons to be the guardian or guardians of such person during their minority or any less period.

Incest by person permitting the act

147. Any person of or above the age of sixteen years who permits their grandfather, grandmother, father, mother, brother, sister, son or daughter to have carnal knowledge of such person (knowing that person to be their grandfather, grandmother, father, mother, brother, sister, son or daughter, as the case maybe), commits an offence and is liable to imprisonment for ten years.

Test of relationship

148. In sections 146 and 147, the expressions "brother" and "sister" respectively include the half-brother and half-sister and the sections shall apply whether the relationship between the person charged with the offence and the person with whom the offence is alleged to have been committed is or is not traced through lawful wedlock.

C - Offences Relating to Marriage and Domestic Relations

Fraudulent pretence of marriage

149. A 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 behalf, commits an offence and is liable to imprisonment for five years.

Bigamy

150. (1) Subject to subsection (2), a person who, having a husband, wife or civil partner living, goes through a ceremony of marriage or civil partnership whether within the Islands or elsewhere, which is void by reason of its taking place during the life of such husband, wife or civil partner commits an offence and is liable to imprisonment for five years.

(2) This section does not extend to any person —

(a) whose marriage or civil partnership has been declared void by a court of competent jurisdiction; or

(b) who contracts a marriage or civil partnership during the life of a former husband, wife or civil partner if such husband, wife or civil partner, at the time of the subsequent marriage or civil partnership —

(i) has been continually absent from such person for the period of time as is specified in the *Presumption of Death (Anna Evans) Act, 2020 [Law 23 of 2020]*; and

(ii) has not been heard of by such person as being alive within that time.

Fraudulent marriage or civil partnership ceremony

151. A person who dishonestly or with fraudulent intent goes through the ceremony of marriage or civil partnership, knowing that that person is not thereby lawfully married commits an offence and is liable to imprisonment for five years.

Neglecting children

152. A person who being the parent, guardian or other person having parental responsibility within the meaning of the *Children Act* (*2012 Revision*) for a child under the age of fourteen years, and being able to maintain such child, wilfully and without reasonable cause deserts the child or leaves it without means of support commits an offence.

Child stealing

153. (1) A person who with intent to deprive any parent, guardian, or other person, having parental responsibility within the meaning of the *Children Act* (*2012 Revision*) for a child under the age of fourteen years, of the possession of the child —

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

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

commits an offence and is liable to imprisonment for seven years.

(2) It is a defence to a charge under 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.

D - Nuisances and Offences against Health

Common nuisance

154. A person who does an act not authorised by law or omits to discharge a legal duty and thereby causes any common injury, or danger or annoyance, or obstructs or causes inconvenience to the public in the exercise of common rights, commits the offence of a common nuisance and is liable to imprisonment for one year.

Stalking

155. (1) A person stalks another person if the first-mentioned person intentionally engages in a course of conduct specified under subsection (2), which —

(a) is directed towards the second-mentioned person;

(b) occurs on two or more occasions within a period of twelve months;

(c) causes the second-mentioned person to fear for the second-mentioned person's safety or the safety of someone known to the second-mentioned person;

(d) would cause a reasonable person to fear for the second-mentioned person's safety or the safety of someone known to the second-mentioned person; and

(e) the first-mentioned person knows or ought to know would cause the second mentioned person to fear for the second-mentioned person's safety or the safety of someone known to the second-mentioned person.

(2) For the purposes of subsection (1), a course of conduct in relation to a person includes —

(a) watching, besetting or loitering near that person;

(b) approaching or entering a place where that person resides, works or visits;

(c) preventing or hindering access to or from that person's place of residence, business, employment, learning or any other location which that person visits;

(d) following or accosting that person;

(e) entering or interfering with that person's property;

(f) engaging in verbal, written, electronic or any other form of communication with that person;

(g) giving offensive, abusive or threatening material to that person or leaving it where it will be found by, given to, or brought to the attention of that person;

(h) sending, delivering or showing to that person letters, images, telegrams, packages, facsimiles or electronic messages;

(i) acting covertly in a way that could reasonably be expected to arouse apprehension or fear in that person; or

(j) intimidating, harassing or molesting that person.

(3) A person who stalks another person commits an offence and is liable —

(a) on conviction on indictment, to a fine or to imprisonment for a term of four years or both; or

(b) on summary conviction, to a fine of five thousand dollars or to imprisonment for a term of one year or both.

(4) A course of conduct under subsection (2) may be the same course of conduct, or different courses of conduct pursued on each occasion in a public or a private place.

(5) A police officer may arrest, without a warrant, anyone the police officer reasonably suspects is committing an offence under this section.

(6) A police officer may, without a warrant, enter any premises for the purpose of giving assistance to any one present on the premises —

(a) if the police officer has reasonable cause to suspect that a person is committing an offence under subsection (3); or

(b) if the police officer has reasonable cause to suspect that a protection order made under the *Stalking (Civil Jurisdiction) Act, 2018 [Law 26 of 2018]* is being contravened.

(7) It is a defence for a person charged with an offence under this section to show that —

(a) the person's conduct was pursued for the purpose of preventing or detecting a crime;

(b) the person's conduct was pursued under an enactment or a rule of law;

(c) the person's conduct was pursued in order to comply with a condition or requirement imposed by another person acting under an enactment;

(d) the person's conduct was reasonable for the protection of that person or another person or for the protection of the first-mentioned person's property or the property of another; or

(e) the person had no reason to believe that there was any person within hearing or sight who was likely to be put in fear as a result of the first-mentioned person's conduct.

Chain letters

156. (1) A person who sends or causes to be sent any chain letter or who sends or receives any money or money's worth in connection with any chain letter commits an offence and is liable to a fine of five hundred dollars and to imprisonment for six months.

(2) In this section —

"**chain letter**" means a document addressed by one person to another suggesting to the person to whom it is addressed —

(a) that that person should send a document having the same purport to a number of persons; and

(b) that that person should remit to a person or to an address specified in the first-mentioned document money or money's worth.

Obscene publications

157. (1) A person who —

(a) for the purpose of or by way of trade or for the purpose of distribution or public exhibition, makes, produces or has in that person's possession any one or more obscene writings, drawings, prints, paintings, printed matter, pictures, posters, emblems, photographs, cinematograph films, discs, tapes or 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 publicly, or makes a business of lending 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,

commits an offence and is liable to a fine of two hundred dollars and to imprisonment for three months.

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

Idle and disorderly persons

158. A person who —

(a) wanders abroad or places themselves in any public place for the purpose of gathering alms, or who causes any child so to do;

(b) being a common prostitute, behaves in a disorderly or indecent manner in a public place;

(c) pretends to deal in obeah, myalism, duppy catching or witchcraft or to tell fortunes by palmistry or like superstitious means intending to deceive or impose on people;

(d) publicly does any indecent act;

(e) in any public place conducts themselves in a manner likely to cause a breach of the peace;

(f) solicits for immoral purposes in any public place;

(g) in any public place plays any game or pretended game of chance for money's worth;

(h) endeavours to obtain or actually obtains charitable contributions of any kind unless authorised in that behalf by the Cabinet; or

(i) having no visible lawful means of subsistence and, being able to labour, habitually abstains from working at any trade, profession or calling:

Provided that the prosecution shall not be bound to prove that such person has no visible lawful means of subsistence and does not habitually work, but it shall be for that person to prove that that person has lawful means of subsistence or that that person does habitually work at a trade, profession or calling,

shall be deemed an idle and disorderly person and shall be liable to a fine of two thousand dollars and to imprisonment for four years.

Rogues and vagabonds

159. (1) Every person —

(a) when not at that person's place of abode, having with that person any article for use in the course of or in connection with any burglary or theft;

(b) found by night, without any lawful excuse (the proof of which excuse shall be on such person), in or upon any dwelling-house, closed commercial premises, warehouse, garage, stable or out-house, or in any enclosed garden, yard or area, or in, or on board any ship or other vessel or aircraft when lying, or being in any port or place within the Islands;

(c) being a suspected person, or reputed thief, frequenting any wharf, or warehouse near or adjoining thereto, or any public place leading thereto, or any public place whatsoever or any place adjacent to a public place, with intent to commit an offence; or

(d) apprehended as an idle and disorderly person, and violently resisting any constable so apprehending that person, and being subsequently convicted of the offence for which that person shall have been so apprehended,

is deemed to be a rogue and a vagabond and to have committed an offence and is liable for a first offence to imprisonment for three years and for every subsequent offence to imprisonment for four years, and every weapon or instrument used in housebreaking shall, on conviction of an offender in possession of the same be forfeited to the Crown.

(2) Where a person is charged with an offence under paragraph (a) of subsection (1), proof that the person had with them any article made or adapted

for use in committing a burglary or theft shall be evidence that the person had it with them for such use.

Proof of intent

160. In proceedings under section 159, it shall not be necessary in proving the intent to commit an offence, to show that the person suspected had committed any act or acts tending to show that person's purpose or intent and the person may be convicted if from the circumstances of the case, and from that person's known character as proved to the court, it appears to the court that that person's intent was as alleged, and that person's known character shall be relevant evidence in that behalf.

Exception of charitable collections in places of religious worship

161. Paragraph (h) of section 158 shall not apply to charitable collections or appeals for subscriptions made in any recognised place of religious worship.

Accounting for subscription

162. A person who has collected money or money's worth in the Islands for any charitable or kindred object by subscription or otherwise and fails when called upon by the Cabinet, acting in its discretion, to publish in a newspaper circulating in the Islands correct accounts of any money or money's worth received and the disposal thereof commits an offence and is liable to imprisonment for two years.

Street trading

163. (1) A person who in a street or on a public way or beach, otherwise than as a roundsman or in a place or building declared to be a market by order of the Cabinet under section 3 of the *Markets Act* (*1997 Revision*), sells, offers or exposes for sale, anything (including a living thing) other than foodstuffs commits an offence:

Provided that the Commissioner may, at any time at the Commissioner's discretion, grant a licence, for a period not exceeding one day and on such terms and conditions as the Commissioner shall impose, exempting from subsection (1) any church or any club, society, association or other body of a religious, service or charitable nature.

(2) Notwithstanding subsection (1), the Cabinet may, by order, prohibit the sale or the offer or exposure for sale of food stuffs in any street or on any public way or beach in the Islands, except in a place or building so declared to be a market, and any person who acts in contravention of this subsection, whether as a roundsman or not, commits an offence.

(3) Any person who commits an offence under subsection (1) or (2) is liable on summary conviction —

(a) in the case of a first offence, to a fine of one thousand dollars;

(b) in the case of a second or subsequent offence, to a fine of five thousand dollars and to imprisonment for six months.

(4) In this section —

"**roundsman**" means a person engaged in going the round of that person's customers for orders or for the delivery of things.

Disorderly conduct

164. (1) A person who —

(a) without the consent of the owner affixes any bill or paper against or upon any building, wall, fence or pale or writes upon, soils, defaces or marks any such building, wall, fence or pale in any other way whatsoever;

(b) marks on any fence, wall or building any obscene figure, drawing, painting or representation, or sings any profane, indecent or obscene song or ballad, or writes or draws any indecent or obscene word, figure or representation, or uses any profane, indecent or obscene language;

(c) uses any threatening, abusive or calumnious language to any other person publicly, as tends to provoke a breach of the peace; or uses such language, accompanied by such behaviour to any person publicly, as tends to a breach of the peace;

(d) without lawful excuse blows any horn or other noisy instrument or beats any drum in any public street;

(e) discharges any firearm, makes any bonfire or throws or sets fire to any firework, or throws or discharges any stone or other missile or flies any kite or plays any game to the danger or annoyance of any passenger or inhabitant in any street;

(f) wilfully and wantonly disturbs any inhabitant of any dwelling-house by pulling or ringing any door bell, knocking at any door, or lights or extinguishes any lamp or unlawfully enters any house, building or premises to the annoyance of any person therein; or

(g) burns any wood, shavings, rubbish or sweepings or throws or lays any dirt, litter, ashes or any carrion, fish, offal, containers, bottles or other rubbish in any public place,

commits an offence and is liable to a fine of two thousand dollars.

(2) In subsection (1)(e) —

"**firearm**" has the meaning assigned to that expression in section 2 of the *Firearms Act* (*2008 Revision*).

Drunk and disorderly persons

165. A person who —

(a) while drunk is responsible for any riotous or indecent behaviour in any public place;

(b) disturbs the public peace or any passenger or inhabitant in any street; or

(c) is found lying drunk in any street or public place or in the vicinity thereof,

commits an offence, is liable to be arrested on view by any constable and on conviction is liable to a fine of one thousand dollars and to imprisonment for one year.

Unauthorised wearing of uniform

166. A person who without lawful excuse or lawful authority wears any uniform of the armed or police forces of any Commonwealth country or any clothing having the appearance of such uniform commits an offence and is liable to a fine of two thousand dollars and to imprisonment for four years.

Negligent act likely to spread disease

167. A person who unlawfully or negligently does any act which that person knows or has reason to believe to be likely to spread the infection of any disease dangerous to health commits an offence.

Adulteration of food or drink, etc., intended for sale

168. A person who —

(a) 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 that it is likely that the same will be sold as food or drink;

(b) sells or offers or exposes for sale as food or drink any article which has been rendered or has become noxious, or in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink;

(c) adulterates any drug or medical preparation in such 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 any medicinal purposes as if it had not undergone such adulteration; or

(d) knowing any drug or medicinal 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 medical purposes as unadulterated, or causes it to be issued for medicinal purposes by any person not knowing of the adulteration,

commits an offence.

Pollution, etc.

169. A person who —

(a) voluntarily corrupts or fouls the water of any public spring, stream or reservoir so as to render it less fit for the use of mankind;

(b) voluntarily vitiates the atmosphere in any place so as to render it noxious to the health or comfort of persons in general making use of the neighbourhood;

(c) for the purposes of trade or otherwise makes loud noises or offensive smells in such places and circumstances as to interfere with the comfort of persons in the exercise of their common rights; or

(d) deposits offal or refuse in the sea within five hundred yards of the shore,

commits an offence:

Provided that nothing in this section shall affect any public officer in the carrying out of that public officer's lawful duties.

