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PENAL CODE

(2005 Revision)

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PENAL CODE

(2005 Revision)

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PENAL CODE

(2005 Revision)

PART-Introductory

1. This Law may be cited as the Penal Code (2005 Revision). Short title

2. Nothing in this Law shall affect- Saving of certain laws
 - (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 Law; or
 - (d) any power of Her Majesty, or of the Governor as the representative of Her Majesty, to grant any pardon or to remit or commute in whole or in part or to respite the execution of any sentence passed or to be passed.

3. In this Law- Definitions

“attendance order” means an order made by a court under section 24 of the Youth Justice Law (2005 Revision);

“Commissioner” means the Commissioner of Police;

“court” means a court of competent jurisdiction;

“Governor”, other than in section 174(1) (a) or (c), means Governor in Cabinet;

“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 his 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;

“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.

4. When an act which, if done wholly within the jurisdiction of the court, would be an offence against this Law, 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 Law in the same manner as if such act had been done wholly within the jurisdiction.

Offence committed partly within and partly beyond the jurisdiction

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.

Ignorance of the law

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 him with respect to the property was done in the exercise of an honest claim of right and without intention to defraud.

Bona fide claim of right

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

Intention: motive

(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.

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 he believed to exist.

Mistake of fact

(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, he is through any disease affecting his mind incapable of understanding what he is doing, or of knowing that he ought not to do the act or make the omission; but a person may be criminally responsible for an act or omission, although his mind is affected by disease, if such disease does not in fact produce upon his mind one or other of the effects above mentioned in reference to that act or omission.
- Intoxication 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 he was doing and-
- (a) the state of intoxication was caused without his consent by the malicious or negligent act of another person; or
- (b) the person charged was by reason of intoxication insane, temporarily or otherwise, at the time of such act or omission.
- (3) Where the defence under 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 he 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 he had capacity to know that he ought not to do the act or make the omission.
- (3) A male person under the age of twelve years is presumed to be incapable of having carnal knowledge.

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 him or do him grievous bodily harm if he refuses; but threats of future injury do not excuse any offence. Compulsion
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. Defence of person or property
15. Where any person is charged with a criminal offence arising out of the lawful arrest, or attempted arrest, by him of a person who forcibly resists such arrest or attempts to evade being arrested, the court shall, in considering whether the means used were necessary, or the degree of force used was reasonable, for the apprehension of such person, have regard to the gravity of the offence which had been or was being committed by such person and the circumstances in which such offence had been or was being committed by such person. Use of force in effecting arrest
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, 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. Compulsion by spouse
17. A person shall not be punished twice, either under this or any other law, for the same offence. Person not to be punished twice for the same offence
18. (1) When an offence is committed, each of the following persons is deemed to have taken part in committing the offence and to be guilty of the offence, and may be charged with actually committing it, that is to say-
- (a) every person who actually does the act or makes the omission which constitutes the offence;
 - (b) every person who does or omits to do any act for the purpose of enabling or aiding 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 himself committing the offence or with counselling or procuring its commission. Principal offenders

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

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

Offences committed by joint offenders in prosecution of 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 him.

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 judgement;
- (e) liability to probation under the Probation of Offenders Law (1999 Revision);
- (f) forfeiture;
- (g) attendance orders; and
- (h) any other punishment provided by this or any other law.

1999 Revision

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 Law (1995 Revision). 1995 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 179; or
- (b) the Traffic Law (2003 Revision) save offences contravening section 78(1) or 110 thereof. 2003 Revision

23. (1) This section applies where- Life imprisonment for second offence

- (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, he 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.

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 he is so convicted by or before a court having power under section 25 to deal with him in respect of such sentence or he subsequently appears or is brought before such a court, then, unless the suspended sentence has already taken effect, that court shall consider his case and deal with him by- Power of court to deal with suspended sentence

- (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 he 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 him 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 he was originally sentenced.

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 he 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 his arrest.

Procedure where
suspended sentence not
dealt with

(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.

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 he had served part of the sentence in prison, the remainder of it shall be held in suspense.

Partly suspended
sentence

(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 him 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 him 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 him 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 he was originally sentenced.

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

- (a) section 179; or
- (b) the Traffic Law (2003 Revision) save offences contravening section 60(m), 69, 78(2), 80(1), 81, 82(1) (a) to (l) inclusive, 87 or 88, or offences contravening any provisions of the Traffic Law (2003 Revision) or any regulations made thereunder which are equivalent to, in substitution for or repeal and replace any offences under section 68(1)(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 he had no

2003 Revision

remission of sentence granted to him under section 23 of the Prisons Law (1995 Revision). 1995 Revision

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

- (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 he may have been sentenced or to which he may be liable under a commutation of sentence; and
 - (ii) issue a warrant for the levy of the amount on the immovable and movable property of the offender by distress and sale under warrant:

Provided that if the sentence directs that in default of payment of the fine the offender shall be imprisoned, and if such 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.

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. Enforcement by distress warrant of fines, etc.

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

(7) Whoever, 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, is guilty of an offence and liable to a fine of one hundred dollars.

Imprisonment in lieu of fine

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 for costs under section 34 or compensation under section 33 or in respect of the non-payment of a fine or 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 period
Not exceeding	\$ 100	One month
	500	Two months
	1,000	Four months
Exceeding	1,000	Six months:

Provided that-

- (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.

(2) 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.

31. When any person is convicted of an offence under section 89, 90, 91, 107 or 108, 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 Governor 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.

Forfeiture

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.

Suspension or forfeiture of right to carry on business

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

33. Any person who is convicted of an offence may be adjudged to make compensation to any person injured by his offence or by any other similar offences committed by him 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.

Compensation

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.

Costs

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

Security for keeping the peace

if any, extend for a term longer than the longest term for which he might be sentenced to be imprisoned without fine.

Security for coming up for judgement

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 his entering upon his own recognizance, with or without sureties, in such sum as the court thinks fit, conditioned that he shall appear and receive judgement at some future sitting of the court or when called upon.

Forfeiture of recognizance

37. (1) Where a recognizance has been entered into before a court under section 35 or 36 and the recognizance appears to the court to be forfeited, the court may, subject to subsection (2), declare the recognizance 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 recognizance 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 recognizance to be forfeited under subsection (1) may, at any time, instead of adjudging any person to pay the whole sum in which he 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 recognizance under section 36 and in breach of that recognizance fails to appear and receive judgement at such future sitting of the court or when called upon, the court may, without prejudice to its power to declare the recognizance to be forfeited, issue a warrant for his arrest.

General punishment for offences

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

(2) Subject to this Law, where a person eighteen years of age or older is convicted of an offence under this Law 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.

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

Sentence cumulative unless otherwise ordered

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.

40. If a sentence is passed under this Law 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 he escaped.

Escaped convicts to serve unexpired sentences when recaptured

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-

Discharge of offender without punishment

- (a) discharging the accused absolutely; or
- (b) if the court thinks fit, discharge the accused subject to the condition that he 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.

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 he is convicted may with his consent and subject to sections 43 to 45, in addition to or instead of dealing with him in any way, make a community service order.

Community service orders

(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 Governor 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 his circumstances and (if the court thinks it necessary) hearing a probation officer, that he is 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 him 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 he 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.

2000 Revision

(8) This section does not apply to a person convicted of any offence under the Misuse of Drugs Law (2000 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 him 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 he 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 he normally works or attends a school or other educational establishment.

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 he has failed to comply with any of the requirements of section 43 (including any failure satisfactorily to perform the work which he has been instructed to do), it may issue a summons directing him to appear before it, or may, if the information is in writing and on oath, issue a warrant for his arrest and for him to be brought before it.

Breach of community
service order

(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 him 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 he was originally sentenced; and where no fine or imprisonment was imposed at the time of the original conviction then the court before whom he appears or is brought may impose such fine or imprisonment or both, as could have been imposed at that time.

45. Where a community service order is in force in respect of a convicted person and, on his 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.

Amendment of
community service order

PART III-Offences Against Public Order

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

Treason by the law of
England

expresses, utters or declares such compassing, imagining, inventing, devising or intending by publishing any printing or writing or by any overt act, or does any act which, if done in England, would be deemed to be treason according to the law of England for the time being in force, is guilty of treason and shall be liable to imprisonment for life.

Instigating treason 47. Whoever instigates any foreigner to invade the Islands with an armed force is guilty of treason and liable to imprisonment for life.

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

Treasonable offences 49. Whoever 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 Her dominions or countries;
- (b) to levy war against the Sovereign in any part of Her dominions, or country which has been declared to be under Her protection or mandate, in order by force or constraint to compel Her to change Her measures or counsels, or in order to put any force or constraint upon, or in order to intimidate or overawe the legislature or legislative authority of any of Her dominions, or of any country which has been declared to be under Her 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 Her protection or mandate,

and manifests such intention by any overt act, or by publishing any printing or writing, is guilty of an offence and 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 his 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 Her life or injure Her person.

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. Definition of overt act

52. For the purposes of sections 53 to 58- Definitions

“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.

