

[Print Page](#)[Find Component](#)[Find Legislation](#)[History ON](#)

Criminal Code Act 1924 (No. 69 of 1924)

Requested: 28 Jun 2013

Consolidated as at: 2 Sep 2007

INFORMATION

Notes:

Links:

Table of Amending
Instruments:

[\(click to view Table of Amendments\)](#)

Responsible Minister and
Department:

See the latest Administrative Arrangement Order or view the
[Information Guides to Legislation](#)



TASMANIA

Criminal Code Act 1924

An Act to declare, consolidate, and amend the criminal law, and to establish a code of criminal law

[Royal Assent 4 April 1924]

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the [Criminal Code Act 1924](#).

2. Establishment of the Criminal Code

(1) After the passing of this Act, the provisions contained in the Code of Criminal Law set forth in [Schedule 1](#), and hereinafter called [the Code](#), shall be the law of this State with respect to the several matters therein dealt with.

(2) The said Code may be cited as the [Criminal Code](#).

3. Repeals

(1) After the passing of this Act no penal enactment contained in any Imperial Act, not having the force of law in this State otherwise than by virtue of the provisions of [section 24 of the Australian Courts Act 1828](#), shall continue in force or be applied in the administration of justice in this State.

(2) The several Acts mentioned in [Schedule 2](#) shall be repealed to the extent in the said schedule indicated.

(3) The repeal of any statute or part of a statute set forth in the said schedule shall not affect the construction of any other statute, or of any other part of the same statute.

4. Construction of statutes

(1) After the passing of this Act every statute shall, for the purposes of this Act, be read and construed as if any offence therein mentioned for which the offender may be prosecuted on indictment or information (however such offence may be therein described or referred to) were described or referred to as a crime as defined by [the Code](#); and all provisions of this Act relating to crimes generally shall apply to every such offence.

(2) Where in any statute reference is made to proceedings upon information in the Supreme Court, the same shall be construed as a reference to proceedings upon indictment.

(3) Except as provided in [section 36 of the Acts Interpretation Act 1931](#), nothing contained in this Act or in [the Code](#) shall be construed to affect the construction of any statute, or of any provision thereof, creating an offence punishable summarily or referring or relating to summary proceedings.

5. Trial by magistrate in certain cases

(1) Where in any unrepealed statute, passed before the passing of this Act, it is provided that any offence therein created, defined, or made punishable shall be punishable by any term of imprisonment not exceeding 2 years (whether such offence is described as a misdemeanour, or otherwise), or that any offence shall be a misdemeanour, and no specific punishment is thereby provided for the same, every such offence shall be punishable summarily before a magistrate as herein provided.

(2) In every such case, as aforesaid, a magistrate shall have power to impose upon any person convicted of any such offence a term of imprisonment not exceeding one year, or such shorter period as may be provided by such statute, in addition to any fine or other punishment, if any, authorized thereby, or otherwise.

(3) In any case in which the term of imprisonment authorized by any such statute exceeds one year the magistrate before whom any person is charged with an offence thereunder may –

(a) if such person demands to be tried by jury; or

(b) if, in his opinion, the charge should be tried upon indictment –
commit such person for trial upon indictment under [the Code](#).

(4) A person so committed shall thereupon be dealt with under the provisions of [the Code](#) relating to proceedings upon indictment, and may be punished in manner provided by such statute as aforesaid.

(5) The provisions of this section shall apply only in respect of offences which were intended by the Act constituting the same to be prosecuted upon information or indictment, and in respect of which no other mode of proceeding is provided by such Act or any other Act.

6. Prosecutions at common law abolished

After the passing of this Act no person shall be proceeded against as for a crime as defined by [the Code](#), except under the provisions of this Act, or of some other Act, or of some Commonwealth Act, or of some Imperial Act in force in this State.

7. Proceedings to be initiated by indictment

All proceedings in the Supreme Court against any person for a crime shall be initiated by indictment, and shall be prosecuted in accordance with the provisions of [the Code](#) relating thereto.

8. Saving of common law defences

All rules and principles of the common law which render any circumstances a justification or excuse for any act or omission, or a defence to a charge upon indictment, shall remain in force and apply to any defence to a charge upon indictment, except in so far as they are altered by, or are inconsistent with, [the Code](#).

9. No remedy in tort for act declared lawful: Civil remedies for crime not suspended

(1) Where by [the Code](#) any act is declared to be lawful, no action shall be brought in respect thereof.

(2) Except as aforesaid, the provisions of this Act shall not affect any right of action which any person would have had against another if this Act had not been passed; nor shall the omission from [the Code](#) of any penal provision in respect of any act or omission which, before the passing of this Act, constituted an actionable wrong affect any right of action in respect thereof.

(3) No civil remedy for any act or omission shall be suspended by reason that such act or omission amounts to a criminal offence.

10. Saving of summary procedure at common law for contempt of court

Nothing in this Act shall affect the authority of courts of record to punish a person summarily for the offence commonly known as "contempt of court"; but no person shall be so punished and also punished under the provisions of [the Code](#) for the same act or omission.

11. Outlawry, attain, and forfeiture abolished

(1) After the passing of this Act no proceedings in outlawry shall be taken, and no judgment of outlawry shall be pronounced, against any person.

(2) No confession, verdict, inquest, conviction, or judgment of or for any treason, felony, or other crime, shall hereafter cause any attainder or corruption of blood or any forfeiture or escheat other than any fine or penalty imposed by the sentence of the Court.

12. Rules of Court

(1) The judges may make Rules of Court prescribing all such matters and things as are required to be prescribed or as may be necessary or desirable for giving effect to the provisions of [the Code](#); and such rules may provide for all matters relating to procedure and practice on appeals to the Court of Criminal Appeal on questions reserved for the consideration and determination of that Court, or referred to that Court, pursuant to [Chapter XLII](#) of the Code, and in all proceedings before courts of trial, and all matters incidental thereto respectively.

(2) This section does not authorize the making of provision by a Rule of Court of any matter for which provision may be made under [section 12A](#).

12A. Business and sittings of court

(1) The Chief Justice is responsible for ensuring the orderly and expeditious discharge of the business of the criminal jurisdiction of the Supreme Court and the Court of Criminal Appeal and accordingly may, subject to this Act and after such consultation with the judges as is appropriate and practicable, make arrangements as to the judge or judges who is or are to constitute the Court in a particular matter or class of matters.

(2) Sittings of the criminal jurisdiction of the Supreme Court and sittings of the Court of Criminal Appeal are to be held from time to time as required at the places at which the registries of the Court are established and at such other places as may be determined by the Chief Justice from time to time.

13. Saving of prerogative of mercy

Nothing herein contained shall affect His Majesty's Royal prerogative of mercy.