Obeah

170. (1) For the purposes of this section and section 158(c) a person practising or dealing in "**obeah**" or "**myalism**" means a person who, to effect any fraudulent or unlawful purpose, or for gain, or for the purpose of frightening any person, uses, or pretends to use occult means, or pretends to possess any supernatural power or knowledge, and "instrument of obeah or myalism" means anything commonly used in the practice of obeah or myalism.

(2) A person who —

(a) practises or deals in obeah or myalism;

(b) for any fraudulent or unlawful purpose consults any person practising or reputed to be practising or who has been convicted of any offence under the law relating to obeah or myalism; or

(c) for the purpose of effecting any object or of bringing about any event, by the use of occult means or any supernatural power or knowledge, consults any person practising or reputed to be practising obeah or myalism or any person who has been convicted of an offence relating to obeah or myalism, or any person pretending to possess supernatural powers and agrees to reward the person so consulted,

commits an offence.

(3) In charging any person with being a person practising obeah it shall be sufficient in the charge to state that that person is a person practising obeah.

(4) A person who —

(a) possesses, composes, prints, imports, sells or distributes any printed matter which is calculated to promote the superstition of obeah; or

(b) possesses, imports, sells or distributes anything which is calculated to promote the superstition of obeah,

commits an offence.

(5) When it is made to appear upon oath that there is reasonable cause to suspect that any person is in possession of any instrument of obeah or myalism any Justice may, by warrant, authorise any constable at any time within one month of the issue of such warrant to enter and search any place and to seize any such instrument there found for the purpose of producing it in evidence in any court where it may be required.

(6) A person who is found in possession of any instrument of obeah or myalism shall be deemed, unless the contrary is proved, to be a person practising obeah at the time of such possession.

E - Defamation

Definition of libel

171. A person who by print, writing, painting, effigy, tape, film, disc or other recording or by any means other than by gestures or spoken words or other sounds unlawfully publishes or facilitates the publication of any defamatory matter concerning another person with intent to defame that other person commits libel.

Definition of defamatory matter

172. "**Defamatory matter**" means matter likely to injure the reputation of any person by exposing that person to hatred, contempt or ridicule, or likely to damage any person in that person's profession or trade by an injury to that person's reputation. It is immaterial whether at the time of such publication the person concerning whom such matter is published is living or dead:

Provided that no prosecution for the publication of defamatory matter concerning a dead person shall be instituted without the consent of the Director of Public Prosecutions.

Definition of publication

173. (1) A person publishes a libel if that person causes the means by which the defamatory matter is conveyed to be so dealt with, either by exhibition, reading, recitation, description, delivery or otherwise that the defamatory meaning thereof becomes known or is likely to become known to either the person defamed or any other person.

(2) It is not necessary for a libel that a defamatory meaning should be directly or completely expressed; and it suffices if such meaning and its application to the person alleged to be defamed can be collected either from the alleged libel itself

or from any extrinsic circumstances, or partly by the one and partly by the other means.

Definition of unlawful publication

174. Any publication of defamatory matter concerning a person is unlawful within the meaning of section 171 unless —

(a) the matter is true and it was for the benefit of the public that it should be published; or

(b) it is privileged under section 175 or 176.

Cases in which publication of defamatory matter is absolutely privileged

175. (1) The publication of defamatory matter is absolutely privileged, and no person shall under any circumstances be liable to punishment under this Act in respect thereof in any of the following cases, namely —

(a) if the matter is published by the Governor in the Governor's official capacity, or by the Cabinet or the Cayman Islands Parliament in any official document or proceeding;

(b) if the matter is published by order of the Cabinet;

(c) if the matter is published in the Cabinet or in the Cayman Islands Parliament by the Governor or by any member of such Cabinet or Parliament;

(d) if the matter is published in the course of any judicial proceedings by a person taking part therein as a judge, magistrate, commissioner, juror, pleader, assessor, witness or party thereto;

(e) if the matter published is in fact a fair report of anything said, done or published in the Cabinet or the Cayman Islands Parliament; or

(f) if the person publishing the matter is legally bound to publish it.

(2) Where a publication is absolutely privileged it is immaterial for the purposes of this section whether or not the matter be true or false, and whether or not it be known or believed to be false and whether or not it is published in good faith:

Provided that nothing in this section shall exempt a person from any liability to punishment under any other Part of this Act or any other law in force in the Islands.

Cases in which publication of defamatory matter is conditionally privileged

176. A publication of defamatory matter is privileged, on condition that it was published in good faith, if the relation between the parties by and to whom the publication is made is such that the person publishing the matter is under some legal, moral or social duty to publish it to the person to whom the publication is made or has a legitimate personal interest in so publishing it, provided that the publication does not exceed either in extent or matter what is reasonably sufficient for the occasion, and in any of the following cases, namely —

(a) if the matter published is in fact a fair report of anything said, done or shown in a civil or criminal enquiry or proceeding before any court:

Provided that if the court prohibits the publication of anything said or shown before it, on the ground that it is seditious, immoral or blasphemous, the publication thereof shall not be privileged;

(b) if the matter published is a copy or reproduction, or in fact a fair abstract, of any matter which has been previously published, and the previous publication of which was or would have been privileged under paragraph (a);

(c) if the matter is an expression of opinion in good faith as to the conduct of a person in a judicial, official or other public capacity or as to that person's personal character so far as it appears in such conduct;

(d) if the matter is an expression of opinion in good faith as to the conduct of a person in relation to any public question or matter, or as to that person's personal character so far as it appears in such conduct;

(e) if the matter is an expression of opinion in good faith as to the conduct of any person as disclosed by evidence given in a public legal proceeding, whether civil or criminal, or as to the conduct of any person as a party, witness or otherwise in any such proceeding, or as to the character of any person so far as it appears in any such conduct as is in this paragraph mentioned;

(f) if the matter is an expression of opinion in good faith as to the merits of any book, writing, painting, speech, or other work, performance, act published, or publicly done or made, or submitted by a person to the judgement of the public, or as to the character of a person so far as it appears therein;

(g) if the matter is a censure passed in good faith on the conduct of another person in any matter in respect of which that person has authority, by contract or otherwise, over the other person so far as it appears in such conduct;

(h) if the matter is a complaint or accusation made by a person in good faith against another person in respect of that person's conduct in any matter, or

in respect of that person's character so far as it appears in such conduct, to any person having authority, by contract or otherwise, over that person in respect of such conduct or matter, or having authority by law to enquire into or receive complaints respecting such conduct or matter; or

(i) if the matter is published in good faith for the protection of the rights or interests of the person who publishes it, or of the person to whom it is published, or of some person in whom the person to whom it is published is interested.

Explanation as to good faith

177. A publication of defamatory matter shall not be deemed to have been made in good faith by a person within the meaning of section 176 if it is made to appear either —

(a) that the matter is untrue and that that person did not believe it to be true;

(b) that the matter was untrue and that that person published it without having taken reasonable care to ascertain whether it was true or false; or

(c) that in publishing the matter that person acted with intent to injure the person defamed in a substantially greater degree or substantially otherwise than was reasonably necessary for the interest of the public or for the protection of the private right or the interest in respect of which that person claims to be privileged.

Presumption as to good faith

178. If it is proved on behalf of the accused person that the defamatory matter was published under such circumstances that the publication would have been justified if made in good faith, the publication shall be presumed to have been made in good faith until the contrary is made to appear, either from the libel itself, or from the evidence given on behalf of the accused person, or from evidence given on behalf of the prosecution.

Libels to extort money

179. A person who publishes or threatens to publish any libel upon some other person or directly or indirectly threatens to print or publish or directly or indirectly proposes to abstain from printing or publishing, or directly or indirectly offers to prevent the printing or publishing of any matter or thing touching any other person with intent to extort money, valuable thing or pecuniary advantage of any kind from any person, commits an offence and is liable to imprisonment for three years.

PART VI - Offences Against the Person

Manslaughter

180. (1) A person who, by an unlawful act or omission, causes the death of another person commits the offence of manslaughter.

(2) 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

181. A person who, of malice aforethought express or implied, causes the death of another person by an unlawful act or omission commits the offence of murder.

Punishment of murder

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

Punishment of manslaughter

183. A person who commits the offence of manslaughter is liable to imprisonment for life.

Malice aforethought

184. Malice aforethought, which may be express or implied from the conduct of a person charged, shall be deemed to be established by evidence proving either of the following circumstances —

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

(b) knowledge that the act or omission causing death will probably cause the death of or grievous bodily harm to some person, whether or not such person is the person actually killed, 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

185. (1) Where a person kills or is a party to the killing of another, that person shall not be convicted of murder if that person is 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 that person's mental responsibility for that person's acts 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, whether as principal or accessory, to be convicted of murder shall be liable instead to be convicted of manslaughter.

(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 thereto.

Provocation

186. Where on a charge of murder there is evidence on which the jury can find that the person charged was provoked (whether by things done or things said or by both together) to lose their self-control, the question whether the provocation was enough to make a reasonable person do as that person did shall be left to be determined by the jury; and in determining that question the jury shall take into account everything both done and said according to the effect which in their opinion it would have on a reasonable person.

Suicide to cease to be a crime

186A.The rule of law whereby it is a crime for a person to commit suicide is abrogated.

Criminal liability for complicity in a person's suicide

186B.(1) A person commits an offence if —

(a) that person does an act capable of encouraging or assisting the suicide or attempted suicide of another person; and

(b) that person's act was intended to encourage or assist the suicide or an attempt at the suicide.

(2) A person may commit an offence under this section whether or not a suicide, or an attempt at suicide, occurs.

(3) An offence under this section is triable on indictment and a person convicted of such an offence is liable to imprisonment for a term of fourteen years.

(4) If on the trial of an indictment for murder or manslaughter of a person it is proved that the deceased person committed suicide, and the person accused committed an offence under subsection (1) in relation to that suicide, the person accused may be convicted of the offence under subsection (1).

(5) No proceedings shall be instituted for an offence under this section except by or with the consent of the Director of Public Prosecutions.

(6) If a person arranges for another person to do an act that is capable of encouraging or assisting the suicide or attempted suicide of a third person and that other person does that act, the person who arranged with that other person is also to be treated for the purposes of this Act as having done the act.

(7) Where the facts are such that an act is not capable of encouraging or assisting suicide or attempted suicide, for the purposes of this Act the act is to be treated as so capable if the act would have been so capable had the facts been as the person believed them to be at the time of the act or had subsequent events happened in the manner the person believed they would happen, or both.

(8) A reference in this Act to a person doing an act that is capable of encouraging the suicide or attempted suicide of another person includes a reference to that person doing so by threatening another person or otherwise putting pressure on another person to commit or attempt suicide.

Suicide pacts

187. (1) It shall be manslaughter and not murder for a person acting in pursuance of a suicide pact between that person and another to kill the other or to be a party to the other killing themselves or being killed by a third person.

(2) Where it is shown that the person charged with the murder of another killed the other or was a party to that person's killing themselves or being killed, it shall be for the defence to prove that the person charged was acting in pursuance of a suicide pact between that person and the other.

(3) In 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 their own life, but nothing done by a person entering into a suicide pact shall be treated as done by that person in pursuance of the pact unless it is done while the person has the settled intention of dying in pursuance of that pact.

Causing death defined

188. A person is deemed to have caused the death of another person although that person's act is not the immediate or not the sole cause of death if —

(a) the person 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 with 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) the person 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 that person's mode of living;

(c) by actual or threatened violence the person 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) by any act or omission that person hastened the death of a person suffering under any disease or injury which apart from such act or omission would have caused death; or

(e) the person's 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.

Persons capable of being killed

189. 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, whether it has independent circulation or not and whether the navel string is severed or not.

Abolition of the year and a day rule

190. The rule known as the "year and a day rule", that is, the rule that for the purposes of offences involving death and of suicide, an act or omission is conclusively presumed not to have caused a person's death if more than a year and a day elapsed before the person died, is abolished for all purposes.

Restriction on institution of proceedings for a fatal offence

190A.(1) Proceedings against a person for a fatal offence may be instituted if —

(a) the injury alleged to have caused the death was sustained not more than three years before the death occurred; or

(b) the person has previously been convicted of an offence committed in circumstances alleged to be connected with the death.

(2) In subsection (1), "**fatal offence**" means —

(a) murder, manslaughter, infanticide or any offence of which one of the elements is causing a person's death; or

(b) the offence of aiding, abetting, counselling or procuring a person's suicide or acting in pursuance of a suicide pact between one person and another to kill the other or to be a party to the other killing themselves or being killed by a third party.

Responsibility of person who has charge of another

191. It is the duty of every person who has charge of another who is unable by reason of age, sickness, unsoundness of mind, detention or other cause to withdraw themselves from such charge, and who is unable to provide themselves 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 the charge, to provide for that other person the necessaries of life; and the person 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

192. It is the duty of every person who, as head of a family, has charge of a child under the age of seventeen years, being a member of that person's household, to provide the necessaries of life for such child; and that person is held to have caused the 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 persons in charge of dangerous things

193. It is the duty of every person who has in their charge or under their control anything, whether living or inanimate, and whether moving or stationary, of such a nature that, in the absence of 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 that person 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.

Attempts to murder

194. A 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 that person's duty to do, such act or omission being of such a nature as to be likely to endanger human life,

commits an offence and is liable to imprisonment for life.

Accessory after the fact to murder

195. A person who becomes an accessory after the fact to murder commits an offence and is liable to imprisonment for life.

Written threats to murder

196. A person who, knowing the contents thereof, directly or indirectly causes any person to receive any writing threatening to kill any person commits an offence and is liable to imprisonment for seven years.

Conspiracy to murder

197. A person who conspires with any person to kill any person, whether such person is in the Islands or elsewhere, commits an offence and is liable to imprisonment for fourteen years.

Infanticide

198. Where a woman by any wilful act or omission causes the death of her child being under the age of one year, but at the time of the act or omission the balance of her mind was disturbed by reason of her not being 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, notwithstanding that the circumstances were such that but for this section the offence would have amounted to murder, she shall have committed the offence of infanticide and may, for such offence, be dealt with and punished as if she had been guilty of the offence of manslaughter.