53. (1) If the Governor is of the opinion that any publication, or all publications published by any particular person, would be contrary to the public interest, he 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. Power to prohibit importation of publications

(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 Governor 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	<p>54. (1) Whoever imports, sells, offers for sale, distributes or reproduces any publication, the importation of which is prohibited under section 53, or any extract therefrom, is guilty of an offence and liable to a fine of one thousand dollars and to imprisonment for three years and such publication shall be forfeited to the Crown.</p> <p>(2) Whoever, without lawful excuse, has in his possession any publication the importation of which is prohibited under section 53, or any extract therefrom, is guilty of an offence and liable to a fine of five hundred dollars and to imprisonment for two years and such publication shall be forfeited to the Crown.</p>
Delivery of prohibited publication to a constable	<p>55. (1) Any person to whom any publication the importation of which is prohibited under section 53 or any extract therefrom, is sent without his 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 him, 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 is guilty of an offence and liable to a fine of five hundred dollars and to imprisonment for two years and such publication shall be forfeited to the Crown.</p> <p>(2) Whoever 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 his possession the same publication or extract therefrom.</p>
Power to examine	<p>56. (1) Any person employed in the public service authorised in that behalf by the Governor, acting in his discretion, may detain, open and examine any package or article which he 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.</p> <p>(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.</p>
Seditious intention	<p>57. (1) A seditious intention is an intention-</p> <p>(a) to bring into hatred or contempt or to excite disaffection against the person of the Sovereign, Her heirs or successors or the Government of the Islands by law established;</p>

- (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 his conduct at the time and under the circumstances in which he so conducted himself.

58. (1) Whoever-

Seditious offences

- (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 he has no reason to believe it is seditious,

is guilty of an offence and 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) Whoever without lawful excuse has in his possession any seditious publication is guilty of an offence and 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 his possession, he did, as soon as the nature of the publication became known to him, 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 Attorney-General 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 his 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 his 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) Whoever uses or attempts to use a printing machine confiscated under subsection (4) is guilty of an offence and liable to a fine of five hundred dollars and to imprisonment for three years.

(11) Whoever prints or publishes a newspaper in contravention of an order under subsection (5) is guilty of an offence and 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.

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. Legal proceedings

(2) No person shall be prosecuted for an offence under section 58 without the written consent of the Attorney-General.

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

61. Whoever- Unlawful oaths to
commit offences
punishable with
imprisonment for life

- (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,

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

62. Whoever- Other unlawful oaths to
commit offences

- (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 men 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 himself 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, is guilty of an offence and liable to imprisonment for ten years.

Unlawful drilling

63. (1) Whoever-

- (a) without the permission of the Governor, acting in his discretion, trains or drills any other person to the use of arms or the practice of military exercises, movements or evolutions; or
- (b) is present at any meeting or assembly of persons, held without the permission of the Governor, acting in his discretion, for the purpose of training or drilling any other persons to the use of arms or the practice of military exercises, movements or evolutions,

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

(2) Whoever, at any meeting or assembly held without the permission of the Governor, acting in his 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 is guilty of an offence and liable to imprisonment for two years.

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

64. (1) Whoever publishes any false statement, rumour or report which is likely to cause fear or alarm to the public or to disturb the public peace is guilty of an offence and 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, he took such measures to verify the accuracy of such statement, rumour or report as to lead him reasonably to believe that it was true.

65. Whoever, 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 is guilty of an offence.

Defamation of foreign princes, etc.

66. Whoever not being licensed in writing by the Governor, acting in his discretion, in that behalf-

Foreign enlistment

- (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,

is guilty of an offence.

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

Piracy

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.

Definitions of unlawful assembly and riot

(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. Whoever takes part in an unlawful assembly is guilty of an offence and liable to imprisonment for one year.
Punishment for riot	70. Whoever takes part in a riot is guilty of an offence and liable to imprisonment for two 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 his view, may make or cause to be made a proclamation in the name of the Sovereign, in such form as he 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 is guilty of an offence and liable to imprisonment for life.
Preventing or obstructing the making of a proclamation	74. Whoever forcibly prevents or obstructs the making of such proclamation as in section 71 is mentioned is guilty of an offence and 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 are guilty of an offence and each of them liable to imprisonment for life.

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

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

77. Whoever unlawfully damages or destroys the flag of the Islands is guilty of an offence.

Vandalising the flag of the Islands

78. In sections 79 to 82-

Definition of prohibited and offensive weapons

“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;

“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” or “flick gun” 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 Governor 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 it with him for such use by him; and

“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.

Restriction on importation, etc., of prohibited weapons

79. Whoever imports, manufactures, sells or hires or offers for sale or hire, or has in his possession any prohibited weapon is guilty of an offence and liable to a fine of ten thousand dollars and to imprisonment for ten years.

Restriction on carrying offensive weapons

80. Whoever wears or carries any offensive weapon, not being a prohibited weapon, outside his own house and premises is guilty of an offence and liable to a fine of two thousand dollars and to imprisonment for two 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 his 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 he shall prove that he was wearing or carrying such knife outside his own house and premises for some lawful purpose for which such knife was necessary.

Power of search

81. Any constable who suspects that any person has concealed about his person any offensive or prohibited weapon may request such person to accompany him 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 is guilty of an offence and may be arrested without a warrant and is liable to a fine of one hundred dollars.

Forfeiture, etc.

82. (1) Any offensive 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 Law 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 his duty.

83. (1) Whoever, 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, is guilty of forcible entry.

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 his own, but which are in the custody of his servants or bailiffs, does not commit the offence of forcible entry.

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

Forcible detainer

85. Whoever takes part in a fight and thereby puts in fear or apprehension for his safety any non-participating person is guilty of an offence and liable to imprisonment for two years.

Affray

86. Whoever challenges another to fight a duel, or attempts to provoke another to fight a duel, or attempts to provoke any person to challenge another to fight a duel is guilty of an offence.

Challenge to fight a duel

87. Whoever-

Threatening violence

- (a) with intent to intimidate or annoy any person, threatens to break or injure a dwelling house; or
- (b) with intent to alarm any person, discharges loaded firearms or commits any other breach of the peace,

is guilty of an offence and liable to imprisonment for three years or, if the offence is committed in the night, to imprisonment for five years.

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

Assembling for the purpose of smuggling

PART IV- Offences Against the Administration of Lawful Authority

89. Whoever-

Official corruption

- (a) being employed in the public service, and being charged with the performance of any duty by virtue of such employment, corruptly

solicits, receives or obtains, or agrees or attempts to receive or retain, any property or benefit of any kind for himself or any other person on account of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by him in the discharge of the duties of his office; or

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

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

Extortion by public officers

90. Whoever being employed in the public service, takes or accepts from any person for the performance of his duty as such officer, any award beyond his proper pay and emoluments, or any promise of such reward is guilty of an offence and liable to a fine of five thousand dollars and to imprisonment for five years.

Public officers receiving property to show favour

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

Officers charged with administration of property of a special character or with special duties

92. Whoever being employed in the public service, and being charged by virtue of his employment with any judicial or administrative duties respecting property of a special character, or respecting the carrying on of any manufacture, trade or business of a special character, and having acquired or holding, directly or indirectly, a private interest in such property, manufacture, trade or business, discharges any such duties with respect to the property, manufacture, trade or business in which he has such interest or with respect to the conduct of any person in relation thereto, is guilty of an offence and liable to imprisonment for two years.

False claims by officials

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

94. (1) Whoever being employed in the public service does or directs to be done, in abuse of the authority of his office, any arbitrary act prejudicial to the rights of another is guilty of an offence and liable to imprisonment for three years.

Abuse of office

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

(3) A prosecution for an offence under this section, section 92 or 93 shall not be instituted except by or with the sanction of the Attorney-General.

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

False certificates by public officers

96. Whoever administers an oath, or takes a solemn declaration or affidavit touching any matter with respect to which he has not by law any authority so to do is guilty of an offence and liable to imprisonment for two years.

Unauthorised administration of oaths

97. Whoever-

False assumption of authority

- (a) not being a judicial officer or notary public assumes to act as such; or
- (b) falsely represents himself 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,

is guilty of an offence.

98. Whoever-

Personating public officers

- (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 his employment; or
- (b) falsely represents himself 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,

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

99. Whoever holds out any threat of injury to any person employed in the public service or to any person in whom he believes that person employed in the public service to be interested, for the purpose of inducing that person employed in the public service to do any act or to forbear or delay to do any act connected with

Threat of injury to persons employed in the public service

the exercise of the public functions of such person employed in the public service is guilty of an offence.

Perjury and subornation of perjury

100. (1) Whoever in any judicial proceeding, or for the purpose of instituting any judicial proceeding, knowingly gives false testimony touching any matter which is material to any question then depending in that proceeding or intended to be raised in that proceeding, is guilty of 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) Whoever aids, abets, counsels, procures or suborns another person to commit perjury is guilty of the offence of subornation of perjury.

(4) Whoever lawfully sworn as an interpreter in a judicial proceeding wilfully makes a statement material in the proceedings which he knows to be false or does not believe to be true is guilty of perjury.

(5) Whoever commits perjury or suborns perjury is liable to imprisonment for seven years.