SCHEDULE 1

PART I - Introductory

Chapter I - Interpretation

1. Interpretation

In the Code, unless the contrary intention appears –

aircraft includes any machine that can derive support in the atmosphere from the reactions of the air;

chapter means chapter of the Code;

claim of right means a claim of right which is made in good faith;

company means a company incorporated in this State or elsewhere;

contaminate, in respect of goods, includes –

(a) interfere with the goods; and

(b) making it appear that the goods have been contaminated or interfered with;

crime means an offence punishable upon indictment;

criminally responsible means liable to punishment as for an offence; and the term *criminal responsibility* means liability to punishment as for an offence;

Crown means –

(a) the Crown in right of Tasmania; or

(b) the State of Tasmania;

Crown Law Officer means the Attorney-General or Solicitor-General, or any person appointed by the Governor to institute or prosecute criminal proceedings in the Supreme Court;

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

female genital mutilation means –

(a) a clitoridectomy; or

(b) an excision of any other part of the female genital organs; or

(c) an infibulation or similar procedure; or

(d) any other mutilation of the female genital organs.

goods includes any substance –

(a) whether or not for human consumption; and

(b) whether natural or manufactured; and

(c) whether or not incorporated or mixed with other goods;

grievous bodily harm means any bodily injury of such a nature as to endanger or be likely to endanger life, or to cause or be likely to cause serious injury to health;

have in possession includes having under control in any place whatever, whether for the use or benefit of the person of whom the term is used or of another person, and although another person has the actual possession or custody of the thing in question;

instigate means to counsel, procure, or command;

judicial officer means a person having authority by law to hear and determine any question or matter or to hold any inquiry, and includes an arbitrator or umpire;

night means the interval between 9 p.m. and 6 a.m. of the next day;

offence means any breach of the law for which a person may be punished summarily or otherwise;

offensive weapon includes anything that has the appearance of a firearm or a gun or pistol of any kind, whether capable of being discharged or not;

owner means His Majesty or any other person or body of persons, corporate, or unincorporate, capable of owning property;

penis includes a surgically constructed penis;

property includes everything animate or inanimate capable of being the subject of ownership;

public officer means a person holding any public office, or who discharges any duty in which the public are interested, whether such person receives payment for his services or not;

railway includes every kind of way on which vehicles are borne upon a rail or rails, whatever may be the means of propulsion;

section means section of the Code;

sexual intercourse means the penetration to the least degree of the vagina, genitalia, anus, or mouth by the penis and includes the continuation of sexual intercourse after such penetration;

ship includes every kind of vessel used in navigation not propelled by oars;

vagina includes a surgically constructed vagina;

valuable security includes every document forming the title, or evidence of the title, to any property of any kind whatever;

vessel includes a ship, or boat, and every other kind of vessel used in navigation;

writing includes anything expressed in words, characters, or symbols, and intended to be read.

1A. Definitions for purposes of [sections 130](#), [130A](#), [130B](#), [130C](#), [130D](#), [130E](#), [130F](#), [130G](#) and [337C](#)

For the purposes of [sections 130](#), [130A](#), [130B](#), [130C](#), [130D](#), [130E](#), [130F](#), [130G](#) and [337C](#) –

access, in relation to material, includes the display of the material by an electronic medium or any other output of the material by an electronic medium;

child exploitation material means material that describes or depicts, in a way that a reasonable person would regard as being, in all the circumstances, offensive, a person who is or who appears to be under the age of 18 years –

(a) engaged in sexual activity; or

(b) in a sexual context; or

(c) as the subject of torture, cruelty or abuse (whether or not in a sexual context);

electronic medium means any thing that contains data from which text, images or sound can be generated;

material includes any film, printed matter, electronic data and any other thing of any kind (including any computer image or other depiction);

person includes part of a person;

produce includes make, film, print, photograph and record.

2. Definition of attempts

(1) An attempt to commit a crime is an act or omission done or made with intent to commit that crime, and forming part of a series of events which if it were not interrupted would constitute the actual commission of the crime.

(2) The offence of attempting to commit a crime may be committed, although the offender voluntarily desists from the actual commission of the crime itself, and whether under the circumstances it was possible to commit such crime or not.

(3) The point at which such a series of events as aforesaid begins depends upon the circumstances of each particular case.

(4) Whether an act or omission is, or is not, too remote to constitute an attempt to commit a crime is a question of law.

2A. Consent

(1) In the Code, unless the contrary intention appears, "**consent**" means free agreement.

(2) Without limiting the meaning of "free agreement", and without limiting what may constitute "free agreement" or "not free agreement", a person does not freely agree to an act if the person –

(a) does not say or do anything to communicate consent; or

- (b) agrees or submits because of force, or a reasonable fear of force, to him or her or to another person; or
- (c) agrees or submits because of a threat of any kind against him or her or against another person; or
- (d) agrees or submits because he or she or another person is unlawfully detained; or
- (e) agrees or submits because he or she is overborne by the nature or position of another person; or
- (f) agrees or submits because of the fraud of the accused; or
- (g) is reasonably mistaken about the nature or purpose of the act or the identity of the accused; or
- (h) is asleep, unconscious or so affected by alcohol or another drug as to be unable to form a rational opinion in respect of the matter for which consent is required; or
- (i) is unable to understand the nature of the act.

(3) If a person, against whom a crime is alleged to have been committed under chapters [XIV](#) or [XX](#), suffers grievous bodily harm as a result of, or in connection with, such a crime, the grievous bodily harm so suffered is evidence of the lack of consent on the part of that person unless the contrary is shown.

Chapter II - Persons Subject to Punishment for a Crime

3. Which parties to crimes to be deemed principals in the first degree

(1) Where a crime is committed, each of the following persons is deemed to be a party to, and to be guilty of, the crime, and may be charged with actually committing it:

- (a) every person who actually commits the crime;
- (b) every person who does any act or makes any omission for the purpose of enabling or aiding another person to commit the crime;
- (c) every person who abets another person in committing the crime;
- (d) every person who instigates any other person to commit the crime.

(2) Any person who instigates another to do any act or make any omission of such a nature that, if he had himself done the act or made the omission, the act or omission would have constituted a crime on his part, is guilty of the same crime as if he had himself done the act or made the omission; and may be charged with himself committing that crime.

4. Crimes committed in prosecution of common purpose

Where 2 or more persons form a common intention to prosecute an unlawful purpose in conjunction with one another, and in the prosecution of such purpose a crime 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 crime.

5. In case of instigators, mode of execution immaterial

Where a person instigates another to commit a crime, and a crime is actually committed after such instigation by the person instigated, it is immaterial whether the crime actually committed is the same as that instigated or not, or whether the crime is committed in the manner suggested or not; provided in either case that the facts constituting the crime actually committed are a probable consequence of carrying out the instigation. In any such case the instigator is deemed to have himself committed the crime actually committed.

6. Accessories after the fact: When wives and husbands not so

(1) A person who receives or assists another who is, to his knowledge, guilty of a crime, in order to enable him to escape punishment, is said to become an accessory after the fact to such crime.