Killing an unborn child

199. (1) A person who, with intent to destroy the life of a child capable of being born alive, by any wilful act causes a child to die before it has an existence independent of its mother, commits an offence and is liable to imprisonment for life.

(2) Notwithstanding subsection (1), no person shall have committed an offence under this section unless it is proved that the act which caused the death of the child was not done in good faith for the purpose only of preserving the life of the mother.

(3) Notwithstanding subsections (1) and (2) a health practitioner registered to practise medicine under the *Health Practice Act* (*2021 Revision*) does not commit an offence under subsection (1) in respect of any act if such act is first certified in writing by two such registered health practitioners, one of whom is registered by the Medical and Dental Council as an obstetrician or a gynaecologist or is employed as a Government Medical Officer in either capacity as being necessary for the purpose of preserving the life of the mother.

Concealing the birth of children

200. A 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 commits the offence of concealment of birth and is liable to imprisonment for two years.

Disabling etc., to facilitate an offence or to assist an offender

201. A person who with intent to facilitate the commission of an offence by themselves or another, the flight or escape of an offender or the resistance of an offender to lawful arrest —

(a) chokes, suffocates or strangles any person;

(b) administers to any person any stupefying, over-powering or noxious drug;

(c) causes any explosive substance to explode;

(d) sends, delivers to or causes to be received by any person any explosive, dangerous or noxious substance or thing;

(e) puts any explosive, destructive or corrosive substance in any place; or

(f) casts, throws or applies any explosive, destructive or corrosive substance or thing at or to any person,

or attempts so to do commits an offence and is liable to imprisonment for life.

Preventing escape from wreck

202. A person who unlawfully —

(a) prevents or obstructs any person who is on board of, or who is escaping from, a vessel which is in distress or wrecked, in that person's endeavours to save that person's life; or

(b) obstructs any person in that person's endeavours to save the life of any person so situated,

commits an offence and is liable to imprisonment for life.

Wounding or causing grievous bodily harm

203. A person who, unlawfully and maliciously, by any means, wounds or causes grievous bodily harm to a person with intent to do grievous bodily harm to any person or with intent to resist or prevent the lawful apprehension or detainer of any person, commits an offence and is liable on conviction to imprisonment for life.

Wounding or causing grievous bodily harm

204. A person who unlawfully and maliciously wounds or inflicts any grievous bodily harm upon any other person, either with or without any weapon or instrument, commits an offence and is liable on conviction to imprisonment for seven years.

Attempting to injure by explosive substances

205. A person who unlawfully and with intent to do any harm to another puts any explosive substance in any place whatever commits an offence and is liable to imprisonment for sixteen years.

Bomb hoax

206. (1) A person who —

(a) places any article or substance in any place whatever; or

(b) dispatches any article or substance by post or any other means whatever of sending things from one place to another,

with the intention (in either case) of inducing in some other person a belief that it is likely to explode or ignite and thereby cause personal injury or damage to property commits an offence.

(2) A person who communicates any information which the person knows or believes to be false to another person with the intention of inducing in that person or any other person a false belief that a bomb or other thing liable to explode or ignite is present in any place or location whatever commits an offence.

(3) For a person to be guilty of an offence under subsection (1) or (2) it is not necessary for that person to have any particular person in mind as the person in whom that person intends to induce the belief.

(4) A person who commits an offence under subsection (1) or (2) is liable on conviction to a fine of ten thousand dollars and to imprisonment for ten years.

Maliciously administering poison

207. A person who, unlawfully, and with intent to annoy or harm another causes any poison or noxious thing to be administered to, or taken by, any person, and thereby endangers that person's life or does that person some grievous bodily harm, commits an offence and is liable to imprisonment for fourteen years.

Unlawful use of firearms

208. A person who unlawfully discharges or attempts to discharge any firearm at any person or, being armed with a firearm, unlawfully threatens to discharge such firearm at any person commits an offence and is liable, in addition to any other liability for any offence that person may thereby commit, to imprisonment for five years.

Excess of force

209. A person who is authorised by law, or by the consent of a person injured by that person to use force is criminally responsible for the consequences of the force that person may use, having regard to all the circumstances.

Reckless and negligent acts

210. A person who in a manner so rash or negligent as to endanger human life or safety —

(a) drives or rides in any public place;

(b) navigates or takes part in the navigation or working of any vessel, hovercraft or aircraft;

(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 that person's possession or control;

(d) omits to take precautions against any probable danger from any animal in that person's possession or control;

(e) dispenses, supplies, sells, administers or gives away any medicine or poisonous or dangerous matter;

(f) does any act with respect to, or omits to take proper precautions against any probable danger from any machinery of which the person is solely or partly in charge; or

(g) does any act with respect to, or omits to take proper precautions against any probable danger from any explosive or firearm in that person's possession or control,

commits an offence.

Other negligent acts causing harm

211. A person who unlawfully does any act, or omits to do any act which it is that person's duty to do, not being an act or omission specified in section 210, by which act or omission harm is caused to any person, commits an offence and is liable to a fine of two thousand dollars and to imprisonment for two years.

Dealing with poisonous substances in a negligent manner

212. A person who does with any poisonous substance any act in a manner so rash or negligent as to endanger human life or 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 that person's possession or control as is sufficient to guard against probable danger to human life from such poisonous substance, commits an offence and is liable to a fine of two thousand dollars and to imprisonment for two years.

Exhibition of false light, mark or buoy

213. A person who exhibits any false light, mark or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator commits an offence and is liable to imprisonment for fourteen years.

Conveying person for hire in any unsafe or overloaded conveyance

214. A person who knowingly or negligently conveys or causes any person to be conveyed for hire by water or by air in any vessel, hovercraft or aircraft when such vessel, hovercraft or aircraft is in such a state or so loaded as to be unsafe commits an offence.

Common assault

215. A person who unlawfully assaults another commits an offence and, if the assault is not committed in circumstances for which a greater punishment is provided by this or any other law, is liable to imprisonment for one year.

Assault causing actual bodily harm

216. A person who commits an assault occasioning actual bodily harm commits an offence and is liable to imprisonment for five years.

Assault on person protecting wreck

217. A person who assaults and strikes or wounds any magistrate or constable or other officer or person lawfully authorised in or on account of the execution of that person's duty in or concerning the preservation of any vessel, hovercraft or aircraft in distress or of any vessel, hovercraft or aircraft or goods or effects wrecked stranded or cast on any land or shore, or lying under water commits an offence and is liable to imprisonment for seven years.

Definition of kidnapping

218. A person who —

(a) conveys any person beyond the limits of the Islands without the consent of that person, or of some person legally authorised to consent on behalf of that person; or

(b) takes or entices any person under sixteen years of age, or any person of unsound mind, out of the keeping of the lawful guardian of such person without the consent of such guardian,

is said to kidnap such person.

Definition of abduction

219. A person who by any force compels, or by any deceitful means induces any person to go from any place is said to abduct such person.

Punishment for kidnapping and abduction

220. A person who kidnaps or abducts any person commits an offence and is liable to imprisonment for life.

Keeping in confinement a kidnapped or abducted person

221. A person who, knowing that a person has been kidnapped or abducted, wrongfully conceals or confines such person commits an offence and is liable to imprisonment for life.

Wrongful confinement

222. A person who wrongfully confines any person commits an offence and is liable to imprisonment for five years.

Unlawful compulsory labour

223. A person who unlawfully compels any person to labour against the will of that person commits an offence and is liable to imprisonment for three years.

PART VII - Offences Relating to Children

Definitions

224. (1) In this Part —

"**child**" means a person under the age of seventeen years and, in sections 228A to 228C, includes a person who appears to be under the age of seventeen years;

"**child pornography**" includes material that visually depicts —

(a) a child engaged in sexually explicit conduct;

(b) a person who appears to be a child engaged in sexually explicit conduct; or

(c) realistic images representing a child engaged in sexually explicit conduct;

"**computer data storage medium**" means any article or material from which information is capable of being reproduced, with or without the aid of any other article or device;

"**computer system**" means a device that, or a group of interconnected or related devices, including the Internet, one or more of which, pursuant to a programme, performs automatic processing of data or any other function; and includes an ICT network as defined in section 2 of the *Information and Communications Technology Authority Act* (*2019 Revision*);

"**film**" includes any form of video-recording;

"**pseudo-photograph**" means an image, whether made or produced by computer-graphics or otherwise, which appears to be a photograph; and

"**publish**" includes —

(a) distribute, transmit, disseminate, circulate, deliver, exhibit, lend for gain, exchange, barter, sell or offer for sale, let on hire or offer to let on hire, offer in any other way, or make available in any way;

(b) have in possession or custody, or under control, for the purpose of doing an act referred to in paragraph (a); or

(c) print, photograph, copy or make in any other manner (whether of the same or of a different kind or nature) for the purpose of doing an act referred to in paragraph (a).

(2) For the purposes of this Part, the following shall be presumed to have responsibility for a child —

(a) any person who —

(i) has parental responsibility for the child (within the meaning of the *Children Act* (*2012 Revision*); or

(ii) is otherwise legally liable to maintain that child; and

(b) any person who has care of that child.

(3) A person who is presumed to be responsible for a child or young person by virtue of paragraph (a) of subsection (2) shall not be taken to have ceased to be responsible for the child by reason only that that person does not have care of that child.

Cruelty to children

225. (1) A person who having attained the age of sixteen years, has responsibility for any child under that age and who —

(a) wilfully assaults, ill-treats, neglects, abandons or exposes that child; or

(b) causes or procures that child to be assaulted, ill-treated, neglected, abandoned or exposed, in a manner likely to cause that child unnecessary suffering or injury to health (including injury to or loss of sight, hearing, limb or organ of the body, and any mental derangement),

commits an offence.

(2) A person who commits an offence under subsection (1) is liable —

(a) on conviction on indictment, to a fine and to imprisonment for five years; or

(b) on conviction by a summary court, to a fine of one thousand dollars and to imprisonment for six months.

(3) Where the court has convicted a person of an offence under subsection (1), it may, in addition to or in lieu of any penalty imposed on that person under subsection (2), order that person to attend such counselling services as may be prescribed in the order for a period not exceeding two years and subject to such conditions as may be so prescribed.

(4) Where —

(a) an order has been made under subsection (3) with respect to a person convicted of an offence under subsection (1); and

(b) it appears on information in writing and on oath to a justice of the peace that the offender has failed to comply with the order or with any conditions prescribed in the order,

the justice may issue a summons requiring the offender to appear before a court, at the place and time specified in the summons.

(5) Where an information in subsection (4) is laid, the justice may issue a warrant for the offender's arrest requiring the offender to be brought before a court.

(6) Where the court, before which an offender appears or is brought for failure to comply with an order made under subsection (3) or with any conditions prescribed in the order, is satisfied that the offender has failed to comply with the order or any of those conditions, it may —

(a) order that the offender be required to attend such counselling services as may be prescribed in the order for such further period as may be so prescribed; or

(b) where the offender was not subject to any penalty for the offence with respect to which the order under subsection (3) was made, deal with the offender for that offence in any manner it could deal with the offender if the offender had just been convicted by or before that court of that offence.

Provisions supplementary to section 225

226. (1) For the purposes of section 225 —

(a) a parent or other person legally liable to maintain a child, shall be deemed to have neglected the child in a manner likely to cause injury to the child's health if —

(i) that person has failed to provide adequate food, clothing or lodging for the child, and having been unable otherwise has failed to take steps to procure it to be provided; or to provide such food, clothing or lodging, that person has failed to take steps to procure it to be provided; or

(ii) being unable to do so, the person has failed to provide such medical treatment which is specified as necessary for the child by an appropriately qualified health practitioner duly registered in respect of that qualification under the *Health Practice Act* (*2021 Revision*);

(b) where it is proved that the death of a child under three years of age was caused by suffocation (not being suffocation caused by disease or the presence of any foreign body in the throat or air passages of the child) while the child was in bed with a person who, at the time of going to bed was under the influence of drink or any drug, that person shall be deemed to have neglected the child in a manner likely to cause injury to the child's health;

(c) if a person having responsibility for any child under the age of eight —

(i) allows that child to be in any room or yard containing a gas, oil or petrol stove, or open fireplace or fire which is not sufficiently protected to guard against the risk of that child being burnt or scalded; and

(ii) has failed to take reasonable precautions against that risk, that person shall be deemed to have neglected the child in a manner likely to cause injury to the child's health; and

(d) any person having responsibility for a child shall be deemed to have abandoned the child in a manner likely to cause the child unnecessary suffering or injury to health if that person has failed to provide, or failed

to make arrangements for the provision of, reasonable supervision of the child.

(2) Section 225, and any proceedings taken under it, shall not affect the liability of any person to be proceeded against for any other offence.

(3) A person may be convicted of an offence under section 225 —

(a) notwithstanding that actual suffering or injury to health, or the likelihood of actual suffering or injury to health, was obviated by the action of another person; or

(b) notwithstanding the death of the child in question.

(4) Where any person who has the custody, charge or care of a child is tried for any offence other than an offence under section 225, that person may be convicted of an offence under that section whether or not that person is convicted of that other offence.

(5) If it is proved that a person convicted under section 225 was directly or indirectly interested in any sum of money accruing or payable in the event of the death of the child, and had knowledge that the sum of money was accruing or becoming payable, then —

(a) in the case of a conviction on indictment, the court may, in lieu of imposing any other penalty, sentence that person to imprisonment for twenty years; and

(b) in the case of a summary conviction, the court may —

(i) where it has not sentenced that person to imprisonment for the offence, and in addition to any fine it has imposed, order that person to perform community service for a maximum of two hundred and forty hours; or

(ii) in lieu of any other penalty, sentence that person to imprisonment for two years.

(6) For the purposes of subsection (5) —

(a) a person shall be deemed to be directly or indirectly interested in a sum of money if that person has any share in or benefit from the payment of that money, notwithstanding that that person may not be a person to whom it is legally payable; and

(b) a copy of a policy of insurance, certified to be a true copy by an officer or agent of the insurance company granting the policy, shall be evidence —

(i) that the child stated in that policy to be insured has in fact been so insured; and

(ii) that the person in whose favour the policy has been granted is the person to whom the money thereby insured is legally payable.