Evidence on charge of perjury

101. 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

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

False swearing

103. Whoever swears falsely or makes a false affirmation or declaration before any person authorised to administer an oath or take a declaration upon a matter of public concern under such circumstances that the false swearing or declaration if

committed in a judicial proceeding would have amounted to perjury, is guilty of an offence.

104. Whoever 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 is guilty of an offence. Deceiving witnesses

105. Whoever, 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 is guilty of an offence. Destroying evidence

106. (1) Whoever-

- (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;
- (c) obstructs or in any way interferes with or knowingly prevents the execution of any legal process, civil or criminal; or
- (d) does anything in order to obstruct, prevent, pervert or defeat the course of justice,

Conspiracy to defeat
justice and interference
with witnesses

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

(2) Whoever conspires with any other person to commit an offence specified in subsection (1) is guilty of an offence and liable to imprisonment for five years.

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

108. Whoever having brought, or under the pretence of bringing, an action against any person under a penal law in order to obtain from him 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, is guilty of an offence. Compounding penal
actions

Advertisements for
stolen property

109. Whoever-

- (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,

is guilty of an offence.

Offences relating to
judicial proceedings

110. (1) Whoever-

- (a) within the premises in which any judicial proceeding is being had or taken, or within the precincts of the same, shows disrespect, in speech or manner, to or with reference to such proceeding, or any person before whom such proceeding is being had or taken;
- (b) having been called upon to give evidence in a judicial proceeding, fails to attend, or having attended, refuses to be sworn or to make an affirmation or, having been sworn or affirmed, refuses without lawful excuse to answer a question or produce a document, or remains in the room in which such proceeding is being had or taken after the witnesses have been ordered to leave such room;
- (c) causes an obstruction or disturbance in the course of a judicial proceeding;
- (d) while a judicial proceeding is pending, makes use of any speech or writing misrepresenting such proceeding or capable of prejudicing any person in favour of or against any parties to such proceeding, or calculated to lower the authority of any person before whom such proceeding is being had or taken;
- (e) publishes a report of the evidence taken in any judicial proceeding which has been directed to be held in private;
- (f) attempts wrongfully to interfere with or influence a witness in a judicial proceeding, either before or after he has given evidence, in connection with such evidence;
- (g) dismisses a servant because he has given evidence on behalf of a certain party to a judicial proceeding;
- (h) wrongfully retakes possession of land from any person who has recently obtained possession by a writ of court; or

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

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

(2) When any offence against paragraph (a), (b), (c) or (i) of subsection (1) is committed in view of the court, the court may cause the offender to be detained in custody and at any time before the rising of the court on the same day may take cognizance of the offence and sentence the offender to a fine of two hundred dollars or in default of payment to imprisonment for six months.

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

111. (1) Whoever by force rescues or attempts to rescue from lawful custody any person is- Rescue

- (a) if such person is under sentence of imprisonment for life or charged with an offence punishable with imprisonment for life, guilty of an offence and 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), guilty of an offence and liable to imprisonment for seven years; or
- (c) in any other case, guilty of 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.

112. Whoever being in lawful custody escapes from such custody is guilty of an offence. Escape

113. Whoever having another person in his custody intentionally or negligently permits him to escape is guilty of an offence. Permitting prisoner to escape

114. Whoever-

- (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,

Aiding prisoner to escape

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

115. Whoever 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 Removal, etc., of property under lawful seizure

attachment or process receives, removes, retains, conceals or disposes of such property is guilty of an offence and liable to imprisonment for three years.

Obstructing court officers

116. Whoever wilfully obstructs or resists any person lawfully charged with the execution of an order or warrant of any court, is guilty of an offence.

Frauds and breaches of trust by public officers

117. Whoever being employed in the public service, in the discharge of his 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, is guilty of an offence.

Neglect of official duty

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

False information to person employed in the public service

119. Whoever gives to any person employed in the public service any information in the truth of which he does not believe intending thereby to cause, or knowing it to be likely that he will thereby cause such person employed in the public service-

- (a) to do or omit anything which such person employed in the public service ought not to do or omit if the true state of facts respecting which such information is given were known to him; or
- (b) to use the lawful power of such person employed in the public service to the injury or annoyance of any person,

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

Disobedience of lawful duty

120. Whoever 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, is guilty of 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

121. Whoever destroys, damages or defiles any place of worship or any object which is held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class

of persons is likely to consider such destruction, damage or defilement as an insult to their religion is guilty of an offence.

122. Whoever unlawfully causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremony is guilty of an offence. Disturbing religious assemblies

123. Whoever 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 is guilty of an offence. Trespassing, etc., on burial places

124. Whoever 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 is guilty of an offence and liable to imprisonment for one year. Writing or uttering words, etc., with intent to wound religious feelings

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

(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

126. (1) A man who rapes a woman or another man is guilty of an offence. Rape

(2) A man commits rape if-

- (a) he 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 he knows that the other person does not consent to the intercourse or he is reckless as to whether the other person consents to it.

(3) A man also commits rape if he induces a married woman to have sexual intercourse with him by impersonating her husband.

(4) If, at a trial for a rape offence, the jury has to consider whether a man 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 he 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 Law 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

127. Whoever commits rape is liable to imprisonment for life.

Attempted rape

128. Whoever attempts to commit rape is liable to imprisonment for fourteen years.

Taking away a woman against her will for purpose of marriage or carnal knowledge

129. Whoever 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, is guilty of an offence and liable to imprisonment for ten years.

130. Whoever 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, is guilty of an offence.

Taking girl under sixteen from lawful care

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

Indecent assaults on females

(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 is invalid under the Marriage Law (1995 Revision) (the wife being under the age of sixteen), the invalidity does not make the husband guilty of any offence under this section by reason of her incapacity to consent while under that age, if he believes her to be his wife and has reasonable cause for the belief.

1995 Revision

(4) A woman who is a defective cannot in law give any consent which would prevent an act being an assault for the purposes of this section, but a person is only to be treated as guilty of indecent assault on a defective by reason of that incapacity to consent, if that person knew or had reason to suspect her to be defective.

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

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

Insulting the modesty of a woman

133. (1) Whoever unlawfully and carnally-

- (a) knows any girl under the age of twelve years is guilty of an offence and liable to imprisonment for twenty years; or
- (b) knows any girl between the ages of twelve and sixteen years is guilty of an offence and liable to imprisonment for twelve years.

Defilement of girls under sixteen years of age, etc.

(2) Whoever 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.

Defilement of idiots or imbeciles

134. Whoever, knowing a woman or girl to be an idiot or imbecile, has or attempts to have carnal knowledge of her under circumstances not amounting to rape but which prove that the offender knew at the time of the commission of the offence that the woman or girl was an idiot or imbecile, is guilty of an offence and liable to imprisonment for twelve years.

Procuration

135. Whoever-

- (a) procures or attempts to procure any woman or girl to become either in the Islands or elsewhere a common prostitute; or
- (b) procures or attempts to procure any woman or girl to leave her usual place of abode in the Islands with intent that she may, for the purpose of prostitution become an inmate of or frequent a brothel in the Islands or elsewhere,

is guilty of 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

136. (1) Whoever 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 is guilty of 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.

137. Whoever detains any woman or girl against her will-

- (a) in or upon any premises with intent that she may be unlawfully and carnally known by any particular man or generally; or
- (b) in any brothel,

is guilty of an offence.

Male person living on earnings of prostitution or persistently soliciting

138. (1) Every male 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,

is guilty of an offence.

(2) Where a male 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 he is aiding, abetting or compelling her prostitution with another person, or generally, he shall, unless he shall satisfy the court to the contrary, be deemed to be knowingly living on the earnings of prostitution.

139. Whoever keeps a house, room, set of rooms or place of any kind whatsoever for the purposes of prostitution is guilty of an offence. Brothels

140. (1) Whoever with intent to procure the miscarriage of a woman, whether she is or is not with child, unlawfully administers to her any poison or other noxious thing, or uses any force of any kind, or other means whatsoever to that purpose is guilty of an offence. Attempts to procure abortion

(2) Notwithstanding subsection (1) no person is guilty of 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 practice medicine under the Health Practice Law (2005 Revision) is not guilty of 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. 2005 Revision

141. 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 is guilty of an offence. Attempt by woman with child to procure abortion

142. Whoever 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, is guilty of an offence. Supplying drugs or instruments to procure abortion

- Unnatural offences
143. (1) Whoever has carnal knowledge of any person against the order of nature, or has carnal knowledge of any animal or who permits a male person so to have carnal knowledge of him or her is guilty of an offence and liable to imprisonment for ten years.
- (2) Whoever attempts to commit an offence under subsection (1) is guilty of an offence.
- Indecent assault on a man
144. (1) Whoever makes an indecent assault on a man is guilty of an offence.
- (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 man who is a defective 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 guilty of an indecent assault on a defective by reason of that incapacity to consent, if that person knew or had reason to suspect him to be defective.
- (4) Whoever commits an indecent assault on a man 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 is guilty of an offence.
- Incest by males
145. (1) Any male person who has carnal knowledge of a female person who is, to his knowledge, his grand-daughter, daughter, sister or mother is guilty of an offence and liable to imprisonment, if the offence is with a girl under thirteen, for life, otherwise for twenty years.
- (2) It is immaterial that the carnal knowledge was had with the consent of the female person.
- (3) Any male person who attempts to commit an offence under subsection (1) is guilty of an offence and liable to imprisonment, if the offence is with a girl under thirteen, for ten years, otherwise for seven years.
- (4) On the conviction before any court of any male person of an offence under this section, or of an attempt to commit the same, against any female under the age of eighteen years, it shall be in the power of the court to divest the offender of all authority over such female, and if the offender is the guardian of such female, 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 female during her minority or any less period.