(2) A married woman does not become an accessory after the fact to a crime of which her husband is guilty, by receiving or assisting him in order to enable him to escape punishment; nor by receiving or assisting, in her husband's presence and by his authority, another person who is guilty of a crime in the commission of which her husband has taken part, in order to enable that other person to escape punishment; nor does a husband become accessory after the fact to a crime of which his wife is guilty by receiving or assisting her in order to enable her to escape punishment.

Chapter III - Application of Criminal Law

7. Effect of changes in statute law

(1) No person shall be punished as for a crime if at the time of his trial the act or omission with which he is charged no longer constitutes a crime.

(2) If the law in force when a crime was committed differs from that in force at the time of the conviction therefor, the offender shall not be punished to any greater extent than was authorized by the former law, or than is authorized by the latter law.

8.

9. Instigation in this State of crimes committed elsewhere

(1) Any person who in this State instigates another to do an act or make an omission outside this State, which act or omission would constitute a crime on his part both in this State, if done or made by him here, and in the place where it occurs, if done or made by him there – is guilty of the same crime as if he had himself done the act or made the omission in this State, but the punishment shall not exceed that provided by the law in force in the place where the act or omission was done or made.

(2) No person shall be prosecuted under the provisions of this section except at the request of the Government of the State having jurisdiction where such act or omission is done or made.

10. Military and naval forces

Officers and men of the military and naval forces are at all times subject to the provisions of the Code.

11. Person not to be twice punished for same crime

Where a person is punishable under the Code, and also under any other statute, or under 2 or more sections of the Code or of any other statute, he may be tried and punished under the Code or such other statute or under either of such sections, as the case may be; but he shall not be punished twice in respect of the same act or omission, unless his act or omission renders him guilty of unlawfully causing the death of any person, and such death occurs after he has been once punished.

Chapter IV - Criminal Responsibility

12. Ignorance of law

The fact that an offender is ignorant of the law is not an excuse for any offence committed by him, but it may be relevant to the question whether or not an act or omission which would constitute an offence if accompanied by a certain intention or state of mind was in fact accompanied by that intention or state of mind.

13. Intention and motive

(1) No person shall be criminally responsible for an act, unless it is voluntary and intentional; nor, except as hereinafter expressly provided, for an event which occurs by chance.

(2) Except as otherwise expressly provided, no person shall be criminally responsible for an omission, unless it is intentional.

(3) Any person who with intent to commit an offence does any act or makes any omission which brings about an unforeseen result which, if he had intended it, would have constituted his act or omission some other offence, shall, except as otherwise provided, incur the same criminal responsibility as if he had effected his original purpose.

(4) Except where it is otherwise expressly provided, the motive by which a person is induced to do any act or make any omission is immaterial.

14. Mistake of fact

Whether criminal responsibility is entailed by an act or omission done or made under an honest and reasonable, but mistaken, belief in the existence of any state of facts the existence of which would excuse such act or omission, is a question of law, to be determined on the construction of the statute constituting the offence.

14A. Mistake as to consent in certain sexual offences

(1) In proceedings for an offence against [section 124](#), [125B](#), [127](#), [127A](#) or [185](#), a mistaken belief by the accused as to the existence of consent is not honest or reasonable if the accused –

(a) was in a state of self-induced intoxication and the mistake was not one which the accused would have made if not intoxicated; or

(b) was reckless as to whether or not the complainant consented; or

(c) did not take reasonable steps, in the circumstances known to him or her at the time of the offence, to ascertain that the complainant was consenting to the act.

(2) In proceedings for an offence of attempting to commit an offence against [section 124](#), [125B](#), [127A](#) or [185](#), absence of intention to commit the attempted offence is not a defence if it is established that the absence of intent was due to –

(a) self-induced intoxication; or

(b) a failure to take reasonable steps in the circumstances known to the accused at the time of the offence to ascertain that the complainant would have consented to the act constituting the offence against [section 124](#), [125B](#), [127A](#) or [185](#).

15. Presumption of sanity

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.

16. Insanity

(1) A person is not criminally responsible for an act done or an omission made by him –

(a) when afflicted with mental disease to such an extent as to render him incapable of –

(i) understanding the physical character of such act or omission; or

(ii) knowing that such act or omission was one which he ought not to do or make; or

(b) when such act or omission was done or made under an impulse which, by reason of mental disease, he was in substance deprived of any power to resist.

(2) The fact that a person was, at the time at which he is alleged to have done an act or made an omission, incapable of controlling his conduct generally, is relevant to the question whether he did such act or made such omission under an impulse which by reason of mental disease he was in substance deprived of any power to resist.

(3) A person whose mind at the time of his doing an act or making an omission is affected by a delusion on some specific matter, but who is not otherwise exempted from criminal responsibility under the foregoing provisions of this section, is criminally responsible for the act or omission to the same extent as if the fact which he was induced by such delusion to believe to exist really existed.

(4) For the purpose of this section the term *mental disease* includes natural imbecility.

17. Intoxication

(1) The provisions of [section 16](#) shall apply to a person suffering from disease of the mind caused by intoxication.

(2) Evidence of such intoxication as would render the accused incapable of forming the specific intent essential to constitute the offence with which he is charged shall be taken into consideration with the other evidence in order to determine whether or not he had that intent.

(3) Evidence of intoxication not amounting to any such incapacity as aforesaid shall not rebut the presumption that a person intends the natural and probable consequences of his acts.

18. Immature age

(1) No act or omission done or made by a person under 10 years of age is an offence.

(2) No act or omission done or made by a person under 14 years of age is an offence unless it be proved that he had sufficient capacity to know that the act or omission was one which he ought not to do or make.

(3) A male person under 7 years of age is conclusively presumed to be incapable of having sexual intercourse.

19. Judicial officers

A judicial officer is not criminally responsible for anything done or omitted to be done by him in good faith in the exercise of his judicial functions, although the act done is in excess of his judicial authority, or although he is bound to do the act omitted to be done.

20. When compulsion a defence

(1) Except as provided by [section 64](#), compulsion by threats of immediate death or grievous bodily harm, from a person actually present at the commission of the offence, shall be an excuse for the commission, by a person subject to such threats, and who believes that such threats will be executed, and who is not a party to any association or conspiracy the being a party to which rendered him subject to compulsion, of any offence other than treason, murder, piracy, offences deemed to be piracy, attempting to murder, rape, forcible abduction, aggravated armed robbery, armed robbery, aggravated robbery, robbery, causing grievous bodily harm, and arson.

(2) A married woman shall be in the same position as regards compulsion by her husband as if she were unmarried.

21. Execution of sentences, process, and warrants to arrest or detain declared lawful

(1) It is lawful for a person who is charged by law with the duty of executing or giving effect to the lawful sentence of a court, and for every person lawfully assisting him, to execute or give effect to that sentence.

(2) It is lawful for a person who is charged by law with the duty of executing the lawful process of a court, and who is required to arrest or detain another person under such process, and for every person lawfully assisting a person so charged, to arrest or detain that other person according to the terms of the process.