(7) Nothing in section 225 shall be construed as affecting the right of any parent, teacher or other person having the lawful control or charge of a child to administer punishment to that child.

Children not to be used for begging

227. (1) A person who causes any child under the age of sixteen years, or, having responsibility for such a child, allows the child to be in any street, premises or place for the purpose of —

(a) begging or receiving alms; or

(b) inducing the giving of alms (whether or not there is any pretence of singing, playing, performing, offering anything for sale, or otherwise),

commits an offence and is liable on summary conviction to a fine of one thousand dollars and to imprisonment for six months.

(2) A person who, having responsibility for a child, is charged with an offence under subsection (1), and it is proved that —

(a) the child was in any street, premises or place for any purpose mentioned in that subsection; and

(b) the person charged allowed that child to be there for that purpose,

that person shall, unless the contrary is proved, be presumed to have allowed the child to be there for that purpose.

(3) A person who, while singing, playing, performing or offering anything for sale in a street or public place has with that person a child who has been lent or hired out to that person, the child shall, for the purposes of this section, be deemed to be in that street or place for the purpose of inducing the giving of alms.

Restrictions on employment of children

228. (1) No child under the age of ten years shall be employed.

(2) Subject to subsection (4), a child of compulsory school age (within the meaning of the *Education Act (2024 Revision)* shall not be employed —

(a) during school hours on any day on which that child is required to attend school;

(b) on any day on which that child is required to attend school, for more than two hours outside school hours;

(c) to lift, carry or move anything so heavy as to be likely to cause injury to that child; or

(d) during the night between the hours of ten o'clock in the evening and seven o'clock in the morning.

(3) A person who employs a child in contravention of this section commits an offence and is liable on summary conviction to a fine of ten thousand dollars.

(4) This section does not apply to any young person receiving instruction in any form of work in any —

(a) school within the meaning of the *Education Act (2024 Revision)*; or

(b) rehabilitation school, in respect of that person's employment in that work for the purpose of that instruction.

Indecent photographs of children

228A.(1) A person who —

(a) has in that person's possession an indecent photograph or pseudo-photograph of a child;

(b) takes, permits to be taken or makes an indecent photograph or pseudo-photograph of a child; or

(c) distributes or shows an indecent photograph or pseudo-photograph of a child,

commits an offence and is liable on conviction on indictment to imprisonment for fifteen years.

(2) Where a person is charged with an offence under subsection (1)(a) or (c), it shall be a defence for that person to prove —

(a) that that person had a legitimate reason for having the photograph or pseudo-photograph in that person's possession or, as the case may be, for distributing or showing it;

(b) that that person had not themselves seen the photograph or pseudo-photograph and did not know, nor had any cause to suspect, it to be indecent; or

(c) that the photograph or pseudo-photograph was sent to the person without any prior request made by the person or on the person's behalf and that the person did not keep it for an unreasonable time.

(3) For the purposes of this section —

(a) references to a photograph include —

(i) the negative as well as the positive version; and

(ii) data stored on a computer disc or by other electronic means which are capable of conversion into a photograph;

(b) references to an indecent pseudo-photograph include —

(i) a copy of an indecent pseudo-photograph; and

(ii) data stored on a computer disc or by other electronic means which are capable of conversion into a pseudo-photograph;

(c) references to an indecent photograph include an indecent film, a copy of an indecent photograph or film, and an indecent photograph comprised in a film;

(d) photographs (including those comprised in a film) shall, if they show children and are indecent, be treated as indecent photographs of children and so as respects pseudo-photographs; and

(e) a person is to be regarded as distributing an indecent photograph or pseudo-photograph if the person parts with possession of it to, or exposes or offers it for acquisition by, another person.

(4) If the impression conveyed by a pseudo-photograph is that the person shown is a child, the pseudo-photograph shall be treated for the purposes of this section as showing a child and so shall a pseudo-photograph where the predominant impression conveyed is that the person shown is a child notwithstanding that some of the physical characteristics shown are those of an adult.

Child pornography

228B.(1) A person who —

(a) makes, prints, publishes, or possesses for the purpose of publication, any child pornography;

(b) transmits, makes available, distributes, sells, advertises, imports, exports, or possesses for the purpose of transmission, making available, distribution, sale, advertising or exportation, any child pornography;

(c) possesses any child pornography; or

(d) accesses any child pornography,

commits an offence and is liable on conviction —

(i) in the case of an offence under paragraph (a), (c) or (d), to imprisonment for fifteen years; and

(ii) in the case of an offence under paragraph (b), to imprisonment for twenty-five years.

(2) For the purposes of subsection (1)(d), a person accesses child pornography if the person knowingly causes child pornography to be viewed by, or transmitted to, themselves.

(3) It is not a defence to a charge under subsection (1)(a) in respect of a visual representation that the accused believed that a person shown in the representation that is alleged to constitute child pornography was or was depicted as being seventeen years of age or more unless the accused took all reasonable steps to ascertain the age of that person and took all reasonable steps to ensure that, where the person was seventeen years of age or more, the representation did not depict that person as being under the age of seventeen years.

Child pornography stored on a computer system

228C.(1) A person who —

(a) publishes child pornography through a computer system;

(b) produces child pornography for the purpose of its publication through a computer system;

(c) possesses child pornography in a computer system or on a computer data storage medium; or

(d) accesses child pornography through a computer system,

commits an offence and is liable on conviction on indictment to imprisonment for fifteen years.

(2) For the purposes of subsection (1)(d), a person accesses child pornography if the person causes child pornography to be viewed by, or transmitted to, themselves.

(3) It shall be a sufficient defence to a charge under subsection (1)(a), (c) or (d), if it shall be made to appear to the court or jury before whom the charge is brought that the person so charged establishes that the child pornography —

(a) had a legitimate research purpose; and

(b) does not pose an undue risk of harm to any child.

Destruction of child pornographic material

228D.(1) If a court of summary jurisdiction is satisfied by information on oath that there are reasonable grounds to believe that there is child pornographic material that is stored on and made available through a computer system that is within the jurisdiction of the court, the court may order the custodian of the computer system to —

(a) give an electronic copy of the child pornographic material to the court;

(b) ensure that the child pornographic material is no longer stored on and made available through the computer system; and

(c) provide the information necessary to identify and locate the person who posted the child pornographic material.

(2) Within a reasonable time after receiving the information referred to in subsection (1)(c), the court shall cause notice to be given to the person who posted the child pornographic material, giving that person the opportunity to appear and be represented before the court, and show cause why the child pornographic material should not be deleted; and, if the person cannot be identified or located or does not reside in the Islands, the court may order the custodian of the computer system to post the text of the notice at the location where the child pornographic material was previously stored and made available, until the time set for the appearance.

(3) The person who posted the child pornographic material may appear and be represented in the proceedings in order to oppose the making of an order under subsection (5).

(4) If the person who posted the child pornographic material does not appear for the proceedings, the court may proceed *ex parte* to hear and determine the proceedings in the absence of the person as fully and effectually as if the person had appeared.

(5) If the court is satisfied, on a balance of probabilities, that the material is child pornography or data that makes child pornography available, it may order the custodian of the computer system to delete the child pornographic material.

(6) When the court makes the order for the deletion of the child pornographic material, it may order the destruction of the electronic copy in the court's possession.

(7) If the court is not satisfied that the material is child pornography or data that make child pornography available, the court shall order that the electronic copy be returned to the custodian and terminate the order under subsection (1)(b).

(8) No order made under subsections (5) to (7) takes effect until the time for final appeal has expired.

Sexual communication with a child.

228E. (1) Where a person, being eighteen years or older, for the purpose of obtaining sexual gratification —

(a) knowingly engages in communication of a sexual nature with a child under the age of sixteen years; or

(b) encourages a child under the age of sixteen years to make or engage in a communication that is sexual or relates to a sexual activity,

that person commits an offence.

(2) A person who contravenes subsection (1) is liable on —

(a) summary conviction; or

(b) conviction on indictment,

to imprisonment for a term of six years.

Arranging to meet a child following sexual communication

228F.(1) Where a person, being eighteen years or older, communicates with a child under the age of sixteen years on one or more than one occasion and that communication is sexual in nature or is intended to encourage communication that is sexual or relates to a sexual activity and subsequently that person —

(a) arranges to meet the child; or

(b) travels with the intention of meeting the child within the Islands or outside the Islands,

for the purpose of the commission of an activity that is sexual in nature that person commits an offence.

(2) A person who contravenes subsection (1) is liable on —

(a) summary conviction; or

(b) conviction on indictment,

to imprisonment for a term of six years.

Meeting a child following sexual communication

228G. (1) Where a person, being eighteen years or older, communicates with a child under the age of sixteen years on one or more than one occasion and that communication is sexual in nature or is intended to encourage communication that is sexual or relates to a sexual activity and subsequently that person —

(a) intentionally meets the child; and

(b) intends during or after the meeting to do anything which if done would involve the commission of an act of a sexual nature,

that person commits an offence.

(2) A person who contravenes subsection (1) is liable on —

(a) summary conviction; or

(b) conviction on indictment,

to imprisonment for a term of six years.

Procuration of a child for a sexual activity

228H.(1) Where a person, being eighteen years or older, engages in any conduct with intent to procure a child under the age of sixteen years, to do anything which if done would involve or lead to the commission of an act of a sexual nature that person commits an offence and is liable on —

(a) summary conviction; or

(b) conviction on indictment,

to imprisonment for a term of eight years.

Causing a child to watch a sexual activity

228I. Where a person, being eighteen years or older, for the purpose of obtaining sexual gratification, intentionally causes a child under the age of sixteen years to watch any person engaging in an activity that is sexual in nature, or to look at an image of any person engaging in an activity that is sexual in nature, that person commits an offence and is liable on —

(a) summary conviction; or

(b) conviction on indictment,

to imprisonment for a term of eight years.

Engaging in sexual activity in the presence of a child

228J. Where a person, being eighteen years or older, who, for the purpose of obtaining sexual gratification, intentionally engages in an activity that is sexual in nature in the presence of a child under the age of sixteen years or knowingly engages in such activity believing that a child is aware or should be aware, that that person is engaging in such activity commits an offence and is liable on —

(a) summary conviction; or

(b) conviction on indictment,

to imprisonment for a term of twelve years.

Inviting a child to participate in a sexual activity

228K. Where a person, being eighteen years or older, invites a child under the age of sixteen years to engage in any touching or other behaviour, that touching or behaviour being an activity that is sexual in nature that person commits an offence and is liable on —

(a) summary conviction; or

(b) conviction on indictment,

to imprisonment for a term of twelve years.

Abuse of position of trust

228L. (1) Where a person, being eighteen years or older who, in relation to a child under the age of sixteen years, is in a position of trust —

(a) engages in any sexual communication with that child;

(b) engages with that child in an activity that is sexual in nature ;

(c) intentionally causes another person to engage with that child in an activity that is sexual in nature;

(d) causes that child to watch any person engaging in an activity that is sexual in nature, or to look at an image of any person engaging in an activity that is sexual in nature; or

(e) engages in an activity that is sexual in nature in the presence of that child or knowingly engages in such activity believing that that child is aware or should be aware, that that person is engaging in such activity,

that person commits an offence.

(2) A person who contravenes subsection (1) is liable on —

(a) summary conviction; or

(b) conviction on indictment,

to imprisonment for a term of twelve years.

(3) Notwithstanding sections 6(2) and 8 of the *Criminal Procedure Code* (*2021 Revision*), the court of summary jurisdiction or the Grand Court before which the individual pleads guilty or is convicted, shall —

(a) in a case where the individual pleads guilty, impose a sentence of imprisonment for a term of at least five years; or

(b) in any other case, impose a sentence of imprisonment for a term of at least seven years,

unless the relevant court is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify its not doing so; and such exceptional circumstances shall be stated by the relevant court.

(4) For the purposes of this section a "**position of trust**" in relation to a child includes any position which involves —

(a) a family relationship with the child;

(b) caring for, training, supervising or being in charge of that child; or

(c) any other similar special relationship with the child

PART VIII - Anti-Gang Provisions

Definitions of "gang, etc."

229. In this Part —

"**anti-social behaviour**" means behaviour by a person which causes or is likely to cause harassment, alarm or distress to one or more other persons not of the same household as the person;

"**bullet-proof vest**" means a vest that is capable of providing protection from the penetration of bullets;

"**firearm**" has the meaning assigned to that expression in section 2 of the *Firearms Act* (*2008 Revision*);

"**gang**" means any group, association or other body consisting of three or more persons, whether formally or informally organised —

(a) having as one of its primary activities the commission of a serious offence; and

(b) any or all of the members of which engage in or have, within the preceding three years, engaged in the commission of a series of serious offences;

"**public place**" includes any public way and any other premises or place to which at the material time the public has or is permitted to have access, whether on payment or otherwise; and

"**serious offence**" means an offence for which the maximum punishment is imprisonment for twelve months or more.

Possession of bullet-proof vest or firearm in association with gang

230. A person who, without lawful excuse, the proof of which lies on the person, has in that person's possession or under that person's care or control a bullet-proof vest or firearm for the use or benefit of, at the direction of, or in association with, a gang, commits an offence and is liable —

(a) where the offence is in respect of a bullet-proof vest, to a fine of one hundred thousand dollars and to imprisonment for twenty years; and

(b) where the offence is in respect of a firearm, to a fine of one hundred thousand dollars and to imprisonment for twenty years, subject to a minimum term of imprisonment of ten years.

Gang membership

231. (1) A person who —

(a) is a member of a gang; or

(b) participates in or contributes to the activities of a gang knowing that any or all of the members of the gang engage in or have, within the preceding three years, engaged in the commission of a series of serious offences,

commits an offence and is liable to a fine of five hundred thousand dollars and to imprisonment for twenty years.

(2) For the purposes of this section, subject to evidence to the contrary, persons shall be deemed to be in the same group, association or other body, whether formally or informally organised, where those persons —

(a) have similar tattoos or other body markings;

(b) have a similar style of dress; or

(c) use similar symbols, signs, codes or mannerisms as a means of identifying themselves with the group, association or other body.