146. Any female person of or above the age of sixteen years who permits her grandfather, father, brother or son to have carnal knowledge of her (knowing him to be her grandfather, father, brother or son as the case maybe), is guilty of an offence and liable to imprisonment for ten years. Incest by females

147. In sections 145 and 146, 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. Test of relationship

C-Offences Relating to Marriage and Domestic Relations

148. Whoever 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, is guilty of an offence and liable to imprisonment for five years. Fraudulent pretence of marriage

149. Whoever, having a husband or wife living, goes through a ceremony of marriage whether within the Islands or elsewhere, which is void by reason of its taking place during the life of such husband or wife is guilty of an offence and liable to imprisonment for five years: Bigamy

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

150. Whoever dishonestly or with fraudulent intent goes through the ceremony of marriage, knowing that he is not thereby lawfully married is guilty of an offence and liable to imprisonment for five years. Fraudulent marriage ceremony

151. *Whoever being the parent, guardian or other person having the lawful care or charge of a child under the age of fourteen years, and being able to maintain such child, wilfully and without reasonable cause deserts the child or leaves it without means of support is guilty of an offence. Neglecting children
*see note 1 on p. 108

Child stealing
*see note 1 on p. 108

152. (1) *Whoever with intent to deprive any parent, guardian, or other person, having the lawful care or charge of 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 it to have been so taken or enticed away or detained,

is guilty of an offence and 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

153. Whoever 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.

Watching and besetting

154. (1) Whoever watches and besets-

- (a) any premises or the approaches to any premises with a view to preventing any person from doing an act which such person has a legal right to do thereat; or
- (b) the house or other place where any other person resides or works or carries on business or happens to be, or the approaches to such house or place with a view to preventing such person from doing or compelling him to do any act which such person has a legal right to do or abstain from doing,

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

(2) No person shall be prosecuted for an offence under this section without the written consent of the Attorney-General.

Chain letters

155. (1) Whoever 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 is guilty of an offence and 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 he should send a document having the same purport to a number of persons; and
- (b) that he should remit to a person or to an address specified in the first-mentioned document money or money’s worth.

156. (1) Whoever-

Obscene publications

- (a) for the purpose of or by way of trade or for the purpose of distribution or public exhibition, makes, produces or has in his possession any one or more obscene writings, drawings, prints, paintings, printed matter, pictures, posters, emblems, photographs, cinematograph films, 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,

is guilty of an offence and 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.

157. Whoever-

Idle and disorderly persons

- (a) wanders abroad or places himself 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 himself 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 Governor; 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 him to prove that he has lawful means of subsistence or that he 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 five hundred dollars and to imprisonment for three months.

Rogues and vagabonds

158. (1) Every person-

- (a) when not at his place of abode, having with him 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, 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 him, and being subsequently convicted of the offence for which he shall have been so apprehended,

is deemed to be a rogue and a vagabond and guilty of an offence and liable for a first offence to imprisonment for one year and for every subsequent offence to imprisonment for two 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 he had with him any article made or adapted for use in committing a burglary or theft shall be evidence that he had it with him for such use.

159. In proceedings under section 158, it shall not be necessary in proving the intent to commit an offence, to show that the person suspected was guilty of any act or acts tending to show his purpose or intent and he may be convicted if from the circumstances of the case, and from his known character as proved to the court, it appears to the court that his intent was as alleged, and his known character shall be relevant evidence in that behalf.

Proof of intent

160. Paragraph (h) of section 157 shall not apply to charitable collections or appeals for subscriptions made in any recognised place of religious worship.

Exception of charitable collections in places of religious worship

161. Whoever 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 Governor, acting in his discretion, to publish in a newspaper circulating in the Islands correct accounts of any money or money's worth received and the disposal thereof is guilty of an offence and liable to imprisonment for two years.

Accounting for subscription

162. (1) Whoever 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 Governor under section 3 of the Markets Law (1997 Revision), sells, offers or exposes for sale, anything (including a living thing) other than foodstuffs is guilty of an offence:

Street trading

1997 Revision

Provided that the Commissioner may, at any time at his discretion, grant a licence, for a period not exceeding one day and on such terms and conditions as he 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 Governor 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, is guilty of an offence.

(3) Any person guilty of 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 his customers for orders or for the delivery of things.

Disorderly conduct

163. Whoever-

- (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,

is guilty of an offence and liable to a fine of one hundred dollars.

Drunk and disorderly persons

164. Whoever-

- (a) while drunk is guilty of 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,

is guilty of an offence, liable to be arrested on view by any constable and on conviction liable to a fine of thirty dollars and to imprisonment for thirty days.

165. Whoever 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 is guilty of an offence and liable to a fine of one hundred dollars and to imprisonment for three months.

Unauthorised wearing of uniform

166. Whoever unlawfully or negligently does any act which he knows or has reason to believe to be likely to spread the infection of any disease dangerous to health is guilty of an offence.

Negligent act likely to spread disease

167. Whoever-

- (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,

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

is guilty of an offence.

168. Whoever-

Pollution, etc.

- (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,

is guilty of an offence:

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

Obeah

169. (1) For the purposes of this section and section 157(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) Whoever-

- (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,

is guilty of an offence.

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

(4) Whoever-

- (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,

is guilty of 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) Whoever 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

170. Whoever 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 is guilty of libel.

Definition of libel

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

Definition of defamatory manner

Provided that no prosecution for the publication of defamatory matter concerning a dead person shall be instituted without the consent of the Attorney-General.

172. (1) A person publishes a libel if he 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.

Definition of publication

(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

173. Any publication of defamatory matter concerning a person is unlawful within the meaning of section 169 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 174 or 175.

Cases in which publication of defamatory matter is absolutely privileged

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

- (a) if the matter is published by the Governor in his official capacity, or by the Cabinet or the Legislative Assembly in any official document or proceeding;
- (b) if the matter is published by order of the Governor in Cabinet;
- (c) if the matter is published in the Cabinet or in the Legislative Assembly by the Governor or by any member of such Cabinet or Assembly;
- (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 Legislative Assembly; 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 Law or any other law in force in the Islands.

Cases in which publication of defamatory matter is conditionally privileged

175. 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 his 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 his 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 judgment 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 he 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 his conduct in any matter, or in respect of his 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	176. A publication of defamatory matter shall not be deemed to have been made in good faith by a person within the meaning of section 175 if it is made to appear either- (a) that the matter is untrue and that he did not believe it to be true; (b) that the matter was untrue and that he published it without having taken reasonable care to ascertain whether it was true or false; or (c) that in publishing the matter he 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 he claims to be privileged.
Presumption as to good faith	177. 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	178. Whoever 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, is guilty of an offence and liable to imprisonment for three years.

PART VI-Offences Against the Person

Manslaughter	179. (1) Whoever, by an unlawful act or omission, causes the death of another person is guilty of 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	180. Whoever, of malice aforethought express or implied, causes the death of another person by an unlawful act or omission is guilty of the offence of murder.

181. Any person convicted of murder shall be sentenced to imprisonment for life. Punishment of murder
182. Whoever commits the offence of manslaughter is liable to imprisonment for life. Punishment of manslaughter
183. 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- Malice aforethought
- (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.
184. (1) Where a person kills or is a party to the killing of another, he shall not be convicted of murder if he 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 his mental responsibility for his acts in doing or being a party to the killing. Persons suffering from diminished responsibility
- (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.
185. 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 his self-control, the question whether the provocation was enough to make a reasonable man do as he 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 man. Provocation

Suicide pacts 186. (1) It shall be manslaughter and not murder for a person acting in pursuance of a suicide pact between him and another to kill the other or to be a party to the other killing himself 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 his killing himself or being killed, it shall be for the defence to prove that the person charged was acting in pursuance of a suicide pact between him and the other.

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

Causing death defined 187. A person is deemed to have caused the death of another person although his act is not the immediate or not the sole cause of death if-

- (a) he inflicts bodily injury on another person in consequence of which that other person undergoes surgical or medical treatment which causes death. In this case it is immaterial whether the treatment was proper or mistaken, if it was employed 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) he inflicts a bodily injury on another which would not have caused death if the injured person had submitted to proper surgical or medical treatment or had observed proper precautions as to his mode of living;
- (c) by actual or threatened violence he causes such other person to perform an act which causes the death of such person, such act being a means of avoiding such violence which in the circumstances would appear natural to the person whose death is so caused;
- (d) by any act or omission he hastened the death of a person suffering under any disease or injury which apart from such act or omission would have caused death; or
- (e) his act or omission would not have caused death unless it had been accompanied by an act or omission of the person killed or of other persons.