(3) It is lawful for a person who is charged by law with the duty of executing a lawful warrant issued by any court or justice or other person having jurisdiction to issue it, and who is required to arrest or detain another person under such warrant, and for every person lawfully assisting a person so charged, to arrest or detain that other person according to the directions of the warrant.

(4) It is lawful for a police officer who is charged by law with the duty of executing a lawful warrant issued by any court or justice or other person having jurisdiction to issue it, and who is required to arrest or detain a person under that warrant, to arrest or detain that person in accordance with [section 301\(4\)](#) and [\(5\)](#).

22. Erroneous sentence or process or warrant

If a sentence was passed or process issued by a court having jurisdiction under any circumstances to pass such a sentence or to issue such a process, or if a warrant was issued by a court or justice or other person having authority under any circumstances to issue such a warrant, it is immaterial whether the court or justice or person had or had not authority to pass the sentence or issue the process or warrant in the particular case, unless the person executing the same knows that the sentence or process or warrant was in fact passed or issued without authority.

23. Sentence or process or warrant without jurisdiction

A person who executes or assists in executing any sentence, process, or warrant which purports to be passed or issued by a court or justice or other person, and who would be justified in executing the same if it had been passed or issued by a court, justice, or person having authority to pass or issue it, is not criminally responsible for any act done in such execution, notwithstanding that the court or justice or person had no authority to pass the sentence or issue the process or warrant, if in such execution he acted in good faith and in the belief that the sentence, process, or warrant was that of a court or justice, or other person having such authority.

24. Arrest in good faith of wrong person

(1) A person who, being duly authorized to execute a warrant to arrest one person, arrests another person, believing in good faith and on reasonable grounds that the person arrested is the person named in the warrant, is not criminally responsible for doing so to any greater extent than if the person arrested had been the person named in the warrant.

(2) Any person called upon to assist in any such arrest who assists therein, and any person required to receive and detain persons lawfully arrested who receives or detains such person, in the belief in any of such cases that such person is the person named in the warrant, is not criminally responsible to any greater extent than if the person arrested had been the person named in the warrant.

25. Irregular process or warrant

When any process or warrant is bad in law by reason of some defect in substance or in form apparent on the face of it, a person who, in good faith and believing that it is good in law, acts in the execution of the process or warrant, is not criminally responsible for anything done in such execution to any greater extent than if the process or warrant were good in law.

26. Force used in executing process or in arrest

(1) It is lawful for any person who is justified or protected in the execution of any sentence, process, or warrant, or in making an arrest, to use such force as may be reasonably necessary to overcome any force used in resisting such execution or arrest.

(2) It is lawful for a person who is justified or protected from criminal responsibility in the execution of any sentence, process, or warrant, to cause such damage to property as he may believe in good faith and on reasonable grounds to be necessary for the purpose of effecting such execution.

26A. Entry on premises for purposes of arrest

(1) A police officer may enter (using reasonable force if necessary), remain on and search premises, including a conveyance –

(a) on or in which the police officer has reasonable grounds for believing that a person named in a warrant for arrest is present; or

(b) for the purpose of making an arrest without warrant if it lawful to do so.

(2) Before entering any premises pursuant to [subsection \(1\)](#), a police officer must communicate or attempt to communicate to a person within the premises the police officer's authority to enter the premises unless the police officer reasonably believes that communicating or attempting to communicate would be likely to endanger any person or frustrate the arrest.

27. Arrest without warrant

(1) It is lawful for a police officer to arrest without warrant any person whom he finds committing a crime.

(2) In any case where any of the crimes specified in [Appendix A](#) has been committed it is lawful for a police officer to arrest without warrant any person whom he believes on reasonable grounds to have committed such crime.

(3) In any case where a police officer believes on reasonable grounds that any of the crimes specified in [Appendix A](#) has been committed it is lawful for him to arrest without warrant any person whom he believes on reasonable grounds to have committed such crime.

(4) It is the duty of every person to arrest without warrant any person whom he finds committing any of the crimes in [Appendix A](#).

(5) In any case where any of the crimes specified in [Appendix B](#) has been committed it is lawful for any person to arrest without warrant any person whom he believes on reasonable grounds to have committed such crime.

(6) It is lawful for any person to arrest without warrant any person whom he sees committing a breach of the peace or whom he believes on reasonable grounds to be about to commit or renew a breach of the peace.

(7) It is lawful for any person who finds another lying or loitering in any place by night under such circumstances as to afford reasonable grounds for believing that he has committed, or is about to commit, a crime, and who does in fact so believe, to arrest him without warrant.

(8) It is lawful for any person to arrest without warrant any person whom he believes on reasonable grounds to have committed a crime, and to be escaping from, and to be freshly pursued by, some person whom he believes on reasonable grounds to have authority to arrest him for that offence.

(9) In every case under this section in which it is lawful for a police officer to arrest any person it is his duty to do so.

(10) It is lawful for a police officer or the person in command of an aircraft to arrest without warrant on board that aircraft a person whom he finds committing, or attempting to commit, or

whom he believes on reasonable grounds to have committed, or to have attempted to commit, a crime under [Chapter XXXIA](#).

(11) It is lawful for any person to assist the person in command of an aircraft to arrest without warrant any other person on board the aircraft unless he knows the arrest to be illegal.

(12) The power of a police officer to arrest a person under this section is subject to the limits imposed on the power to arrest by [section 24 of the Youth Justice Act 1997](#).

28. Duty to assist police to make arrests

In any case where any person is called upon by a police officer to assist him in making an arrest it is the duty of such person to assist such officer therein, unless such person knows the arrest to be illegal.

29. Saving of statutory powers

Nothing in the Code shall take away or diminish any authority given by any other statute to arrest, detain, or put restraint upon any person.

30. Police officer preventing escape from arrest

(1) Where a police officer is proceeding lawfully to arrest a person, with or without warrant, and the person sought to be arrested takes to flight in order to avoid arrest, it is lawful for the police officer, and for any person lawfully assisting him, to use such force as may be reasonably necessary to prevent the escape of the person sought to be arrested.

(2) Where a police officer has lawfully arrested any person, it is lawful for him to use such force as he believes on reasonable grounds to be necessary to prevent the escape or rescue of the person so arrested.

(3) This section shall not authorize the use of force which is intended or is likely to cause death or grievous bodily harm, except in a case where the person sought to be arrested is suspected on reasonable grounds of having committed any of the crimes specified in [Appendix B](#), nor until the person sought to be arrested has been called upon to surrender.

31. Other cases of preventing escape from arrest

(1) It is lawful for any person who is proceeding lawfully to arrest another person to use such force as may be reasonably necessary to prevent his escape.

(2) This section shall not authorize the use of force which is intended or is likely to cause death or grievous bodily harm.

32. Preventing escape or rescue after arrest

(1) Where any person has lawfully arrested another person it is lawful for him to use such force as he believes on reasonable grounds to be necessary to prevent the escape or rescue of the person arrested.