Participation in criminal activity in association with gang

232. A person who —

(a) participates in or contributes to the activities of a gang knowing that any or all of the members of the gang engage in or have, within the preceding three years, engaged in the commission of a series of serious offences; or

(b) is a party to the commission of a serious offence, for the benefit of, at the direction of, or in association with, a gang,

commits an offence and is liable to a fine of five hundred thousand dollars and to imprisonment for twenty years.

Dispersal of groups; removal of persons under seventeen to their place of residence

232A. (1) This section applies where a police officer not below the rank of inspector has reasonable grounds for suspecting that in a locality where anti-social behaviour is a significant and persistent problem —

(a) any member of the public has been intimidated, harassed, alarmed or distressed as a result of the presence or behaviour of groups of two or more persons in a public place in that locality; or

(b) the presence or behaviour of a group of two or more persons in any public place in the relevant locality has resulted, or is likely to result, in any members of the public being intimidated, harassed, alarmed or distressed.

(2) The police officer referred to under subsection (1) may in pursuance of that subsection, give an authorisation that the powers conferred on a police officer under subsections (6) to (8) are to be exercisable for such period, not exceeding two weeks, as is specified in the authorisation.

(3) If an inspector gives an authorisation under subsection (2), the inspector shall as soon as practicable, inform or cause a police officer of or above the rank of superintendent to be informed.

(4) If a police officer gives an authorisation under subsection (2) and it appears to another police officer above that police officer's rank that it is expedient to do so, having regard to offences which have or are reasonably suspected to have been committed or are reasonably suspected to be likely to be committed in connection with any activity falling within the authorisation, the police officer may direct that the authorisation shall continue in force for a further period not exceeding two weeks after the period referred to in subsection (2), or be reduced.

(5) A direction given under subsection (4) shall be in writing or, where that is not practicable, recorded in writing as soon as it is practicable to do so.

(6) In pursuance of subsection (2) and subject to subsection (7), a police officer may give any one or more of the following directions —

(a) a direction requiring the persons in the group to disperse (either immediately or by such time as the police officer may specify and in such way as the police officer may specify);

(b) a direction requiring any of those persons whose place of residence is not within the relevant locality to leave the relevant locality or any part of the relevant locality (either immediately or by such time as the police officer may specify and in such way as the police officer may specify); and

(c) a direction prohibiting any of those persons whose place of residence is not within the relevant locality from returning to the relevant locality or any part of the relevant locality for such period (not exceeding two weeks) from the day of the giving of the direction as the police officer may specify.

(7) A direction under subsection (6) may not be given in respect of a group of persons who are taking part in a lawful public procession.

(8) If, by night, a police officer finds a person in any public place in the relevant locality who the police officer has reasonable grounds to believe —

(a) is under the age of seventeen; and

(b) is not under the effective control of a parent or a responsible person aged eighteen or over,

the police officer may remove the person to the person's place of residence unless the police officer has reasonable grounds for believing that the person would, if removed to that place, be likely to suffer significant harm.

(9) In this section any reference to the presence or behaviour of a group of persons is to be read as including a reference to the presence or behaviour of any one or more of the persons in the group.

Authorisations under section 232A: supplemental provisions

232B.(1) An authorisation under section 232A(2) shall —

(a) be in writing;

(b) be signed by the police officer giving it; and

(c) specify —

(i) the relevant locality;

(ii) the grounds on which the authorisation is given; and

(iii) the period during which the powers conferred by section 232A(6) to (8) are exercisable.

(2) Publicity shall be given to an authorisation given under section 232A(2) and the extension or reduction of an authorisation given under section 232A(4) by either or both of the following methods —

(a) publishing an authorisation notice in a newspaper with wide circulation;

(b) posting an authorisation notice in a conspicuous public place or places within the relevant locality.

(3) For the purposes of this section, an "**authorisation notice**" is a notice which —

(a) states the authorisation has been given;

(b) specifies the relevant locality; and

(c) specifies the period during which the powers conferred by section 232A(6) to (8) are exercisable.

(4) Subsection (2) shall be complied with before the beginning of the period mentioned in subsection (3)(c).

(5) An authorisation may be withdrawn by —

(a) the police officer who gave it; or

(b) any other police officer not below the rank of superintendent.

(6) The withdrawal of an authorisation does not affect the exercise of any power pursuant to that authorisation in respect of a matter which occurred prior to its withdrawal.

(7) The giving or withdrawal of an authorisation does not prevent the giving of a further authorisation in respect of a locality which includes the whole or any part of the relevant locality to which the earlier authorisation relates.

(8) In this section "**authorisation**" means an authorisation under section 232A(2).

Powers under section 232A: supplemental provisions

232C. (1) A direction under section 232A(6) —

(a) may be given orally;

(b) may be given to an individual or to two or more persons together; and

(c) may be withdrawn or varied by the person who gave it.

(2) A person who refuses to comply with a direction given to that person by a police officer under section 232A(6) or resists removal by a police officer under section 232A(8), commits an offence and is liable to a fine of three thousand dollars and to imprisonment for four years.

(3) A police officer may arrest, without a warrant, any person the police officer reasonably suspects has committed an offence under subsection (2).

(4) The powers conferred under section 232A are in addition to and not in derogation of any power otherwise conferred.

Power to deal with items obscuring or concealing identity

232D. (1) A police officer may in any public place, stop a person and —

(a) require that person to remove any item which the police officer reasonably suspects that person is wearing to obscure or conceal that person's identity; or

(b) seize any item which that person has and which the police officer reasonably suspects that person has for the purpose of obscuring or concealing that person's identity.

(2) A police officer may use reasonable force, if necessary, in the exercise of the powers conferred under subsection (1).

(3) A person who fails to comply with an order from a police officer under subsection (1) or obstructs a police officer in the course of performing that police officer's duties under subsection (1), commits an offence and is liable to a fine of three thousand dollars and to imprisonment for four years.

(4) A police officer may arrest, without a warrant, anyone the police officer reasonably suspects has committed an offence under subsection (3).

(5) The powers conferred under this section are in addition to and not in derogation of any power otherwise conferred.

Prohibition on gang member's eligibility for release on licence

233. Notwithstanding any provision in any other law, a person convicted of an offence under section 230, 231 or 232 shall not be eligible for release on licence.

PART IX - Offences Relating to Property

Definitions

234. In this Part —

"**belonging**" with relation to any property, means having possession or control of or any proprietary right or interest (not being an equitable interest arising only from an agreement to transfer or grant an interest) in such property;

"**gain**" and "**loss**" are to be construed as extending not 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; and

"**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.

Basic definition of theft

235. (1) A person commits theft if the person 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 or not the appropriation is made with a view to gain, or is made for the thief's own benefit.

(3) Sections 236 to 240 shall have effect as regards the interpretation and operation of this section and (except as otherwise provided by this Part), shall apply only for the purposes of this section.

Dishonesty

236. (1) A person's appropriation of property belonging to another is not to be regarded as dishonest —

(a) if the person appropriates the property in the belief that the person has in law the right to deprive the other of it on behalf of themselves or of a third person;

(b) if the person appropriates the property in the belief that that person 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 the person as a trustee or personal representative) if the person 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 notwithstanding that the person 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 the person has come by the property (innocently or not) without stealing it, any later assumption of a right to it by dealing with it as its 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 that person of rights which the person believed themselves to be acquiring shall, by reason of any defect in the transferor's title, amount to theft of the property.

Property incapable of being stolen

238. (1) In this Act —

"**property**" includes money, whether in the form of cash, cheque, credit card, bank draft, money order or otherwise, and all other property, real or personal, including things in action and other intangible property.

(2) In the case of a credit card, the interest or number comprised in the card shall constitute property.

(3) A person cannot steal land, or things forming part of land and severed from it by themselves or under that person's directions, except in the following cases, that is to say —

(a) when that person is a trustee or a personal representative, or is authorised by power of attorney, or as a liquidator of a company, or otherwise to sell or dispose of land belonging to another, and that person appropriates the land or anything forming part of it by dealing with it in breach of the confidence reposed in that person;

(b) when that person 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 land under a tenancy, that person appropriates the whole or part of any fixture or structure let to be used with the land.

(4) For the purposes of subsection (3) —

"**land**" does not include incorporeal hereditaments; and

"**tenancy**" means a tenancy for years or any less period and includes an agreement for such a tenancy, but the person who after the end of a tenancy remains in possession is to be treated as having possession under the tenancy, and "**let**" shall be construed accordingly.

(5) A person who picks flowers, fruit or foliage from a plant, shrub or tree growing wild on any land does not (although not in possession of the land) steal what that person picks, unless that person does it for reward or sale or other commercial purpose.

(6) Wild creatures, tamed or untamed, shall be regarded as property; but a person cannot steal a wild creature not tamed nor ordinarily held in captivity, or the carcass 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 been lost or abandoned, or another person is in the course of reducing it into possession.

Property belonging to others

239. (1) Where property is subject to a trust, the persons to whom it belongs shall be regarded as including any person having the 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 the right.[4] *[[4]See note 1(2) on p.134]*

(2) 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 that person) as belonging to the other.

(3) 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 the value thereof, then to the extent of that obligation the property or proceeds shall be regarded (as against that person) 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.

(4) Property of a corporation sole shall be regarded as belonging to the corporation notwithstanding 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 that person's intention is to treat the thing as that person's 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 subsection (1), 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 that person may not be able to perform, this, (if done for purposes of that person's own and without the other's authority) amounts to treating the property as that person's own to dispose of regardless of the other's rights.

Theft

241. A person who commits a theft commits an offence and —

(a) where the value of the thing stolen does not exceed five thousand dollars, is liable on summary conviction to imprisonment for seven years; and

(b) where the value of the thing stolen exceeds five thousand dollars, is liable on conviction on indictment to imprisonment for ten years.

Robbery

242. (1) A person commits robbery if that person steals, and immediately before or at the time of doing so, and in order to do so, that person 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 who commits robbery is liable to imprisonment for life.

Burglary

243. (1) A person who —

(a) enters any building or part of a building as a trespasser and with intent to commit any such offence as is mentioned in subsection (2); or

(b) having entered any building or part of a building as a trespasser 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,

commits the offence of burglary and is liable to imprisonment for fourteen years.

(2) The offences referred to in subsection (1)(a) are offences of stealing anything in the building or part of the 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) to a building shall apply also to an inhabited vehicle or vessel, and shall apply to such vehicle or vessel at all times when the person having a habitation in it is not there as well as at times when that person is.

Aggravated burglary

244. (1) A person who commits any burglary and at the same time has with the person any firearm or imitation firearm, any offensive weapon or any explosive commits the offence of aggravated burglary and is liable to imprisonment for life.

(2) For the purposes of subsection (1) —

"**explosive**" means an article manufactured for the purpose of producing a practical effect by explosion, or intended by the person having it with themselves for that purpose;

"**firearm**" includes an airgun or air pistol;

"**imitation firearm**" means anything which has the appearance of being a firearm, whether capable of being discharged or not; and

"**offensive weapon**" has the meaning ascribed to it in section 78.

Abstracting electricity

245. A person who dishonestly uses without due authority, or dishonestly causes to be wasted or diverted, any electricity commits an offence and is liable to a fine of two thousand dollars and to imprisonment for two years.

Taking conveyance without authority

246. (1) A person who, for that person's own or another's use, takes any conveyance constructed or adapted for the carriage of a person or persons whether by land, water or air without having the consent thereto of the owner or hirer thereof under a self-drive or hire purchase contract or not having other lawful authority or, knowing that such conveyance has been taken without such consent or authority, drives it or allows themselves to be carried in or on it commits an offence and is liable on summary conviction to a fine of one thousand dollars and to imprisonment for two years.

(2) A person charged with theft may be found guilty of an offence under subsection (1) and in such event is punishable under that section by the court before which that person is tried.

(3) It is a defence to a charge under subsection (1) to show, that the person charged had an honest belief that that person acted under lawful authority or that in the circumstances the owner would have given that person consent had the owner been aware of the taking.

(4) For the purposes of Schedule 1 of the *Criminal Procedure Code* (*2021 Revision*) an offender under subsection (1) commits an arrestable offence.

(5) Where the conveyance is a vehicle as defined in the *Traffic Act (2023 Revision)*, the court shall also have *mutatis mutandis* all the powers conferred by sections 92, 93 and 94 of that Act and in particular may —

(a) disqualify the offender from driving such a vehicle for a period of twelve months from the date of conviction or the expiration of any sentence of imprisonment and from holding or obtaining a driver's licence for such a vehicle; and

(b) order that particulars of the conviction be endorsed on the offender's driving licence.

Obtaining property by deception

247. (1) A person who by any deception dishonestly obtains property belonging to another, with intention of permanently depriving the other of it commits an offence and is liable to imprisonment for ten years.

(2) For purposes of this section a person is to be treated as obtaining property if the person obtains ownership, possession or control of it, and "**obtain**" includes obtaining for another or enabling another to obtain or retain.

(3) Section 240 shall apply for this section, with the necessary adaptation of the reference to appropriating, as it applies for section 235.

(4) For purposes of this section "**deception**" means any deception (whether reckless or deliberate) 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.

Intent to defraud the Government

247A. A person who, with intent to defraud the Government, —

(a) wilfully makes, delivers or causes false or fraudulent information to be made to a person employed in the public service relating to the collection of money for the purposes of general revenue;

(b) wilfully omits information required to be provided to a person employed in the public service relating to the collection of money for the purposes of general revenue, where required by law; or

(c) wilfully obstructs, hinders, intimidates or resists a person employed in the public service in the collection of money for the purposes of general revenue,

commits an offence.

Obtaining pecuniary advantage by deception

248. (1) A person who by any deception dishonestly obtains for themselves or another any pecuniary advantage commits an offence and is liable to imprisonment for five years.

(2) The cases in which a pecuniary advantage within the meaning of this section are to be regarded as obtained for a person are cases where —

(a) any debt or charge for which that person makes themselves liable or is or may become liable (including one not legally enforceable) is reduced or, in whole or in part, evaded or deferred;

(b) the person 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 that person is allowed to do so; or

(c) the person is given the opportunity to earn remuneration or greater remuneration in an office or employment, or to win money by betting.