188. 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.

Persons capable of being killed

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

Limitation as to time of death

(2) Such period is reckoned inclusive of the day on which the last unlawful act or omission contributing to the death occurred.

190. 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 himself from such charge, and who is unable to provide himself with the necessaries of life, whether the charge is undertaken under a contract, or is imposed by law, or arises by reason of any act, whether lawful or unlawful, of the person who has the charge, to provide for that other person the necessaries of life; and he is held to have caused any consequences which result to the life or health of the other person by reason of any omission to perform that duty.

Responsibility of person who has charge of another

191. 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 his household, to provide the necessaries of life for such child; and he 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 head of family

192. It is the duty of every person who has in his charge or under his control anything, whether living or inanimate, and whether moving or stationary, of such a nature that, in the absence of precaution in its use or management, the life, safety or health of any person may be endangered, to use reasonable care and take reasonable precautions to avoid such danger; and he is held to have caused any consequences which result to the life or health of any person by reason of any omission to perform that duty.

Duty of persons in charge of dangerous things

193. Whoever-

Attempts to murder

- (a) attempts unlawfully to cause the death of another; or
- (b) with intent unlawfully to cause the death of another does any act or omits to do any act which it is his duty to do, such act or omission being of such a nature as to be likely to endanger human life,

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

Penal Code (2005 Revision)

Accessory after the fact to murder	194. Whoever becomes an accessory after the fact to murder is guilty of an offence and liable to imprisonment for life.
Written threats to murder	195. Whoever, knowing the contents thereof, directly or indirectly causes any person to receive any writing threatening to kill any person is guilty of an offence and liable to imprisonment for seven years.
Conspiracy to murder	196. Whoever conspires with any person to kill any person, whether such person is in the Islands or elsewhere, is guilty of an offence and liable to imprisonment for fourteen years.
Infanticide	197. 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 be guilty of infanticide and may, for such offence, be dealt with and punished as if she had been guilty of the offence of manslaughter.
Killing an unborn child	198. (1) Whoever, 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, is guilty of an offence and liable to imprisonment for life. (2) Notwithstanding subsection (1), no person shall be guilty of 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 practice medicine under the Health Practice Law (2005 Revision) is not guilty of 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.
2005 Revision	
Concealing the birth of children	199. Whoever, when a woman is delivered of a child, endeavours by any secret disposition of the dead body of the child, to conceal the birth, whether the child died before, at or after its birth is guilty of the offence of concealment of birth and liable to imprisonment for two years.

200. Whoever with intent to facilitate the commission of an offence by himself or another, the flight or escape of an offender or the resistance of an offender to lawful arrest-

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

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

201. Whoever unlawfully-

Preventing escape from wreck

- (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 his endeavours to save his life; or
- (b) obstructs any person in his endeavours to save the life of any person so situated,

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

202. Whoever, 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, is guilty of an offence and liable on conviction to imprisonment for life.

Wounding or causing grievous bodily harm

203. Whoever unlawfully and maliciously wounds or inflicts any grievous bodily harm upon any other person, either with or without any weapon or instrument, is guilty of an offence and liable on conviction to imprisonment for seven years.

Wounding or inflicting grievous bodily harm

204. Whoever unlawfully and with intent to do any harm to another puts any explosive substance in any place whatever is guilty of an offence and liable to imprisonment for sixteen years.

Attempting to injure by explosive substances

205. (1) Whoever-

Bomb hoax

- (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 is guilty of an offence.

(2) Whoever communicates any information which he knows or believes to be false to another person with the intention of inducing in him 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 is guilty of an offence.

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

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

Maliciously
administering poison

206. Whoever, 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 his life or does him some grievous bodily harm, is guilty of an offence and liable to imprisonment for fourteen years.

Unlawful use of firearms

207. Whoever 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 is guilty of an offence and liable, in addition to any other liability for any offence he may thereby commit, to imprisonment for five years.

Excess of force

208. Whoever is authorised by law, or by the consent of a person injured by him to use force is criminally responsible for the consequences of the force he may use, having regard to all the circumstances.

Reckless and negligent
acts

209. Whoever 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 his possession or control;
- (d) omits to take precautions against any probable danger from any animal in his 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 he 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 his possession or control,

is guilty of an offence.

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| <p>210. Whoever unlawfully does any act, or omits to do any act which it is his duty to do, not being an act or omission specified in section 209, by which act or omission harm is caused to any person, is guilty of an offence and liable to a fine of two thousand dollars and to imprisonment for two years.</p> | <p>Other negligent acts causing harm</p> |
| <p>211. Whoever 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 his possession or control as is sufficient to guard against probable danger to human life from such poisonous substance, is guilty of an offence and liable to a fine of two thousand dollars and to imprisonment for two years.</p> | <p>Dealing with poisonous substances in a negligent manner</p> |
| <p>212. Whoever exhibits any false light, mark or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator is guilty of an offence and liable to imprisonment for fourteen years.</p> | <p>Exhibition of false light, mark or buoy</p> |
| <p>213. Whoever 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 is guilty of an offence.</p> | <p>Conveying person for hire in any unsafe or overloaded conveyance</p> |
| <p>214. Whoever unlawfully assaults another is guilty of an offence and, if the assault is not committed in circumstances for which a greater punishment is provided by this or any other law, liable to imprisonment for one year.</p> | <p>Common assault</p> |
| <p>215. Whoever commits an assault occasioning actual bodily harm is guilty of an offence and liable to imprisonment for five years.</p> | <p>Assault causing actual bodily harm</p> |
| <p>216. Whoever assaults and strikes or wounds any magistrate or constable or other officer or person lawfully authorised in or on account of the execution of his 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 is guilty of an offence and liable to imprisonment for seven years.</p> | <p>Assault on person protecting wreck</p> |

Definition of kidnapping	217. Whoever- (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	218. Whoever 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	219. Whoever kidnaps or abducts any person is guilty of an offence and liable to imprisonment for life.
Keeping in confinement a kidnapped or abducted person	220. Whoever, knowing that a person has been kidnapped or abducted, wrongfully conceals or confines such person is guilty of an offence and liable to imprisonment for life.
Wrongful confinement	221. Whoever wrongfully confines any person is guilty of an offence and liable to imprisonment for five years.
Unlawful compulsory labour	222. Whoever unlawfully compels any person to labour against the will of that person is guilty of an offence and liable to imprisonment for three years.

PART VII-Offences Relating to Children

Definitions	223. (1) In this Part- “child” means a person under the age of seventeen years. (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 him (within the meaning of the *Children Law, 2003); or (ii) is otherwise legally liable to maintain him; and (b) any person who has care of him. (3) A person who is presumed to be responsible for a child or young person by virtue of paragraph (a) of subsection (1) shall not be taken to have ceased to be responsible for him by reason only that he does not have care of him.
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*See note 2 on p.108
Law 4 of 2003

224. (1) Whoever having attained the age of sixteen years, has responsibility for any child under that age and who-

Cruelty to children

- (a) wilfully assaults, ill-treats, neglects, abandons or exposes him; or
- (b) causes or procures him to be assaulted, ill-treated, neglected, abandoned or exposed, in a manner likely to cause him unnecessary suffering or injury to health (including injury to or loss of sight, hearing, limb or organ of the body, and any mental derangement),

that person is guilty of an offence.

(2) Whoever is guilty of 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 him 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 he 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 him if he had just been convicted by or before that court of that offence.

Provisions
supplementary to section
224

225. (1) For the purposes of section 224-

- (a) a parent or other person legally liable to maintain a child, shall be deemed to have neglected him in a manner likely to cause injury to his health if-
 - (i) he has failed to provide adequate food, clothing or lodging for him, and having been unable otherwise has failed to take steps to procure it to be provided; or to provide such food, clothing or lodging, he has failed to take steps to procure it to be provided; or
 - (ii) being unable to do so, he has failed to provide such medical treatment which is specified as necessary for him by an appropriately qualified health practitioner duly registered in respect of that qualification under the Health Practice Law, (2005 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, he shall be deemed to have neglected the child in a manner likely to cause injury to his health; and
- (d) any person having responsibility for a child shall be deemed to have abandoned him in a manner likely to cause him unnecessary suffering or injury to health if he has failed to provide, or failed to make arrangements for the provision of, reasonable supervision of the child.

2005 Revision

(2) Section 224, 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 224 -

- (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 224, he may be convicted of an offence under that section whether or not he is convicted of that other offence.

(5) If it is proved that a person convicted under section 224 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 he has any share in or benefit from the payment of that money, notwithstanding that he 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 224 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 him.

Children not to be used
for begging

226. (1) Whoever causes any child under the age of sixteen years, or, having responsibility for such a child, allows him 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),

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

(2) Whoever, 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 him to be there for that purpose.

(3) Whoever, while singing, playing, performing or offering anything for sale in a street or public place has with him a child who has been lent or hired out to him, 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
1999 Revision

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

(2) Subject to subsection (4), a child of school age (within the meaning of the Education Law (1999 Revision)) shall not be employed -

- (a) during school hours on any day on which he is required to attend school;
- (b) on any day on which he 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 him; or
- (d) during the night between the hours of ten o'clock in the evening and seven o'clock in the morning.