(2) This section shall not authorize the use of force which is intended or is likely to cause death or grievous bodily harm.

33.

34. Suppression of riot

(1) It is lawful for any person to use such force as is necessary to suppress a riot, and is reasonably proportioned to the danger to be apprehended from the continuance of the riot.

(2) It is lawful for a police officer to use such force as he believes on reasonable grounds to be necessary in order to suppress a riot, not being disproportioned to the danger which he believes on reasonable grounds is to be apprehended from the continuance of the riot.

35. Suppression of riot by magistrates and police officers

It is lawful for a sheriff or justice to use or order to be used such force as he believes on reasonable grounds to be necessary in order to suppress a riot, not being disproportioned to the danger which he believes on reasonable grounds is to be apprehended from the continuance of the riot.

36. Suppression of riot by person acting under lawful orders

(1) It is lawful for any person acting in good faith in obedience to an order, not manifestly unlawful, given by a sheriff or justice for the suppression of a riot, to use such force as he believes on reasonable grounds to be necessary for carrying such order into effect.

(2) It is a question of law whether any particular order is manifestly unlawful or not.

37. Suppression of riot by person acting without order in case of emergency

Where any person, whether subject to military law or not, believes on reasonable grounds that serious mischief will arise from a riot before there is time to procure the intervention of a sheriff or justice, it is lawful for him to use such force as he believes on reasonable grounds to be necessary for the suppression of the riot, not being disproportioned to the danger which he believes on reasonable grounds is to be apprehended from the continuance of the riot.

38. Riot: Persons subject to military law

(1) It is lawful for a person who is bound by military law to obey the lawful commands of his superior officer to obey any command given him by such officer for the suppression of a riot, unless the command is manifestly unlawful.

(2) It is a question of law whether any particular command is manifestly unlawful or not.

39. Prevention of certain crimes

It is lawful for any person to use such force as he believes on reasonable grounds to be necessary in order to prevent the commission of a crime, the commission of which would be likely to cause immediate and serious injury to any person or property, or in order to prevent any act being done which he believes on reasonable grounds would, if done, amount to any such crime.

39A. Detention, &c., of persons in aircraft

(1) It is lawful for a police officer or the person in command of an aircraft, where he considers it necessary so to do in order to prevent the commission of a crime under [Chapter XXXIA](#) or to avoid danger to the safety of the aircraft or of persons on board the aircraft –

(a) to place or keep a person who is on board the aircraft under restraint or in custody; and

(b) if the aircraft is not in motion, to remove a person from the aircraft.

(2) It is lawful for any person to assist a police officer or the person in command of an aircraft in the exercise of the powers conferred by [subsection \(1\)](#).

39B. Search of aircraft, &c.

(1) If the person in command of an aircraft or a person authorized in writing in a particular case by a justice believes on reasonable grounds that an offence involving the safety of an aircraft has been, is being, or may be committed on board or in relation to an aircraft he may search or cause to be searched –

(a) the aircraft and any person, luggage, or freight on board the aircraft; and

(b) any person who is about to board the aircraft and any luggage or freight that is about to be placed on board the aircraft.

(2) It is lawful for any person to assist the person in command of an aircraft or authorized in accordance with [subsection \(1\)](#) in the exercise of the powers conferred by that subsection.

(3) Nothing in this section authorizes the search of a female otherwise than by a female.

40. Defence of dwelling-house

It is lawful for any person who is in peaceable possession of a dwelling-house, and for any person lawfully assisting him or acting by his authority, to use such force as the person using the same believes on reasonable grounds to be necessary to prevent the forcible breaking and entering of the dwelling-house by any person whom he believes on reasonable grounds to be attempting to break or enter the dwelling-house with intent to commit any crime therein, or to

eject therefrom any person who has unlawfully entered the dwelling-house, and whom he believes on reasonable grounds to intend to commit a crime therein.

41. Defence of premises against trespasses: Removal of disorderly persons

It is lawful for a person who is in peaceable possession of any land, structure, vessel, or place, or who is entitled to the control or management of any land, structure, vessel, or place, and for any person lawfully assisting him or acting by his authority, to use such force as the person using the same believes on reasonable grounds to be necessary to prevent any person from wrongfully entering upon such land, structure, vessel, or place, or to remove therefrom a person who wrongfully remains therein or conducts himself therein in a disorderly manner; provided that any such force is not intended and is not likely to cause death or grievous bodily harm.

42. Defence of possession of real property with claim of right

It is lawful for a person in peaceable possession of any land or structure, with a claim of right, and for any person lawfully assisting him or acting by his authority, to use such force as he believes on reasonable grounds to be necessary to defend his possessions against any person whether entitled by law to the possession of the property or not, provided that such force is not intended and is not likely to cause death or grievous bodily harm.

43. Defence of movable property against trespassers

It is lawful for any person in peaceable possession of any movable property, and for any person lawfully assisting him or acting by his authority, to use such force as he believes on reasonable grounds to be necessary to resist the taking of such property by a trespasser, or to retake it from a trespasser; provided that such force is not intended and is not likely to cause death or grievous bodily harm to the trespasser.

44. Defence of movable property with claim of right

It is lawful for a person in peaceable possession of any movable property under a claim of right, and for any person lawfully assisting him or acting by his authority, to use such force as is necessary to defend his possession of the property against any person whether entitled by law to possession thereof or not; provided that such force is not intended and is not likely to cause death or grievous bodily harm.

45. Retaking movable property under claim of right from person without claim of right

It is lawful for a person entitled by law to the possession of movable property to take it from a person who is in possession of the property, but who neither claims right to it nor acts by the authority of a person so claiming, and if the person in possession resists him, to use such force as is necessary to obtain possession of the property; provided that such force is not intended and is not likely to cause death or grievous bodily harm.

46. Self-defence and defence of another person

A person is justified in using, in the defence of himself or another person, such force as, in the circumstances as he believes them to be, it is reasonable to use.

47.

48.

49.

50. Domestic discipline

It is lawful for a parent or a person in the place of a parent to use, by way of correction, any force towards a child in his or her care that is reasonable in the circumstances.

51. Surgical operations

(1) It is lawful for a person to perform in good faith and with reasonable care and skill a surgical operation upon another person, with his consent and for his benefit, if the performance of such operation is reasonable, having regard to all the circumstances.

(2) In the case of a child too young to exercise a reasonable discretion in such a matter, such consent as aforesaid may be given by his parent or by any person having the care of such child.

(3) In the case of a person in such a condition as to be incapable of giving such consent as aforesaid, such operation may be performed without such consent.

52. Excessive force

A person authorized by law to use force is criminally responsible for any excess, according to the nature and quality of the act which constitutes such excess.

53. Consent to injuries

No person has a right to consent to the infliction –

(a) of death upon himself;

(b) except as provided in [section 51](#), of an injury likely to cause death; or

(c) of a maim for any purpose injurious to the public –

and any consent given in contravention hereof shall have no effect as regards criminal responsibility.