(3) In this section —

"**deception**" has the same meaning as in section 247.

Evasion of liability by deception, etc.

249. (1) Subject to subsection (2), a person who, by any deception —

(a) dishonestly secures the remission of the whole or any part of any existing liability to make a payment, whether that person's own liability or another person's liability;

(b) with intent to make permanent default in whole or in part on any existing liability to make a payment, or with intent to permit another to 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 forego payment; or

(c) dishonestly obtains any exemption from or abatement of liability to make a payment,

commits an offence and is liable —

(i) on summary conviction, to imprisonment for one year; or

(ii) on conviction on indictment, to imprisonment for five years.

(2) In this section —

"**liability**" means a 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) In paragraph (b) of subsection (1), 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 as not being paid but as induced to wait for payment.

(4) For the purposes of paragraph (c) of subsection (1), "**obtains**" includes obtaining for another or enabling another to obtain.

Obtaining services by deception

250. (1) A person who by any deception dishonestly obtains services from another commits an offence.

(2) A person obtains services where another person 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.

(3) Without prejudice to subsection (2), it is an obtaining of services where the other is induced to make a loan, or to cause or permit a loan to be made, on the understanding that any payment (whether by way of interest or otherwise) will or has been made in respect of the loan.

Obtaining a money transfer by deception

251. (1) A person who, by any deception, dishonestly obtains a money transfer for themselves or another commits an offence.

(2) A money transfer occurs when —

(a) a debit is made to one account;

(b) a credit is made to another; and

(c) the credit results from the debit or the debit results from the credit.

(3) References to a credit and to a debit are to a credit of an amount of money and to a debit of an amount of money.

(4) It is immaterial —

(a) whether the amount credited is the same as the amount debited;

(b) whether the money transfer is effected on presentment of a cheque or by another method;

(c) whether any delay occurs in the process by which the money transfer is effected;

(d) whether any intermediate credits or debits are made in the course of the money transfer; or

(e) whether either of the accounts is overdrawn before or after the money transfer is effected.

(5) A person who commits an offence under this section is liable on conviction on indictment to imprisonment for ten years.

Interpretation of section 251

252. (1) In section 251 —

"**deception**" has the same meaning as in section 247; and

"**account**" means an account kept with —

(a) a bank; or

(b) a person carrying on a business which falls within subsection (2).

(2) A business falls within this subsection if —

(a) in the course of the business money received by way of deposit is lent to others; or

(b) any other activity of the business is financed, wholly or to any material extent, out of the capital of or the interest on money received by way of deposit;

and "**deposit**" here means a sum of money paid on terms —

(i) under which it will be repaid, with or without interest or a premium, and either on demand or at a time or in circumstances agreed by or on behalf of the person making the payment and the person receiving it; and

(ii) which are not referable to the provision of property or services or the giving of security.

(3) For the purposes of subsection (2) —

(a) all the activities which a person carries on by way of business shall be regarded as a single business carried on by that person; and

(b) "**money**" includes money expressed in any currency.

Dishonestly retaining a wrongful credit

253. (1) A person commits an offence if —

(a) a wrongful credit has been made to an account kept by that person or in respect of which that person has any right or interest;

(b) the person knows or believes that the credit is wrongful; and

(c) the person dishonestly fails to take such steps as are reasonable in the circumstances to secure that the credit is cancelled.

(2) References to a credit are to a credit of an amount of money.

(3) A credit is wrongful if it is the credit side of an amount of money contrary to section 251.

(4) A credit to an account is also wrongful to the extent that it derives from —

(a) theft;

(b) an offence under section 251;

(c) blackmail; or

(d) stolen goods.

(5) In determining whether a credit to an account is wrongful, it is immaterial (in particular) whether the account is overdrawn before or after the credit is made.

(6) A person who commits an offence under this section is liable on conviction on indictment to imprisonment for ten years.

(7) Subsection (8) applies for the purposes of provisions of this Act relating to stolen goods including subsection (4).

(8) References to stolen goods include money which is withdrawn from an account to which a wrongful credit has been made, but only to the extent that the money derives from the credit.

(9) In this section "**account**" and "**money**" shall be construed in accordance with section 252.

Making off

254. (1) Subject to subsection (3), a person who, knowing that payment on the spot for any goods supplied or services done is required or expected of that person, dishonestly makes off without having paid as required or expected and with intent to avoid payment of the amount, commits an offence and is liable on conviction to a fine of two thousand dollars or to imprisonment for five years.

(2) In 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) shall not apply where the supply of the goods or the doing of the service is contrary to law, or where the service is such that payment is not legally enforceable.

(4) For the purposes of this section, a person who makes or concurs in making in any 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.

False accounting

255. (1) A person who dishonestly, with a view to gain for themselves 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 aforesaid, which to that

person's knowledge is or may be misleading, false or deceptive in a material particular,

commits an offence and is liable to imprisonment for seven years.

(2) For 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 section 247, 248 or 255 is proved to have been committed with the consent or connivance of any director, manager, secretary or similar officer of the body corporate, or any person who was purporting to act in such capacity, that person as well as the body corporate shall be 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 that member's functions of management as if that member were a director of the body corporate.

False statements by company directors, etc.

257. (1) A person who, being 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 that person's knowledge is or may be misleading, false or deceptive in a material particular, commits an offence and is liable to imprisonment for seven years.

(2) In 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 that member's functions of management as if that member were an officer of the body corporate or association.

Suppression of documents, etc.

258. (1) A person who dishonestly, with a view to gain for themselves 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 office commits an offence and is liable to imprisonment for seven years.

(2) A person who dishonestly, with a view to gain for themselves or another, or with intent to cause loss to another, by any deception procures the execution of a valuable security commits an offence and is liable to imprisonment for seven years; and this subsection shall apply in relation to the making, acceptance, endorsement, 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 the valuable security.

(3) In this section —

"**deception**" has the same meaning as in section 247; and

"**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.

Blackmail

259. (1) A person who, with a view to gain for themselves or another or with intent to cause loss to another, 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 that person has reasonable grounds for making the demand; and

(b) that the use of the menaces is a proper means of enforcing the demand,

commits the offence of blackmail and is liable to imprisonment for fourteen years.

(2) The nature of the act or omission is immaterial, and it is also immaterial whether the menaces relate to action to be taken by the person making the demand.

Handling stolen goods

260. (1) A person handles stolen goods if (otherwise than in the course of stealing) knowing or believing them to be stolen goods that person 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 that person arranges to do so.

(2) A person who handles stolen goods commits an offence and is liable to imprisonment for fourteen years.

Going equipped for stealing, etc.

261. (1) A person who, when not at that person's place of abode, has with that person any article for use in the course of or in connection with any burglary, theft or cheat commits an offence and is liable to imprisonment for three years.

(2) Where a person is charged with an offence under this section, proof that that person had with themselves any article made or adapted for use in committing a burglary, theft or cheat shall be evidence that the person had it with them for such use.

(3) Any person may arrest without warrant anyone who is, or whom the person with reasonable cause suspects to be, committing an offence under this section.

(4) In this section —

"**cheat**" means an offence under section 247.

Search for stolen goods

262. (1) If it is made to appear by information on oath before a justice of the peace that there is reasonable cause to believe that any person has in that person's custody or in that person's possession or on that person's premises any stolen goods, the justice may grant a warrant to search for and seize the same; but no warrant to search for stolen goods shall be addressed to a person other than a constable except under the authority of an enactment so providing.

(2) A police officer of not below the rank of inspector may give a constable written authority to search any premises for stolen goods —

(a) if the person in occupation of the premises has been convicted within the preceding five years of handling stolen goods or of any offence involving dishonesty and punishable with imprisonment; or

(b) if a person who has been convicted within the preceding five years of handling stolen goods has within the preceding twelve months been in occupation of the premises.

(3) Where under this section a person is authorised to search premises for stolen goods, that person may enter and search the premises accordingly, and may seize any goods that person believes to be stolen goods and arrest the person in whose possession or custody such goods are found.

Evidence and procedure on charge of theft or handling stolen goods

263. (1) Any number of persons may be charged together, with reference to the same theft, with having at different times or at the same time handled all or any of the stolen goods, and the persons so charged may be tried together.

(2) On the trial of two or more persons for jointly handling stolen goods the court or jury may find any of the accused guilty if satisfied that that accused handled all or any of the stolen goods, whether or not that accused did so jointly with the other accused or any of them.

(3) Where a person is being proceeded against for handling stolen goods (but not for any offence other than handling stolen goods), then at any stage of the proceedings, if evidence has been given of that person having or arranging to

have in that person's possession the goods the subject of the charge, or of that person's undertaking or assisting in, or arranging to undertake or assist in, their retention, removal disposal or realisation, the following evidence shall be admissible for the purpose of proving that that person knew or believed the goods to be stolen goods —

(a) evidence that that person has had in that person's possession, or has undertaken or assisted in the retention, removal, disposal or realisation of stolen goods from any theft taking place not earlier than twelve months before the offence charged; and

(b) (provided that seven days' notice in writing has been given to that person of the intention to prove the conviction) evidence that that person has within the five years preceding the date of the offence charged been convicted of theft or of handling stolen goods.

Repealed

264. **Repealed** by section 57 of the *Alternative Sentencing Law, 2006 [Law 25 of 2006]*.

Husband, wife or civil partner

265. (1) This Part shall apply in relation to the parties to a marriage or civil partnership, and to property belonging to the wife, husband or civil partner whether or not by reason of an interest derived from the marriage or civil partnership, as it would apply if they were not married or in a civil partnership and any such interest subsisted independently of the marriage.

(2) Subject to subsection (4), a person shall have the same right to bring proceedings against that person's wife, husband or civil partner for any offence (whether under this Part or otherwise) as if they were not married or in a civil partnership, and a person bringing such proceedings shall be competent to give evidence for the prosecution at every stage of the proceedings.

(3) Where a person is charged in proceedings not brought by that person's wife, husband or civil partner with having committed any offence with reference to that person's wife, husband or civil partner or to property belonging to the wife, husband or civil partner, the wife, husband or civil partner shall be competent to give evidence at every stage of the proceedings, whether for the defence or for the prosecution, and whether the accused is charged solely or jointly with any other person:

Provided that —

(a) the wife, husband or civil partner (unless compellable at common law) shall not be compellable to disclose any communication made to them during the marriage or civil partnership by the accused; and

(b) that person's failure to give evidence shall not be made the subject of any comment by the prosecution.

(4) Proceedings shall not be instituted against any person for any offence of stealing or doing unlawful damage to property which at the time of the offence belongs to that person's wife, husband or civil partner, or for any attempt, incitement or conspiracy to commit such an offence, unless the proceedings are instituted by or with the consent of the Director of Public Prosecutions:

Provided that —

(a) this subsection shall not apply to proceedings against a person for an offence —

(i) if that person is charged with committing the offence jointly with the wife, husband or civil partner; or

(ii) if by virtue of any judicial decree or order (wherever made) that person and the wife, husband or civil partner are at the time of the offence under no obligation to cohabit; and

(b) this subsection shall not prevent the arrest, or the issue of a warrant for the arrest, of a person for an offence, or the remand in custody or on bail of a person charged with an offence where the arrest (if without a warrant) is made, or the warrant of arrest issues on an information laid, by a person other than the wife, husband or civil partner.

Effect on civil proceedings and rights

266. (1) A person shall not be excused, by reason that to do so may incriminate that person or the wife, husband or civil partner of that person of an offence under this Part —

(a) from answering any question put to that person in proceedings for the recovery or administration of any property, for the execution of any trust or for an account of any property or dealings with property; or

(b) from complying with any order made in any such proceedings,

but no statement or admission made by a person in answering a question put or complying with an order made as aforesaid shall, in proceedings for an offence under this Part, be admissible in evidence against that person or (unless they married or entered a civil partnership after the making of the statement or admission) against the wife, husband or civil partner of that person.

(2) Notwithstanding any enactment to the contrary, where property has been stolen or obtained by fraud or other wrongful means, the title to that or any other property shall not be affected by reason only of the conviction of the offender.

PART X - Malicious Injuries to Property

Destroying or damaging property

267. (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, commits an offence and is liable, where the value of the destruction or damage —

(a) does not exceed three thousand dollars, to a fine of five thousand dollars and imprisonment for five years; and

(b) exceeds three thousand dollars, to a fine of ten thousand dollars and to imprisonment for ten years.

(2) A person who, without lawful excuse, destroys or damages any property, whether belonging to themselves 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 thereby be endangered,

commits an offence.

(3) An offence committed under this section by destroying or damaging property by fire shall be charged as arson.

(4) A person convicted of arson under this section or of any offence under subsection (2) is liable to imprisonment for life.

Threats to destroy or damage property

268. A person who, without lawful excuse, makes to another a threat, intending that that other would fear that 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 the person's own property in a way which the person knows is likely to endanger the life of that other or a third person,

commits an offence and is liable on conviction to imprisonment for ten years.

Attempts to destroy or damage property

269. A person who —

(a) attempts unlawfully to set fire to anything that is mentioned in section 267; or

(b) wilfully and unlawfully sets fire to anything which is so situated that any such thing as is mentioned in section 267 is likely to catch fire from it,

commits an offence and is liable to imprisonment for fourteen years.

Setting fire to crops, etc.

270. A person who wilfully and unlawfully sets fire to —

(a) a crop of cultivated produce, whether standing, picked or cut;

(b) a crop of hay or grass under cultivation, whether the natural or indigenous product of the soil or not, and whether standing, picked or cut; or

(c) any standing trees, saplings or shrubs whether indigenous or not, under cultivation,

commits an offence and is liable to imprisonment for fourteen years.

Attempts to set fire to crops, etc.

271. A person who —

(a) attempts unlawfully to set fire to any such thing as is mentioned in section 270; or

(b) wilfully and unlawfully sets fire to anything which is so situated that any such thing as is mentioned in section 270 is likely to catch fire from it,

commits an offence and is liable to imprisonment for seven years.

Casting away ships, etc.