(3) Whoever employs a child in contravention of this section is guilty of an offence and 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 -

- (a) any school within the meaning of the Education Law (1999 Revision); or
- (b) any rehabilitation school, in respect of his employment in that work for the purpose of that instruction.

PART VII-Offences Relating to Property

228. In this Part-

Definitions

“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.

229. (1) A person is guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it; and “thief” and “steal” shall be construed accordingly.

Basic definition of theft

(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 230 to 234 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.

230. (1) A person’s appropriation of property belonging to another is not to be regarded as dishonest-

“Dishonesty”

- (a) if he appropriates the property in the belief that he has in law the right to deprive the other of it on behalf of himself or of a third person;
- (b) if he appropriates the property in the belief that he would have the other’s consent if the other knew of the appropriation and the circumstances of it; or

- (c) (except where the property came to him as a trustee or personal representative) if he appropriates the property in the belief that the person to whom the property belongs cannot be discovered by taking reasonable steps.

(2) A person's appropriation of property belonging to another may be dishonest notwithstanding that he is willing to pay for the property.

"Appropriates"

231. (1) Any assumption by a person of the rights of an owner amounts to an appropriation, and this includes, where he has come by the property (innocently or not) without stealing it, any later assumption of a right to it by 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 him of rights which he believed himself to be acquiring shall, by reason of any defect in the transferor's title, amount to theft of the property.

Property incapable of being stolen

232. (1) In this Law-

"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 himself or under his directions, except in the following cases, that is to say-

- (a) when he 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 he appropriates the land or anything forming part of it by dealing with it in breach of the confidence reposed in him;
- (b) when he is not in possession of the land and appropriates anything forming part of the land by severing it or causing it to be severed, or after it has been severed; or
- (c) when, being in possession of land under a tenancy, he 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 incorporate 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 he picks, unless he 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.

233. (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.

Property belonging to others

*See note 3 on p. 108

(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 him) 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 him) as belonging to the person entitled to restoration and an intention not to make restoration shall be regarded accordingly as an intention to deprive that person of the property or proceeds.

(4) Property of a corporation sole shall be regarded as belonging to the corporation notwithstanding a vacancy in the corporation.

234. (1) A person appropriating property belonging to another without meaning the other permanently to lose the thing itself is nevertheless to be regarded as having the intention of permanently depriving the other of it if his intention is to treat the thing as his own to dispose of regardless of the other’s rights; and a borrowing or lending of it may amount to so treating it if, but only if, the borrowing or lending is for a period and in circumstances making it equivalent to an outright taking or disposal.

“With the intention of permanently depriving the other of it”

(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 he may not be able to perform, this, (if done for purposes of his own and without the other's authority) amounts to treating the property as his own to dispose of regardless of the other's rights.

Theft 235. Whoever commits a theft is guilty of an offence and liable to imprisonment for ten years.

Robbery 236. (1) A person is guilty of robbery if he steals, and immediately before or at the time of doing so, and in order to do so, he uses force on any person or puts or seeks to put any person in fear of being then and there subjected to force.

(2) Whoever commits robbery is guilty of an offence and liable to imprisonment for life.

Burglary 237. (1) Whoever-

- (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,

is guilty of the offence of burglary and 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 he is.

Aggravated burglary 238. (1) Whoever commits any burglary and at the same time has with him any firearm or imitation firearm, any offensive weapon or any explosive is guilty of the offence of aggravated burglary and 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 him 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.

239. Whoever dishonestly uses without due authority, or dishonestly causes to be wasted or diverted, any electricity is guilty of an offence and liable to a fine of two thousand dollars and to imprisonment for two years. Abstracting electricity

240. (1) Whoever, for his 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 himself to be carried in or on it is guilty of an offence and liable on summary conviction to a fine of one thousand dollars and to imprisonment for two years. Taking conveyance without authority

(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 he is tried.

(3) It is a defence to a charge under subsection (1) to show, that the person charged had an honest belief that he acted under lawful authority or that in the circumstances the owner would have given him consent had he been aware of the taking.

(4) For the purposes of the First Schedule to the Criminal Procedure Code (2005 Revision) an offender under subsection (1) is guilty of an arrestable offence. 2005 Revision

(5) Where the conveyance is a vehicle as defined in the Traffic Law (2003 Revision), the court shall also have *mutatis mutandis* all the powers conferred by sections 92, 93 and 94 of that law and in particular may- 2003 Revision

- (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.

241. (1) Whoever by any deception dishonestly obtains property belonging to another, with intention of permanently depriving the other of it is guilty of an offence and liable to imprisonment for ten years. Obtaining property by deception

(2) For purposes of this section a person is to be treated as obtaining property if he obtains ownership, possession or control of it, and “obtain” includes obtaining for another or enabling another to obtain or retain.

(3) Section 234 shall apply for this section, with the necessary adaptation of the reference to appropriating, as it applies for section 229.

(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.

Obtaining pecuniary
advantage by deception

242. (1) Whoever by any deception dishonestly obtains for himself or another any pecuniary advantage is guilty of an offence and 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 he makes himself liable or is or may become liable (including one not legally enforceable) is reduced or, in whole or in part, evaded or deferred;
- (b) he is allowed to borrow by way of overdraft, or to take out any policy of insurance or annuity contract, or obtains an improvement of the terms on which he is allowed to do so; or
- (c) he is given the opportunity to earn remuneration or greater remuneration in an office or employment, or to win money by betting.

(3) In this section-

“deception” has the same meaning as in section 241.

Evasion of liability by
deception, etc.

243. (1) Subject to subsection (2), whoever, by any deception-

- (a) dishonestly secures the remission of the whole or any part of any existing liability to make a payment, whether his 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,

is guilty of an offence and liable-

- (i) on summary conviction, to imprisonment 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.

244. (1) Whoever by any deception dishonestly obtains services from another is guilty of an offence. Obtaining services by deception

(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.

245. (1) Whoever, by any deception, dishonestly obtains a money transfer for himself or another is guilty of an offence. Obtaining a money transfer by deception

(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) Whoever is guilty of an offence under this section is liable on conviction on indictment to imprisonment for ten years.

Interpretation of section
245

246. (1) In section 245-

“deception” has the same meaning as in section 241; 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 him; and
- (b) “money” includes money expressed in any currency.

Dishonestly retaining a
wrongful credit

247. (1) A person is guilty of an offence if-

- (a) a wrongful credit has been made to an account kept by him or in respect of which he has any right or interest;
- (b) he knows or believes that the credit is wrongful; and

- (c) he 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 245.
- (4) A credit to an account is also wrongful to the extent that it derives from-
 - (a) theft;
 - (b) an offence under section 245;
 - (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) Whoever is guilty of 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 Law 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 246.

248. (1) Subject to subsection (3), whoever, knowing that payment on the spot for any goods supplied or services done is required or expected of him, dishonestly makes off without having paid as required or expected and with intent to avoid payment of the amount, is guilty of an offence and liable on conviction to a fine of two thousand dollars or to imprisonment for five years. Making off

(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

249. (1) Whoever dishonestly, with a view to gain for himself or another or with intent to cause loss to another-

- (a) destroys, defaces, conceals or falsifies any account or any record or document made or required for any accounting purpose; or
- (b) in furnishing information for any purpose, produces or makes use of any account, or any such record or document as aforesaid, which to his knowledge is or may be misleading, false or deceptive in a material particular,

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

(2) For purposes of this section, whoever 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

250. (1) Where an offence committed by a body corporate under section 241, 242 or 249 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, he as well as the body corporate shall be guilty of that offence, and 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 his functions of management as if he were a director of the body corporate.

False statements by company directors, etc.

251. (1) Whoever, 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 his knowledge is or

may be misleading, false or deceptive in a material particular, is guilty of an offence and 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 his functions of management as if he were an officer of the body corporate or association.

252. (1) Whoever dishonestly, with a view to gain for himself or another or with intent to cause loss to another, destroys, defaces or conceals any valuable security, any will or other testamentary document or any original document of or belonging to, or filed or deposited in, any court of justice or any government office is guilty of an offence and liable to imprisonment for seven years.

Suppression of documents, etc.

(2) Whoever dishonestly, with a view to gain for himself or another, or with intent to cause loss to another, by any deception procures the execution of a valuable security is guilty of an offence and 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 241; 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.

253. (1) Whoever, with a view to gain for himself 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-

Blackmail

- (a) that he has reasonable grounds for making the demand; and
- (b) that the use of the menaces is a proper means of enforcing the demand,

is guilty of the offence of blackmail and 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

254. (1) A person handles stolen goods if (otherwise than in the course of stealing) knowing or believing them to be stolen goods he dishonestly receives the goods, or dishonestly undertakes or assists in their retention, removal, disposal or realisation by or for the benefit of another person, or if he arranges to do so.

(2) Whoever handles stolen goods is guilty of an offence and liable to imprisonment for fourteen years.

Going equipped for stealing, etc.

255. (1) Whoever, when not at his place of abode, has with him any article for use in the course of or in connection with any burglary, theft or cheat is guilty of an offence and liable to imprisonment for three years.