54. Liability of husband and wife for offences committed by either with respect to the other's property

(1) Except as provided in [subsection \(2\)](#), no married person shall be convicted of any offence alleged to have been committed by him or her during cohabitation with respect to the property of the other spouse.

(2) Every such person as aforesaid shall be criminally responsible for any offence committed with respect to any such property when leaving or deserting or about to leave or desert the other spouse; and for any offence committed with intent to defraud any person other than such spouse.

(3)

55. Liability of married persons generally

Except as hereinbefore expressly provided, a married person incurs the same criminal responsibility in respect of his or her acts and omissions as if such person were unmarried.

PART II - Crimes Against Public Order

Chapter V - Treason and Other Crimes Against the Sovereign's Person and Authority

56. Treason

Any person who –

(a) kills the King, or does him any bodily harm tending to his death, or maim or wounding, or imprisonment or restraint;

(b) kills the eldest son and heir apparent for the time being, or the Queen Consort, of the King;

(c) forms an intention to do any such act as aforesaid, and manifests such intention by any overt act;

(d) conspires with any other person to kill the King, or to do him any bodily harm tending to his death, or maim or wounding, or imprisonment or restraint;

(e) levies war against the King –

(i) with intent to depose him from the style, honour, and royal name of the Imperial Crown of the United Kingdom of Great Britain and Ireland, or of any other of His Majesty's dominions;

(ii) in order by force or constraint to compel the King to change his measures or counsels, or in order to put any force or constraint upon, or in order to intimidate or overawe, any House of Parliament of any of His Majesty's dominions;

(f) conspires with any other person to levy war against the King with any such intent or purpose as last aforesaid;

(g) instigates any foreigner to make an armed invasion of any part of His Majesty's dominions;

(h) assists by any means whatever any public enemy at war with the King;

(i) violates, whether with her consent or not, a Queen consort, or the wife of the eldest son and heir apparent for the time being of the King; or

(j) does any act which by the law of England constitutes treason –

is guilty of a crime, which is called treason, and is liable to imprisonment for the term of the person's natural life or for such other term as the Court determines.

Charge:

Treason.

57. Accessories after fact guilty of treason

Every person who is an accessory after the fact to treason shall be guilty of treason; but no such person shall be tried for knowingly comforting or receiving a traitor till such traitor has been convicted.

58. Concealment of treason

Any person who, knowing that any person has committed, or having reasonable grounds for believing that any person intends to commit, treason, does not give information thereof with all reasonable despatch to a justice, is guilty of a crime.

Charge:

Failing to give information of treason.

59. Treasonable crimes

Any person who forms an intention to effect any of the following purposes:

(a) to depose the King from the style, honour, and royal name of the Imperial Crown of the United Kingdom of Great Britain and Ireland, or of any other of His Majesty's dominions;

(b) to levy war against the King within any part of his dominions in order by force or constraint to compel the King to change his measures or counsels, or in order to put any force or constraint upon, or in order to intimidate or overawe, any House of Parliament of any of His Majesty's dominions; or

(c) to instigate any foreigner to make an armed invasion of any of His Majesty's dominions –

and manifests such intention by any overt act, is guilty of a crime.

Charge:

Manifesting a treasonable intention.

60. Evidence of treason: Limitation of time in treason charges

(1) No one shall be convicted of treason (unless he pleads guilty) except upon the evidence of 2 witnesses to one overt act of the kind of treason with which he is charged, or upon the evidence of one witness to one such act and one other witness to another such act.

(2) No one shall be liable to be indicted or tried for treason unless the indictment is filed within 3 years next after the crime was committed.

(3) The provisions of this section shall apply only to treason other than by killing His Majesty, or cases where the overt act alleged is any attempt to injure his person in any manner whatever, every of which crimes may be proved by the like evidence as any other crime.

61. Overt acts

For the purposes of this chapter –

(a) every act of conspiring with any person to effect any intention mentioned in this chapter;

(b) every act done in furtherance of such purpose by any of the persons so conspiring;

(c) the writing of any words expressive of such intention; and

(d) the speaking of any such words if accompanied by or explanatory of any act in furtherance of such intention –

shall be deemed to be an overt act manifesting such intention.

62. Inciting traitorous conduct

Any person who advisedly attempts to effect any of the following purposes:

(a) to seduce any person serving in His Majesty's forces by sea or land from his duty and allegiance to His Majesty;

(b) to incite any such person to commit an act of mutiny or any traitorous or mutinous act; or

(c) to incite any such person to make or endeavour to make a mutinous assembly, or to commit any traitorous or mutinous practice whatever –

is guilty of a crime.

Charge:

Inciting mutiny.

Chapter VI - Sedition: Libels on Foreign Powers

63. Unlawful oaths to commit crimes, &c.

Any person who –

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

(i) to commit any crime;

(ii) to be of any association, society, or confederacy formed for the purpose of committing any crime;

(iii) to obey the orders or commands of any committee or body of men not lawfully constituted, or of any leader or commander or other person not having authority by law to give such orders or commands;

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

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

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

is guilty of a crime.

Charge:

Administering [*or taking*] [*or being concerned in*] an unlawful oath.

64. Compulsion: How far a defence

Compulsion shall not be a defence to the taking of any such oath or engagement as aforesaid, unless the accused, within 14 days after taking it, or, if he is prevented by actual force or sickness, within 14 days after the termination of such prevention, declares by information on oath before a justice, or, if he is on actual service in His Majesty's forces by sea or land, either by such information or by information to his commanding officer, the whole of what he knows

concerning the matter, including the person or persons by whom and in whose presence, and the place where, and the time when, the oath or engagement was administered or taken.

65. Unlawful drilling

(1) Any person who –

(a) without lawful authority trains or drills any other person to the use of arms or the practice of military exercises, movements, or evolutions;

(b) is present at any meeting or assembly of persons held without lawful authority for the purpose of so training or drilling any other person;

(c) at any such meeting or assembly as aforesaid is trained or drilled to the use of arms or the practice of military exercises, movements, or evolutions; or

(d) is present at any such meeting or assembly for the purpose of being so trained or drilled –
is guilty of a crime.

Charge:

Unlawful drilling.

(2) A prosecution for any of the crimes mentioned in this section shall be commenced within 6 months after the crime is committed.

66. Definition of seditious intention

(1) An intention to effect any of the following purposes:

(a) to bring the Sovereign into hatred or contempt;

(b) to excite disaffection against the Sovereign or the Constitution or Government of the United Kingdom, or of the Commonwealth, or of this State, as by law established; or against either House of Parliament of the United Kingdom, the Commonwealth, or this State, or against the administration of justice in the United Kingdom, the Commonwealth, or this State;

(c) to excite His Majesty's subjects to attempt to procure otherwise than by lawful means the alteration of any matter affecting any such Constitution or Government as aforesaid;

(d) to raise discontent or disaffection amongst His Majesty's subjects;

(e) to promote feelings of ill-will and enmity between different classes of His Majesty's subjects

–

is a seditious intention.