272. A person who —

(a) wilfully and unlawfully casts away or destroys any vessel, hovercraft, aircraft or vehicle, whether or not in a complete state;

(b) wilfully and unlawfully does any act which tends to the immediate loss or destruction of any vessel, hovercraft, aircraft or vehicle; or

(c) with intent to bring any vessel, hovercraft, aircraft or vehicle into danger, interferes with any light, beacon, buoy, mark or signal used for the purpose of navigation or traffic control, or exhibits any false light, signal, sign or notice,

commits an offence and is liable to imprisonment for life.

Attempts to cast away ships, etc.

273. A person who attempts unlawfully to cast away or destroy any vessel, hovercraft, aircraft or vehicle, whether in a complete state or not or who attempts unlawfully to do any act tending to the immediate loss or destruction of any vessel, hovercraft, aircraft or vehicle commits an offence and is liable to imprisonment for fourteen years.

Killing or injuring animals

274. A person who wilfully and unlawfully kills, maims or wounds any animal capable of being stolen commits an offence and is liable to imprisonment for five years.

Attempts to destroy property by explosives

275. A person who unlawfully and with intent to destroy or damage any property puts any explosive substance in any place whatever commits an offence and is liable to imprisonment for fourteen years.

Communicating infectious diseases to animals

276. A person who wilfully and unlawfully causes, or is concerned in the causing or attempts to cause any infectious disease to be communicated to any animal or animals capable of being stolen, commits an offence and is liable to imprisonment for seven years.

Criminal trespass

277. (1) A person who, without having lawful business thereon, enters upon the premises of any private residence or upon land belonging to any proprietor or occupier which is enclosed or in any manner cultivated commits the offence of criminal trespass and is liable to a fine of one thousand dollars and to imprisonment for one year.

(2) A person who unlawfully and maliciously cuts, breaks, barks, roots up or otherwise destroys or damages any plant, fruit, vegetable production, tree, sapling, shrub, or any underwood growing in any place commits an offence and is liable to a fine of two thousand dollars and to imprisonment for two years or, if the offence is committed in any pleasure ground, garden, orchard or avenue, or in any ground adjoining or belonging to a dwelling house, to a fine of three thousand dollars and to imprisonment for three years.

Aggravated trespass

278. A person who, in the course of committing a criminal trespass —

(a) has in that person's possession any firearm, offensive weapon, explosive or implement of housebreaking;

(b) has in that person's possession any gin, trap, or other device for ensnaring, catching or killing any animal, fish or bird;

(c) does or intends or attempts to do any damage to any living or inanimate thing being part of the land or lying thereon or adhering thereto; or

(d) deposits or intends or attempts to deposit any sewage, garbage or other foreign or offensive matter on the land,

commits aggravated criminal trespass and is liable to imprisonment for four years in addition to any punishment to which that person may be liable under this or any other law.

Doing damage to or on unenclosed land

279. A person who, without lawful excuse, enters upon any public or private land which is unenclosed and uncultivated and there does or intends or attempts to do any damage to any living or inanimate thing lying thereon or adhering thereto or removes anything therefrom or deposits anything thereon commits an offence and is liable to imprisonment for two years and, if the land is public land, to pay compensation of up to three times the estimated value of any damage for which that person is responsible.

PART XI - Forgery, Coining and Counterfeiting

Definition of forgery

280. Forgery is the making of a false document with intent to defraud or deceive.

Document

281. In this Part —

"**document**" does not include a trade mark or other sign used in connection with articles of commerce though they may be written or printed.

Making a false document

282. 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; or

(c) signs a document —

(i) in the name of any person without that person's 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; or

(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 that person professes to be.

Intent to defraud

283. An intent to defraud is presumed to exist if it appears 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 the person had or thought that person had a right to the thing obtained by the false document.

Possession, etc. of articles for use to defraud

283A. A person who has in that person's possession or under that person's control any article for use to defraud commits an offence and is liable —

(a) on summary conviction, to imprisonment for a term not exceeding four years or to a fine not exceeding three thousand dollars or to both;

(b) on conviction on indictment, to imprisonment for a term not exceeding seven years or to a fine not exceeding five thousand dollars or to both.

Making or supplying articles for use to defraud

283B. A person who makes, adapts, supplies or offers to supply any article knowing that it is designed or adapted for use to defraud commits an offence and is liable —

(a) on summary conviction, to imprisonment for a term not exceeding five years or to a fine not exceeding five thousand dollars or to both;

(b) on conviction on indictment, to imprisonment for a term not exceeding ten years or to a fine not exceeding ten thousand dollars or to both.

Meaning of article

283C. For the purpose of sections 283A and 283B, "**article**" includes any program or data held in electronic form.

Definition of currency note

284. In this Part —

"**currency note**" includes any note (by whatever name called) which is legal tender in the country where it is issued.

General punishment for forgery

285. A person who forges any document commits 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.

Forgery of will or document of title, etc.

286. (1) A person who forges any will commits an offence and is liable to imprisonment for ten years.

(2) A person who forges any 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 the business of a banker, commits an offence and is liable to imprisonment for life and the court may, in addition, order that such document shall be forfeited to the Crown.

Forgery of judicial or official document

287. A person who forges any judicial or official document commits an offence and is liable to imprisonment for ten years.

Forgery, etc. of stamps

288. A 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 that person, makes or has knowingly in that person's 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 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 such stamp as last aforesaid, with intent that another use shall be made of such stamp;

(e) fraudulently fixes or places upon any material or upon any such stamp as aforesaid any stamp or part of a stamp which, whether fraudulently or not, has been cut, from, 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 intent that another use shall be made of the stamp upon such material; or

(g) knowingly and without lawful excuse, the proof of which shall lie upon that person, has in that person's possession any stamp or part of a stamp which has been fraudulently cut, torn or otherwise removed from any material, 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,

commits an offence and is liable to imprisonment for seven years.

Uttering false document

289. A person who knowingly and fraudulently utters a false document commits an

offence of the same kind and is liable to the same punishment as if the person had forged the thing in question.

Procuring execution of documents by false pretences

290. A person who by means of any false and fraudulent representations as to the nature, contents or operation of any document, procures another to sign or execute the document, commits an offence of the same kind and is liable to the same punishment as if that person had forged the document.

Uttering cancelled or exhausted document

291. A 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, commits an offence of the same kind and is liable to the same punishment as if that person had forged the document.

Obliterating crossing on cheque

292. A 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,

commits an offence and is liable to imprisonment for seven years.

Making documents without authority

293. A person who with intent to defraud or deceive —

(a) without lawful authority or excuse makes, signs or executes, for or in the name of 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,

commits an offence and is liable to imprisonment for seven years.

Demanding property upon forged testamentary instruments

294. A person who procures the delivery or payment to themselves 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, commits an offence of the same kind, and is liable to the same punishment, as if that person had forged the document or thing by virtue whereof that person procures the delivery or payment.

Importing or purchasing forged notes

295. (1) A person who, without lawful authority or excuse, the proof of which lies on that person, imports into the Islands, or purchases or receives from any person, or has in that person's possession a forged bank note or currency note, whether filled up or in blank, knowing it to be forged, commits an offence and is liable to imprisonment for ten years.

(2) A person who knowingly and fraudulently utters a forged bank note or currency note commits an offence and is liable to imprisonment for ten years.

Falsifying warrants or money payable under public authority

296. A 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 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 commits an offence and is liable to imprisonment for ten years.

Falsification of register

297. A 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 that person's knowledge false commits an offence and is liable to imprisonment for ten years.

Sending false certificate of marriage to Registrar or Civil Registrar

298. A person who signs or transmits to a person authorised by law to register marriages, or civil partnerships, a certificate of marriage, a certificate of civil partnership or any document purporting to be a certificate of marriage or civil partnership which in any material particular is to that person's knowledge false commits an offence and is liable to imprisonment for seven years.

False statements for registers of births, marriages and deaths or register of civil partnerships

299. A person who knowingly and with intent to procure the same to be inserted in a register of births, marriages or deaths or register of civil partnerships makes any false statement touching any matter required by law to be registered in such register commits an offence and is liable to imprisonment for five years.

Definition of coin, etc.

300. In this Part —

"**coin**" includes any coin lawfully coined or lawfully current in any part of the Commonwealth and any coin of a foreign Sovereign or State; and

"**counterfeit coin**" means any coin not genuine but resembling or apparently intended to resemble or pass for a genuine coin and includes any genuine coin prepared or altered so as to pass for coin of another denomination.

Counterfeiting coin

301. A person who makes or begins to make any counterfeit coin commits an offence and is liable to imprisonment for ten years.

Preparations for coining

302. A person who —

(a) gilds or silvers any piece of metal of a fit size or figure to be coined, with the 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 is on that person —

(i) buys, sells, receives, pays or disposes of any counterfeit coin at a rate lower than it imports or is apparently intended to import, or offers to do any such thing;

(ii) brings or receives into the Islands any counterfeit coin knowing it to be counterfeit;

(iii) makes or mends, or begins or prepares to make or mend or has in that person's 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 any side thereof, knowing the same to be a stamp or mould to be so adapted;

(iv) makes or mends or begins or prepares to make or mend, or has in that person's possession, or disposes of any tool, instrument or machine which is adapted or 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 that person's possession, or disposes of any press for coinage, or any tool, instrument or machine which is adapted for cutting 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,

commits an offence, and, if the offence is committed with respect to current coin, is liable to imprisonment for life, or, in the case of current coin of a foreign Sovereign or State, to imprisonment for seven years.

Making or having in possession paper or implements of forgery

303. A person who, without lawful authority or excuse, the proof of which is on that person —

(a) makes, uses or knowingly has in that person's custody or possession any paper intended to resemble and pass as a special paper such as is provided and used for the making of any bank note or currency note;

(b) makes, uses or knowingly has in that person's 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 or used in or on any such paper;

(c) engraves or in any way 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 defaces peculiar to and used in or on any bank or currency note;

(d) uses or knowingly has in that person's 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 anyway made as aforesaid; or

(e) uses or knowingly has in that person's custody or possession any paper upon which such words, figures, letters, marks, lines or devices have been printed or in any way made as aforesaid,

commits an offence and is liable to imprisonment for seven years.

Impairing, etc., current coin

304. (1) A person who impairs, diminishes or lightens any current gold or silver coin with intent that the coin so impaired, diminished or lightened may pass for a current gold or silver coin, commits an offence and is liable on conviction to imprisonment for fourteen years.

(2) A person who unlawfully has in that person's possession any filing or clipping, or any gold or silver bullion, or any gold or silver dust, solution or otherwise, which has been produced or otherwise obtained by impairing, diminishing or lightening any current gold or silver coin, knowing that it has been so produced or obtained, commits an offence and is liable on conviction to imprisonment for seven years.

Melting down of currency

305. A 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 Islands commits an offence and is liable to a fine of two hundred dollars and to imprisonment for six months.

Impounding and destruction of counterfeit coin

306. Any officer of the Government or the manager of any bank who receives, during the performance of that officer's duties, any coin which that officer has reasonable ground for believing to be counterfeit coin shall impound such coin and transmit it to the Chairperson of the Board of the Cayman Islands Monetary Authority who may cut, deface or destroy it without compensation, as the Chairperson thinks fit, if in the Chairperson's opinion it is counterfeit. For the purposes of this section the decision of the Chairperson of the Board of the Cayman Islands Monetary Authority 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 Chairperson of the Board of the Cayman Islands Monetary Authority, the Government, the officer of the Government concerned, the manager of the bank concerned or that manager's bank in respect of any loss or damage suffered by reason of such impounding and cutting defacing or destruction.

Possession of clippings

307. A person who unlawfully has in that person's possession or disposes of any filings or clippings of gold or silver, or any gold or silver in bullion, dust solution or in 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, commits an offence and is liable to imprisonment for seven years.

Uttering counterfeit coin

308. A person who utters any counterfeit coin, knowing it to be counterfeit, commits an offence.

Repeated uttering

309. A person who —

(a) utters any counterfeit coin knowing it to be counterfeit and, at the time of such uttering has in that person's 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 that person's possession any counterfeit coin knowing it to be counterfeit, with intent to utter it,

commits an offence and is liable to imprisonment for three years.

Uttering metal or coin not current as coin

310. A person who, with intent to defraud —

(a) utters as and for coin any metal or piece of metal; or

(b) utters as and for coin lawfully current in the Island any coin not so lawfully current,

commits an offence and is liable to imprisonment for one year.

Selling articles bearing designs in imitation of currency

311. A person who, without lawful authority or excuse, the proof of which lies on that person, sells or offers or exposes for sale any article which bears a design in imitation of any currency, bank note or coin in current use in the Islands or elsewhere commits an offence and is liable to imprisonment for six months.

Exporting counterfeit coin

312. A person who, without lawful authority or excuse, the proof of which lies on that person, exports or puts on board of a vessel, hovercraft or aircraft of any kind for the purpose of being exported from the Islands any counterfeit coin whatever, knowing it to be counterfeit commits an offence.

Forfeiture

313. When any person is convicted of an offence relating to any forged currency or bank note or any counterfeit coin, the court shall order the forfeiture to the Crown of any forged currency or bank note or of any counterfeit coin or any 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 offence.

Possession of die used for purpose of making stamps

314. A person who, without lawful authority or excuse, the proof whereof lies upon that person —

(a) makes or mends or begins to make or mend, or uses, or knowingly has in that person's possession any die, plate or instrument capable of making an impression resembling that of any die, plate or instrument used for the purpose of making any stamp, whether impressed or adhesive, which is used for the purpose of the public revenue or of the posts and telegraphs in the Islands or in any part of the Commonwealth or in any 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 that person's 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 any such words, figures, letters, marks or lines as aforesaid;

(c) fraudulently and with intent that use may be made of any such stamp as aforesaid, or any part of it, removes the stamp from any material in any way whatever;

(d) fraudulently and with the 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 already been 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 that person's possession or disposes of anything obtained or prepared by any such unlawful act as aforesaid; or

(h) fraudulently, or with intent to cause loss to the Government, uses for any purpose a stamp issued by the Government for the purpose of revenue which that person knows to have been used,

commits an offence and is liable to imprisonment for seven years and any die, plate, instrument, paper or other thing as aforesaid which is found in that person's possession shall be forfeited to the Crown.