(2) Where a person is charged with an offence under this section, proof that he had with him any article made or adapted for use in committing a burglary, theft or cheat shall be evidence that he had it with him for such use.

(3) Any person may arrest without warrant anyone who is, or whom he with reasonable cause suspects to be, committing an offence under this section.

(4) In this section-

“cheat” means an offence under section 241.

Search for stolen goods

256. (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 his custody or in his possession or on his 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, he may enter and search the premises accordingly, and may seize any goods he believes to be stolen goods and arrest the person in whose possession or custody such goods are found.

257. (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.

Evidence and procedure
on charge of theft or
handling stolen goods

(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 he handled all or any of the stolen goods, whether or not he 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 his having or arranging to have in his possession the goods the subject of the charge, or of his 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 he knew or believed the goods to be stolen goods-

- (a) evidence that he has had in his 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 him of the intention to prove the conviction) evidence that he has within the five years preceding the date of the offence charged been convicted of theft or of handling stolen goods.

258. (1) Where goods have been stolen, and a person is convicted of any offence with reference to the theft (whether or not the stealing is the gist of his offence) the court by or before which the offender is convicted may, on conviction, order-

Orders for restitution

- (a) anyone having possession or control of the goods to restore them to any person entitled to recover them from him;

- (b) on the application of a person entitled to recover from the person convicted any other goods directly or indirectly representing the first-mentioned goods (as being the proceeds of any disposal or realisation of the whole or part of them or of goods so representing them), those other goods to be delivered or transferred to the applicant; or
- (c) on the application of a person who, if the first-mentioned goods were in the possession of the person convicted, would be entitled to recover them from him, that a sum not exceeding the value of those goods shall be paid to the applicant out of any money of the person convicted which was taken out of his possession on his apprehension.

(2) Where, under subsection (1), the court has power on a person's conviction to make an order against him both under paragraph (b) and (c) with reference to the stealing of the same goods, the court may make orders under both paragraphs provided that the applicant for the orders does not thereby recover more than the value of those goods.

(3) Where, under subsection (1), the court on a person's conviction makes an order under paragraph (a) for the restoration of any goods, and it appears to the court that the person convicted has sold the goods to a person acting in good faith, or has borrowed money on the security of them from a person so acting, then on the application of the purchaser or lender the court may order that there shall be paid to the applicant out of any money of the person convicted which has been taken out of his possession on his apprehension, a sum not exceeding the amount paid for the purchase by the applicant or, as the case may be, the amount owed to the applicant in respect of the loan.

(4) The court shall not exercise the powers conferred by this section unless in the opinion of the court the relevant facts sufficiently appear from the evidence given at the trial or the available documents together with admissions made by or on behalf of any person in connection with any proposed exercise of the powers; and for this purpose, "the available documents" mean any written statements or admissions which were made for use and would have been admissible, as evidence at the trial, the depositions taken at any committal proceedings and any written statements or admissions used in the proceedings.

Husband and wife

259. (1) This Part shall apply in relation to the parties to a marriage, and to property belonging to the wife or husband whether or not by reason of an interest derived from the marriage, as it would apply if they were not married 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 or husband for any offence (whether under this Part or otherwise) as if they were not married, 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 or husband with having committed any offence with reference to that person's wife or husband or to property belonging to the wife or husband, the wife or husband 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 or husband (unless compellable at common law) shall not be compellable to disclose any communication made to him or her during the marriage by the accused; and
- (b) her or his 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 or husband, or for any attempt, incitement or conspiracy to commit such an offence, unless the proceedings are instituted by or with the consent of the Attorney-General:

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 or husband; or
 - (ii) if by virtue of any judicial decree or order (wherever made) that person and the wife or husband 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 or husband.

260. (1) A person shall not be excused, by reason that to do so may incriminate that person or the wife or husband of that person of an offence under this Part-

Effect on civil proceedings and rights

- (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 after the making of the statement or admission) against the wife or husband 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 VIII-Malicious Injuries to Property

Destroying or damaging property

261. (1) Whoever, without lawful excuse, destroys or damages any property, whether belonging to himself or another-

- (a) intending to destroy or damage any property, or being reckless as to whether any property would be destroyed or damaged; and
- (b) intending by the destruction or damage to endanger the life of another, or being reckless as to whether the life of another would thereby be endangered,

is guilty of an offence.

(2) An offence committed under this section by destroying or damaging property by fire shall be charged as arson.

(3) Whoever is convicted of arson under subsection (1) or (2) is liable to imprisonment for life, and whoever is convicted of any other offence under this section is liable to a fine of ten thousand dollars and to imprisonment for ten years

Threats to destroy or damage property

262. Whoever, 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 his own property in a way which he knows is likely to endanger the life of that other or a third person,

is guilty of an offence and liable on conviction to imprisonment for ten years.

263. Whoever-

Attempts to destroy or
damage property

- (a) attempts unlawfully to set fire to anything that is mentioned in section 261; or
- (b) wilfully and unlawfully sets fire to anything which is so situated that any such thing as is mentioned in section 261 is likely to catch fire from it,

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

264. Whoever wilfully and unlawfully sets fire to-

Setting fire to crops, etc.

- (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,

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

265. Whoever-

Attempts to set fire to
crops, etc.

- (a) attempts unlawfully to set fire to any such thing as is mentioned in section 264; or
- (b) wilfully and unlawfully sets fire to anything which is so situated that any such thing as is mentioned in section 264 is likely to catch fire from it,

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

266. Whoever-

Casting away ships, etc.

- (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,

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

Penal Code (2005 Revision)

Attempts to cast away ships, etc.	267. Whoever 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 is guilty of an offence and liable to imprisonment for fourteen years.
Killing or injuring animals	268. Whoever wilfully and unlawfully kills, maims or wounds any animal capable of being stolen is guilty of an offence and liable to imprisonment for five years.
Attempts to destroy property by explosives	269. Whoever unlawfully and with intent to destroy or damage any property puts any explosive substance in any place whatever is guilty of an offence and liable to imprisonment for fourteen years.
Communicating infectious diseases to animals	270. Whoever 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, is guilty of an offence and liable to imprisonment for seven years.
Criminal trespass	271. (1) Whoever, 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 is guilty of the offence of criminal trespass and liable to a fine of one thousand dollars and to imprisonment for one year. (2) Whoever 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 is guilty of an offence and 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	272. Whoever, in the course of committing a criminal trespass- <ul style="list-style-type: none">(a) has in his possession any firearm, offensive weapon, explosive or implement of housebreaking;(b) has in his 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,

is guilty of aggravated criminal trespass and liable to imprisonment for four years in addition to any punishment to which he may be liable under this or any other law.

273. Whoever, 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 is guilty of an offence and 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 he is responsible.

Doing damage to or on unenclosed land

PART IX- Forgery, Coining and Counterfeiting

274. Forgery is the making of a false document with intent to defraud or deceive.

Definition of forgery

275. In this Part-

Document

“document” does not include a trade mark or other sign used in connection with articles of commerce though they may be written or printed.

276. Any person makes a false document who-

Making a false document

- (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 his authority whether such name is or is not the same as that of the person signing;
 - (ii) in the name of any fictitious person alleged to exist whether the fictitious person is or is not alleged to be of the same name as the person signing;
 - (iii) in the name represented as being the name of a different person from that of the person signing it and intended to be mistaken for the name of that person; 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 he professes to be.

277. 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

Intent to defraud

such person from being defrauded in fact, nor by the fact that he had or thought he had a right to the thing obtained by the false document.

Definition of currency note

278. 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

279. Whoever forges any document is guilty of an offence and 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.

280. (1) Whoever forges any will is guilty of an offence and liable to imprisonment for ten years.

(2) Whoever 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, is guilty of an offence and 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

281. Whoever forges any judicial or official document is guilty of an offence and liable to imprisonment for ten years.

Forgery, etc. of stamps

282. Whoever-

- (a) forges any stamp, whether impressed or adhesive, used for the purposes of revenue or accounting by any Government Department;
- (b) without lawful excuse, the proof whereof shall lie upon him, makes or has knowingly in his possession any die or instrument capable of making the impression of any such stamp;
- (c) fraudulently cuts, tears in any way, or removes from any material any stamp used for 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 him, has in his possession any stamp or part of a stamp which has been fraudulently cut, torn or otherwise removed from any material, or any stamped material out of which any name, sum, date, or other matter or thing has been fraudulently erased or otherwise really or apparently removed,

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

283. Whoever knowingly and fraudulently utters a false document is guilty of an offence of the same kind and liable to the same punishment as if he had forged the thing in question. Uttering false document

284. Whoever 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, is guilty of an offence of the same kind and liable to the same punishment as if he had forged the document. Procuring execution of documents by false pretences

285. Whoever knowingly utters as and for a subsisting and effectual document, any document which has by any lawful authority been ordered to be revoked, cancelled or suspended, or the operation of which has ceased by effluxion of time, or by death or by the happening of any other event, is guilty of an offence of the same kind and liable to the same punishment as if he had forged the document. Uttering cancelled or exhausted document