(2) An intention –

(a) to endeavour in good faith to show that the Sovereign has been mistaken in any of his Counsels;

(b) to point out in good faith errors or defects in the Government or Constitution of the United Kingdom, the Commonwealth, or this State as by law established, or in the legislation or administration of justice in the United Kingdom, the Commonwealth, or this State, with a view to the reformation of such errors or defects;

(c) to excite in good faith His Majesty's subjects to attempt to procure by lawful means the alteration of any such Constitution or Government or of any matter affecting the same; or

(d) to point out in good faith, in order to their removal, any matters which are producing, or have a tendency to produce, feelings of ill-will and enmity between different classes of His Majesty's subjects –

is not a seditious intention within the meaning of this section.

67. Sedition: Limitation of time in charges

(1) Any person who –

(a) conspires with any person to carry into execution a seditious intention; or

(b) knowingly publishes any words or writing expressive of a seditious intention –

is guilty of a crime.

Charge:

Sedition.

(2) A prosecution for any of the crimes mentioned in this section shall be commenced within 6 months after the crime is committed.

(3) No person shall be convicted of any crime under this section upon the testimony of one witness, unless the same is corroborated in some material particular by other evidence implicating the accused person.

68. Libels on foreign powers

(1) Any person who, without lawful justification, publishes any writing tending to degrade, revile, or expose to hatred or contempt the people or government of any foreign State, or any officer or representative thereof in high authority, is guilty of a crime.

Charge:

Libel on people [*or* Government] [*or* representative] of a foreign State.

(2) A fair comment on a matter of public interest shall not amount to a crime under this section.

Chapter VII - Crimes Against the Executive and Legislative Power

69. Interference with Governor or Ministers

Any person who does any act intended to interfere with the free exercise by the Governor, or by any member of the Executive Council, or by a Minister of the Crown, of any of the duties or authorities of his office is guilty of a crime.

Charge:

Interfering with an executive officer.

70. Interference with Parliament: Unlawfully influencing Members

(1) Any person who, by force or fraud, or by threats or intimidation of any kind, interferes with the free exercise by either House of Parliament of its authority, or with the free exercise by any Member of either House of his duty or authority as such Member, is guilty of a crime.

Charge:

Interfering with Parliament.

(2) Any person who, directly or indirectly, by fraud, or by threats or intimidation of any kind, influences a Member of either House of Parliament in the exercise of his duty or authority as such Member, or induces him to absent himself from the House or from any Parliamentary committee, is guilty of a crime.

Charge:

Unlawfully influencing a Member of Parliament.

71. Member of Parliament receiving bribes

Any person who, being a Member of either House of Parliament, solicits, receives, or obtains, or agrees to receive or obtain, any property or benefit of any kind for himself or any other person,

upon any understanding that the exercise by him of his duty or authority as such Member shall be in any manner influenced or affected, is guilty of a crime.

Charge:

Receiving [*or soliciting*] a bribe as a Member of Parliament.

72. Bribery of Member of Parliament

Any person who, in order to influence a Member of either House of Parliament in his exercise of his duty or authority as such Member, or in order to induce him to absent himself from, the House or from any Parliamentary committee, gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt to procure, any property or benefit of any kind to, upon, or for such Member, or any other person, is guilty of a crime.

Charge:

Bribing [*or offering to bribe*] a Member of Parliament.

Chapter VIII - Unlawful Assemblies: Breaches of the Peace

73. Unlawful assembly: Lawful assembly becoming unlawful: Riot

(1) An assembly of 3 or more persons –

(a) with an intent to effect any common purpose, lawful or unlawful, in such a manner that firm and courageous persons in the neighbourhood of such assembly have reasonable grounds for alarm;

(b) with an intent to assist each other in resisting any person opposing the execution of the common purpose; and

(c) who manifest such intentions as aforesaid in such a manner as to give firm and courageous persons in the neighbourhood of such assembly reasonable grounds to apprehend a breach of the peace –

is an unlawful assembly.

(2) Persons lawfully assembled may become an unlawful assembly if they form and manifest such intentions as aforesaid in manner aforesaid.

(3) An unlawful assembly which has begun to put into execution the common purpose is a riot.

74. Taking part in unlawful assembly

Any person who takes part in an unlawful assembly is guilty of a crime.

Charge:

Taking part in an unlawful assembly.

75. Rioting

Any person who takes part in a riot is guilty of a crime.

Charge:

Rioting.

76. Proclamation upon a riot

(1) Whenever any persons, to the number of 12 or more, are riotously assembled, it is the duty of every sheriff and justice who has notice thereof to go amongst them, or as near as he can safely come to them, and to command or cause to be commanded with a loud voice that silence be kept while the proclamation next hereinafter mentioned is made, and then openly and with a loud voice to make proclamation, or cause proclamation to be made, in these words, or to the like effect;

"Our Sovereign Lord the King charges and commands all you persons here assembled immediately to disperse yourselves and peaceably to depart to your habitations or to your lawful business, failing which you will be guilty of a crime, and will be liable to be imprisoned. God Save the King!"

(2) The performance of such duty as aforesaid by any one of the persons above mentioned shall absolve the others of them from responsibility therefor.

77. Opposing riot proclamation: Disobeying riot proclamation: Limitation of time for prosecution

(1) Any person who wilfully, and by force, obstructs or hurts any person who goes to make, or begins to make, any such proclamation, is guilty of a crime.

Charge:

Opposing the making of a riot proclamation.

(2) All persons who –

(a) being riotously assembled, continue together to the number of 12 or more, and do not disperse themselves within the space of one hour after the making of the proclamation; or

(b) being so assembled, in any case where the making of such proclamation has been prevented, and who, knowing of such prevention, continue together to the number of 12 or more, and do not disperse themselves within the space of one hour after the time of such prevention –

are guilty of a crime.

Charge:

(a) Disobeying a riot proclamation.

(b) Knowing that the making of a riot proclamation has been prevented, failing to disperse.

(3) No person shall be prosecuted under the provisions of this section unless such prosecution is commenced within 12 months after the crime is committed.

78. Being armed in public

Any person who goes armed in public without lawful occasion in such a manner as to alarm the public is guilty of a crime.

Charge:

Being unlawfully armed in public.

79. Forcible entry and detainer

(1) Any person who without lawful authority enters in a violent manner, whether by actual force or by such a show of force as to deter opposition, any lands or tenements in the peaceable possession of another, for the purpose of taking possession thereof, whether or not he has a right of entry thereto, is guilty of a crime.

Charge:

Forcible entry.

(2) Any person who having wrongfully entered any lands or tenements detains the same in manner aforesaid is guilty of a crime.

Charge:

Forcible detainer.

80. Affray

(1) An affray is the fighting of 2 or more persons in any public place to the terror of His Majesty's subjects.