Paper and dies for postage stamps

315. (1) A person who, without lawful authority or excuse, the proof of which lies on that person —

(a) makes, or begins or prepares to make, or uses for any postal purpose, or has in that person's possession, or disposes of any imitation or representation on paper or any other material, of any stamp used for denoting the rate of postage of the Islands, or of any part of the Commonwealth or of any foreign country; or

(b) makes or mends, or begins or prepares to make or mend, or uses or has in that person's possession, or disposes of any plate, die, instrument or material for making any such imitation or representation,

commits an offence and is liable to a fine of two hundred dollars and to imprisonment for one year, and any stamps and other such things as aforesaid which are found in that person's possession shall be forfeited to the Crown.

(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.

Trade mark defined

316. A trade mark is a mark lawfully used by any person to denote any chattel to be an article or thing of the manufacture, workmanship, production or merchandise of such person or to be an article or thing of any peculiar or particular description made or sold by such person.

Trade mark offences

317. A person who forges or counterfeits any trade mark or applies any trade mark or any forged or counterfeited trade mark to any chattel or article not being the merchandise of the person whose trade mark is so applied commits an offence.

PART XII - Attempts and Conspiracies to Commit Crimes and Accessories After the Fact

Attempt defined

318. (1) When a person intending to commit an offence begins to put that person's intention into execution by means adapted to its fulfilment and manifests that person's intention by some overt act but does not fulfil that person's intention to such an extent as to commit the offence, that person 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 the offender's part for completing the commission of the offence, or whether the fulfilment of the offender's intention is prevented by circumstances independent of the offender's will, or whether the offender desists of the offender's own volition from the further prosecution of the offender's intention.

(3) It is immaterial that by reason of circumstances not known to the offender it is impossible to commit the offence.

Punishment for attempt to commit an offence

319. (1) A person who attempts to commit an offence, commits an offence and is, unless any other punishment is provided in this Act or any other law —

(a) liable on conviction on indictment if the offence attempted is murder or any other offence the sentence for which is fixed by law, to imprisonment for life;

(b) liable on conviction on indictment if the offence attempted is indictable but does not fall within paragraph (a), to any penalty to which that person would have been liable on conviction on indictment of that offence; and

(c) liable on summary conviction if the offence attempted is triable either way to any penalty to which that person would have been liable on summary conviction of that offence.

(2) A person charged with an attempt to commit an offence shall be charged under the section, whether of this Act or any other law, creating the offence under which that person would be charged as if the charge was of the complete offence.

(3) A provision in any law, including this Act, as to the consequences which may or shall follow conviction for any offence or as to the procedure or any other matter applicable where a person is convicted of an offence, shall apply equally where a person is charged or convicted of an attempt to commit the offence.

Neglect to prevent commission of certain offences

320. A person who, knowing that a person designs to commit an offence, fails to use all reasonable means to prevent the commission or completion thereof shall, if such offence is punishable with two years imprisonment or more, have committed an offence.

Conspiracy to commit an offence

321. A person who conspires with another or others to commit any offence or to do any act in any part of the world which if done in the Islands would be an offence punishable with imprisonment and which is an offence in the place where it is proposed to be done commits an offence and is liable, if no other punishment is provided, to imprisonment for ten years, or, if the greatest punishment to which a person convicted of the offence in question is liable is less than imprisonment for ten years, then to imprisonment for such lesser term.

Other conspiracies

322. A person who conspires with another or others to —

(a) prevent or defeat the execution or enforcement of any law or regulation;

(b) cause any injury to the person or reputation of any person or to depreciate the value of any property of any person;

(c) prevent or obstruct the free and lawful disposition of any property by the owner thereof for its fair value;

(d) injure any person in that person's trade or profession;

(e) prevent or obstruct, by means of any act or acts which if done by any individual person would constitute an offence on that person's part, the free and lawful exercise by any person of that person's trade, profession or occupation;

(f) effect any unlawful purpose; or

(g) effect any lawful purpose by any unlawful means,

commits an offence.

Definition of accessories after the fact

323. (1) Where a person has committed an arrestable offence, a person who, knowing or believing that first-mentioned person to have committed the offence or some other arrestable offence, does without lawful authority or reasonable excuse any act with intent to impede that first-mentioned person's apprehension or prosecution, is said to become an accessory after the fact.

(2) A person does not become an accessory after the fact to an offence which that person's spouse or civil partner has committed by receiving the spouse or civil partner or assisting the spouse or civil partner to escape punishment, or by receiving in the presence of the spouse or civil partner and by the spouse's or civil partner's authority another person who has committed an offence in the commission of which the spouse or civil partner has taken part, in order to enable that other person to escape punishment or avoid apprehension.

Punishment of accessories after the fact

324. A person who is convicted of being an accessory after the fact is liable to imprisonment —

(a) if the offence is one for which the sentence is fixed by law, for ten years;

(b) if the offence is one for which a person (not previously convicted) may be sentenced to imprisonment for fourteen years or more, for seven years;

(c) if the offence is not included in paragraph (a) or (b) but is one for which a person (not previously convicted) may be sentenced to imprisonment for ten years, for five years; and

(d) in any other case, for three years.

Savings and transitional provisions

325. (1) Where criminal proceedings are commenced before the 5th December 2016, the commencement date of the *Penal Code (Amendment) Law, 2016 [Law 38 of 2016]*, and those proceedings later result in a default order being made after that date, the provisions of the *Penal Code (2024 Revision)* shall apply to those proceedings in respect of the default order.

(2) Any matter or proceeding commenced in any court in relation to an accused person immediately before the 19th December, the date of the commencement of the *Penal Code (Amendment) (No. 2) Law, 2018 [Law 27 of 2018]*, shall be continued, completed and enforced as if the *Penal Code (Amendment) (No. 2) Law, 2018 [Law 27 of 2018]* was not in force.

(3) Where —

(a) prior to the 19th December, 2018, the date of commencement of the *Penal Code (Amendment) (No. 2) Law, 2018 [Law 27 of 2018]*, an accused person is convicted following a trial or a plea of guilty to an offence; and

(b) at the 19th December, 2018, the date of commencement of the *Penal Code (Amendment) (No. 2) Law, 2018 [Law 27 of 2018]*, no judgment or sentence has been passed upon the accused person in respect of the offence, the accused person shall, for the purpose of the judgment or sentence, be dealt with in all respects as if the *Penal Code (Amendment) (No. 2) Law, 2018 [Law 27 of 2018]* had not come into force.

(4) Where, at the 19th December, 2018, the date of commencement of the *Penal Code (Amendment) (No. 2) Law, 2018 [Law 27 of 2018]*, any trial is or any proceedings are pending in respect of an offence before a court, the trial or proceedings shall, after that date, be dealt with in all respects as if the *Penal Code (Amendment) (No. 2) Law, 2018 [Law 27 of 2018]* was not in force.

(5) All proceedings pending at 29th December, 2022, the date of the commencement of the *Penal Code (Amendment) Act, 2022 [Act 22 of 2022]*, in respect of offences committed or alleged to have been committed against sections 107 and 111 of the *Penal Code (2024 Revision)* and section 39 of the *Summary Jurisdiction Act (2024 Revision)* shall be continued and dealt with as if this the *Penal Code (Amendment) Act, 2022 [Act 22 of 2022]* had not come into force.

Publication in revised and consolidated form authorised by the Cabinet this 30th day of January, 2024.

Kim Bullings
Clerk of the Cabinet

Notes:

1. *Section 106 of the Trusts Act (2021 Revision) provides that —*

   (1) Section 239(1) of the Penal Code (2024 Revision) does not apply in relation to special trusts. (See section 239(1)).

   (2) For purposes of the Penal Code (2024 Revision) property held upon a special trust shall be regarded, as against the trustee of the property or of any power in relation to the trust, and against any enforcer of the trust, as belonging to others (except to the extent of the beneficial interest, if any, of the trustee or enforcer under the terms of the trust), and an intention on the part of any such trustee or enforcer to defeat the trust shall be regarded accordingly as an intention to deprive others of their property.

2. *By Order in Council made the 13th day of December, 2000, it is provided, inter alia, that "a homosexual act in private shall not be an offence provided that the parties consent thereto and have attained the age of eighteen years". (See section 144(2) and 145(5)).*

3. *Section 23 of the Prisons Law, 1975 [Law14 of 1975] (enacted as the Imprisonment Law, 1975) was repealed by Section 24 of the Conditional Release Law, 2014 [Law 18 of 2014]]. (See section 27(9)(b)).*

ENDNOTES

Table of Legislation history:

SL #	Law/Act #	Legislation	Commencement	Gazette
	22/2022	Penal Code (Amendment) Act, 2022	29-Dec-22	LG52/2022/s8
		Penal Code (2022 Revision)	27-Jan22	LG6/2022/s6
	63/2020	Penal Code (Amendment) (No. 2) Act, 2020	7-Jan-21	LG1/2021/s7
	56/2020	Citation of Acts of Parliament Act, 2020	3-Dec-20	LG89/2020/s1
	35/2020	Civil Partnership Law, 2020	4-Sep-20	LG64/2020/s1
	42/2020	Penal Code (Amendment) Law, 2020	4-Sep-20	LG64/2020/s8
		Penal Code (2019 Revision)	19-Feb-19	LG2/2019/s9
	27/2018	Penal Code (Amendment (No 2) Law, 2018	19-Dec-18	GE97/2018/s2
	24/2018	Penal Code (Amendment) Law, 2018	26-Oct-18	GE82/2018/s5
		Penal Code (2018 Revision)	23-Mar-18	GE24/2018/s8
89/2017		Penal Code (Amendment) (No. 2) Law, 2017 (Commencement) Order,	1-Dec-17	GE102/2017/s1
	47/2017	Penal Code (Amendment) (No. 2) Law, 2017	1-Dec-17	GE100/2017/s7
	32/2017	Penal Code (Amendment) Law, 2017	26-May-17	GE43/2017/s23
		Penal Code (2017 Revision)	31-May-17	GE45/2017/s22
	38/2016	Penal Code (Amendment) Law, 2016	5-Dec-16	G25/2016/s3
		Penal Code (2013 Revision)	21-Oct-13	G21/2013/s6
	21/2012	Penal Code (Amendment) Law, 2012	20-Sep-12	GE91/2012/s1
	34/2011	Penal Code (Amendment) Law, 2011	16-Jan-12	G2/2012/s4
		Penal Code (2010 Revision)	22-Nov-10	G24/2010/s3
	13/2010	Penal Code (Amendment) Law, 2010	26-Apr-10	G9/2010/s15
16/2009		Anti-Corruption Law, 2008 (Commencement) Order, 2009	14-Apr-09	G8/2009/s1
	11/2008	Anti-Corruption Law, 2008 (PART)	1-Jan-10	G17/2008/s2
		Penal Code (2007 Revision)	6-Aug-07	G16/2007/s9
6/2011		Alternative Sentencing Law, 2006 (Commencement) Order, 2011	26-Apr-11	G9/2011/s6
	25/2006	Alternative Sentencing Law, 2006 (Part)	2-May-11	G24/2006/s1
	10/2006	Penal Code (Amendment) Law, 2006	24-Jul-06	G15/2006/s15
		Penal Code Law (2006 Revision)	7-Aug-06	G16/2006/s1
	23/2005	Penal Code (Amendment) Law, 2005	15-Nov-05	G23/2005/s8
		Penal Code (2005 Revision)	25-Jul-05	G15/2005/s7
	16/2004	Penal Code (Amendment) Law, 2004	31-Aug-04	G17/2004/s15

SL #	Law/Act #	Legislation	Commencement	Gazette
	16/2001	Penal Code (Amendment) Law, 2001	8-Oct-01	G21/2001/s1
	16/2000	Penal Code (Amendment) (Abolition of Death Penalty) Law, 2000	20-Nov-00	G24/2000/s7
	15/1998	Penal Code (Amendment) Law, 1998	31-Aug-04	GE27/2004/s1
	18/1997	Special Trusts (Alternative Regime) Law, 1997	11-Nov-97	G23/1997/s2
10/1996		Youth Justice Law, 1995 (Commencement) Order, 1996	8-Mar-96	GE6/1996/s1
	8/1995	Youth Justice Law, 1995	12-Mar-96	G16/1995/s1
E2/1995		*Erratum*: Penal Code (1995 Revision)	18-Sep-95	G19/1995/p1
		Penal Code Law (1995 Revision)	7-Aug-95	G16/1995/s1
		Caribbean Territories (Abolition of Death Penalty for Murder) Order 1991	10-May-91	GE-8-Apr-91
	2/1991	Penal Code (Amendment) Law, 1991	6-May-91	G9/1991/s5
	13/1989	Penal Code (Amendment) Law, 1989	20-Nov-89	G24/1989/s7
	5/1988	Penal Code (Amendment) Law, 1988	12-Sep-88	G19/1988/s5
	26/1987	Penal Code (Amendment) (No, 2) Law, 1987	18-Jan-88	G2/1988/s3
	8/1987	Penal Code (Amendment) Law, 1987	22-Jun-87	G13/1987/s6
	7/1986	Penal Code (Amendment) Law, 1986	12-Jun-86	GE /1986/s4
	18/1985	Penal Code (Amendment) Law, 1985	8-Jul-85	G14/1985/s10
	3/1984	Penal Code (Amendment) Law, 1984	30-Apr-84	G9/1984/s8
	27/1983	Penal Code (Amendment) Law, 1983	9-Jan-84	G1/1984/s1
	16/1981	Penal Code (Amendment) Law, 1981	2-Nov-81	G22/1981/s1
	19/1979	Penal Code (Amendment) Law, 1979	3-Jul-79	G14/1979/s3
	17/1978	Penal Code (Amendment) Law, 1978	25-Sep-78	G20/1978/s2
		Notice of the Coming into Operation of Laws - Penal Code (Law 12 of 1975)	27-Sep-76	G20/1976/p1
	12/1975	Penal Code, 1975	1-Oct-76	G24/1975/s2

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