286. Whoever, with intent to defraud- Obliterating crossing on cheque

- (a) obliterates, adds to, or alters the crossing on a cheque; or
- (b) knowingly utters a crossed cheque, the crossing on which has been obliterated, added to, or altered,

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

287. Whoever with intent to defraud or deceive- Making documents without authority

- (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,

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

Demanding property upon forged testamentary instruments	288. Whoever procures the delivery or payment to himself or any other person of any property or money by virtue of any probate or letters of administration granted upon a forged testamentary instrument, knowing the testamentary instrument to have been forged, or upon or by virtue of any probate or letters of administration obtained by false evidence, knowing the grant to have been so obtained, is guilty of an offence of the same kind, and liable to the same punishment, as if he had forged the document or thing by virtue whereof he procures the delivery or payment.
Importing or purchasing forged notes	289. (1) Whoever, without lawful authority or excuse, the proof of which lies on him, imports into the Islands, or purchases or receives from any person, or has in his possession a forged bank note or currency note, whether filled up or in blank, knowing it to be forged, is guilty of an offence and liable to imprisonment for ten years. (2) Whoever knowingly and fraudulently utters a forged bank note or currency note is guilty of an offence and liable to imprisonment for ten years.
Falsifying warrants or money payable under public authority	290. Whoever, 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 is guilty of an offence and liable to imprisonment for ten years.
Falsification of register	291. Whoever, having the actual custody of any register or record kept by lawful authority, knowingly permits any entry which in any material particular is to his knowledge false is guilty of an offence and liable to imprisonment for ten years.
Sending false certificate of marriage to registrar	292. Whoever signs or transmits to a person authorised by law to register marriages a certificate of marriage or any document purporting to be a certificate of marriage which in any material particular is to his knowledge false is guilty of an offence and liable to imprisonment for seven years.
False statements for registers of births, marriages and deaths	293. Whoever knowingly and with intent to procure the same to be inserted in a register of births, marriages or deaths makes any false statement touching any matter required by law to be registered in such register is guilty of an offence and liable to imprisonment for five years.
Definition of coin, etc.	294. 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.

295. Whoever makes or begins to make any counterfeit coin is guilty of an offence and liable to imprisonment for ten years. Counterfeiting coin

296. Whoever- Preparations for coining

- (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 him-
 - (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 his possession, or disposes of any stamp or mould which is adapted to make the resemblance of both or either of the sides of any coin, or any part of 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 his 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 his 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,

is guilty of an offence, and, if the offence is committed with respect to current coin, liable to imprisonment for life, or, in the case of current coin of a foreign Sovereign or State, to imprisonment for seven years.

297. Whoever, without lawful authority or excuse, the proof of which is on him- Making or having in possession paper or implements of forgery

- (a) makes, uses or knowingly has in his custody or possession any paper intended to resemble and pass as a special paper such as is provided and used for the making of any bank note or currency note;
- (b) makes, uses or knowingly has in his custody or possession any frame, mould or instrument for making such paper, or for producing in or on such paper any words, figures, letters, marks, lines or devices peculiar to 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 his custody or possession any plate, wood, stone or other material upon which any such words, figures, letters, marks, lines or devices have been engraved or in anyway made as aforesaid; or
- (e) uses or knowingly has in his 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,

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

Impairing, etc., current coin

298. (1) Whoever 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, is guilty of an offence and liable on conviction to imprisonment for fourteen years.

(2) Whoever unlawfully has in his 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, is guilty of an offence and liable on conviction to imprisonment for seven years.

Melting down of currency

299. Whoever 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 is guilty of an offence and liable to a fine of two hundred dollars and to imprisonment for six months.

Impounding and destruction of counterfeit coin

300. Any officer of the Government or the manager of any bank who receives, during the performance of his duties, any coin which he has reasonable ground for believing to be counterfeit coin shall impound such coin and transmit it to the Chairman of the Board of the Cayman Islands Monetary Authority who may cut, deface or destroy it without compensation, as he thinks fit, if in his opinion it is

counterfeit. For the purposes of this section the decision of the Chairman 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 Chairman of the Board of the Cayman Islands Monetary Authority, the Government, the officer of the Government concerned, the manager of the bank concerned or his bank in respect of any loss or damage suffered by reason of such impounding and cutting defacing or destruction.

301. Whoever unlawfully has in his possession or disposes of any filings or clippings of gold or silver, or any gold or silver in bullion, dust solution or 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, is guilty of an offence and liable to imprisonment for seven years. Possession of clippings

302. Whoever utters any counterfeit coin, knowing it to be counterfeit, is guilty of an offence. Uttering counterfeit coin

303. Whoever- Repeated uttering

- (a) utters any counterfeit coin knowing it to be counterfeit and, at the time of such uttering has in his possession any other counterfeit coin;
- (b) utters any counterfeit coin knowing it to be counterfeit and, either on the same day or on any of the ten days next ensuing, utters any other counterfeit coin knowing it to be counterfeit; or
- (c) receives, obtains or has in his possession any counterfeit coin knowing it to be counterfeit, with intent to utter it,

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

304. Whoever, with intent to defraud- Uttering metal or coin not current as coin

- (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,

is guilty of an offence and liable to imprisonment for one year.

305. Whoever, without lawful authority or excuse, the proof of which lies on him, 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 is guilty of an offence and liable to imprisonment for six months. Selling articles bearing designs in imitation of currency

306. Whoever, without lawful authority or excuse, the proof of which lies on him, exports or puts on board of a vessel, hovercraft or aircraft of any kind for the Exporting counterfeit coin

purpose of being exported from the Islands any counterfeit coin whatever, knowing it to be counterfeit is guilty of an offence.

Forfeiture

307. 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

308. Whoever, without lawful authority or excuse, the proof whereof lies upon him-

- (a) makes or mends or begins to make or mend, or uses, or knowingly has in his 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 his possession or disposes of any paper or other material which has on it the impression of any such die, plate or instrument, or any paper which has on it 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 his 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 he knows to have been used,

is guilty of an offence and liable to imprisonment for seven years and any die, plate, instrument, paper or other thing as aforesaid which is found in his possession shall be forfeited to the Crown.

309. (1) Whoever, without lawful authority or excuse, the proof of which lies on him-

Paper and dies for postage stamps

- (a) makes, or begins or prepares to make, or uses for any postal purpose, or has in his possession, or dispose 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 his possession, or disposes of any plate, die, instrument or material for making any such imitation or representation,

is guilty of an offence and 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 his 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.

310. 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 defined

311. Whoever 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 is guilty of an offence.

Trade mark offences

**PART X-Attempts and Conspiracies to Commit Crimes and Accessories
After the Fact**

312. (1) When a person intending to commit an offence begins to put his intention into execution by means adapted to its fulfilment and manifests his intention by some overt act but does not fulfil his intention to such an extent as to commit the offence, he is deemed to attempt to commit the offence.

Attempt defined

(2) It is immaterial, except so far as regards punishment, whether the offender does all that is necessary on his part for completing the commission of the offence, or whether the fulfilment of his intention is prevented by circumstances independent of his will, or whether he desists of his own volition from the further prosecution of his 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

313. (1) Whoever attempts to commit an offence, is guilty of an offence and is, unless any other punishment is provided in this Law 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 he 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 he 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 Law or any other law, creating the offence under which he would be charged as if the charge was of the complete offence.

(3) A provision in any law, including this Law, 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

314. Whoever, 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, be guilty of an offence.

Conspiracy to commit an offence

315. Whoever 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 is guilty of an offence and 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.

316. Whoever conspires with another or others to-

Other conspiracies

- (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 his 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 his part, the free and lawful exercise by any person of his trade, profession or occupation;
- (f) effect any unlawful purpose; or
- (g) effect any lawful purpose by any unlawful means,

is guilty of an offence.

317. (1) Where a person has committed an arrestable offence, whoever, knowing or believing him to be guilty of the offence or of some other arrestable offence, does without lawful authority or reasonable excuse any act with intent to impede his apprehension or prosecution, is said to become an accessory after the fact.

Definition of accessories after the fact

(2) A person does not become an accessory after the fact to an offence which his or her spouse has committed by receiving the spouse or assisting the spouse to escape punishment, or by receiving in the presence of the spouse and by the spouse's authority another person who has committed an offence in the commission of which the spouse has taken part, in order to enable that other person to escape punishment or avoid apprehension.

318. Whoever is convicted of being an accessory after the fact is liable to imprisonment-

Punishment of accessories after the fact

- (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.

Publication in revised and consolidated form authorised by the Governor in Cabinet this 12th day of July, 2005.

Carmena Watler
Clerk of Cabinet

Notes:

1. *As at the 12th July, 2005, the Children Law, 2003 (Law 4 of 2003) had not been brought into force. When it comes into force, the words “parental responsibility (within the meaning of the Children Law, 2003) or care of” shall be substituted for the words “the lawful care or charge”.*

2. *As at the 12th July, 2005, the Children Law, 2003 had not been brought into force.*

3. *Section 106 of the Trusts Law (2001 Revision) provided that -*

1. Section 233(1) of the Penal Code (2005 Revision) does not apply in relation to special trusts.

2. For purposes of the Penal Code (2005 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.

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