(2) Every person who takes part in an affray is guilty of a crime.

Charge:

Taking part in an affray.

81. Duelling

(1) Any person who takes part in a duel is guilty of a crime.

Charge:

Duelling.

(2) Any person who challenges another to fight a duel, or provokes another to fight or to challenge another to fight a duel, is guilty of a crime.

Charge:

Inciting to duelling.

82. Prize fights

(1) Any person who fights in a prize fight, or subscribes to or promotes or encourages a prize fight, is guilty of a crime.

Charge:

Taking part [*or* being concerned] in a prize fight.

(2) A boxing contest or exhibition which is held with the consent of the Commissioner of Police shall not be deemed to be a prize fight.

Chapter IX - Corruption and Abuse of Office

83. Corruption of public officers

Any person who –

(a) being a public officer, corruptly solicits, receives, or obtains, or agrees to receive or obtain, any property or benefit of any kind for himself or any other person on account of anything done or omitted, or to be done or omitted, by him in or about the discharge of the duties of his office; or

(b) corruptly gives, confers, or procures, or promises or offers to give, confer, or procure, or attempt to procure, to, upon, or for any public officer, or any other person, any property or

benefit of any kind on account of anything done or omitted, or to be done or omitted, by such officer in or about the discharge of the duties of his office –

is guilty of a crime.

Charge:

(a) Official corruption.

(b) Bribery of a public officer.

84. Extortion by public officers: Oppression

(1) Any public officer who, under colour of office and otherwise than in good faith, demands, takes, or accepts from any person for the performance of his duty as such officer, any reward beyond his proper pay and emoluments, is guilty of a crime.

Charge:

Extortion as a public officer.

(2) Any public officer who, in the exercise or under colour of exercising his office, wilfully and unlawfully inflicts upon any person any bodily harm, imprisonment, or other injury is guilty of a crime.

Charge:

Oppression.

85. Public officers interested in contracts

(1) Any public officer who knowingly holds, directly or indirectly, any personal interest in any contract made by or on behalf of the Government of this State concerning any public matter is guilty of a crime.

Charge:

Being interested in a contract as a public officer.

(2) A person is not deemed to be interested in any such contract as aforesaid because he is a shareholder in a company of more than 20 members which is a party thereto, unless he is a director of such company.

86. Corruption of valuator

Any person appointed to act as a valuator or arbitrator to determine the value of any land, or of any injury done to any property who –

(a) having to his knowledge any substantial interest in such property acts as such valuator or arbitrator without disclosing the fact that he holds such interest to the person appointing him; or

(b) acts corruptly or dishonestly as such valuator or arbitrator –

is guilty of a crime.

Charge:

Dishonest dealing as a valuator [*or* as an arbitrator].

87. False statutory certificates

Where by any statute any person is authorized or required to certify to any fact, any such person who gives a certificate which to his knowledge is false in any material particular is guilty of a crime.

Charge:

Giving a false certificate.

88. Administering extra-judicial oaths

Any person who knowingly and unlawfully administers any oath or takes any declaration or affirmation in contravention of the [Evidence Act 2001](#) and the [Oaths Act 2001](#), is guilty of a crime.

Charge:

Unlawfully administering an oath [*or* taking a declaration or affirmation].

PART III - Crimes Concerning the Administration of Law and Justice and Against Public Authority

Chapter X - Crimes Relating to the Administration of Justice

89. Definition of judicial proceeding

In this chapter the term *judicial proceeding* means any proceeding before any court, tribunal, or person having by law power to hear, receive, and examine evidence on oath.

90. Judicial corruption

(1) Any person who –

(a) being a judicial officer, corruptly solicits, receives, or obtains, or agrees to receive or obtain, any property or benefit of any kind for himself or any other person on account of anything done or omitted, or to be done or omitted, by him in his judicial capacity; or

(b) corruptly gives, confers, or procures, or promises or offers to give, confer, procure, or attempt to procure, to, upon, or for any judicial officer, or any other person, any property or benefit of any kind on account of anything done or omitted, or to be done or omitted, by such judicial officer –

is guilty of a crime.

Charge:

Judicial corruption.

(2) No person shall be prosecuted under [subsection \(1\)\(a\)](#), without the consent in writing of the Attorney-General.

91. Official corruption, not judicial but relating to offences

Any person who –

(a) being a public officer employed in an administrative capacity for the detection, prosecution, detention, or punishment of offenders, corruptly solicits, receives, or obtains, or agrees to receive or obtain, any property or benefit of any kind for himself or any other person, on account of anything done or omitted, or to be done or omitted, by him, contrary to his duty as such officer; or

(b) corruptly gives, confers, or procures, or promises or offers to give, confer, procure, or attempt to procure, to, upon, or for any such officer as aforesaid, or any other person, any property or benefit of any kind on account of anything done or omitted, or to be done or omitted, by such officer as aforesaid –

is guilty of a crime.

Charge:

(a) Corruption as an officer of justice.

(b) Bribing [*or offering a bribe to*] an officer of justice.

92. Maintenance

(1) Any person who, without reasonable justification or excuse, assists, or promises or agrees to assist, another by any means (other than the giving of lawful evidence) in any action or proceeding in a court of law in which the person so assisting has no concern or valuable interest, is guilty of a crime.

Charge:

Maintenance.

(2) In any proceedings under this section it shall be a defence to show that the act alleged to have been done was done in good faith, either for the purpose of assisting a person whom the accused believed on reasonable grounds to be in need of such assistance, or for any purpose which the accused believed on reasonable grounds to be for the public good.

(3) The fact that the relationship of close personal friendship or near kinship existed between the accused and the person assisted shall, if proved, be taken into account in determining the question whether the act alleged to have been done by the accused was or was not done in good faith.

93.

94. Perjury

(1) Any person lawfully sworn as a witness, or as an interpreter, in a judicial proceeding, who wilfully makes a statement which he knows to be false or does not believe to be true, is guilty of a crime.

Charge:

Perjury.

(2) For the purposes of this section a statement is deemed to be made in a judicial proceeding if it is made on oath for the purposes of any such proceeding, whether before or after the same is commenced, before a person authorized by law to administer such oath and to record or authenticate such statement.

(3) A statement made by a person lawfully sworn in this State for the purposes of a judicial proceeding –

(a) in any other part of His Majesty's dominions;

(b) in any lawfully constituted British tribunal in any place by sea or land outside His Majesty's dominions; or

(c) in a tribunal of any foreign State –

shall be deemed to be made in a judicial proceeding in this State.

(4)

(5) It is immaterial whether the court or tribunal in which a judicial proceeding was pending was properly constituted, or was held in the proper place, or not, if it acted as a court or tribunal in the proceeding in which the statement was made.

(6) It is immaterial whether the person who made the statement was a competent witness or not, or whether the statement was admissible as evidence in the proceeding or not.

95. False swearing, &c.

Any person who –

(a) being required or authorized by law to make any statement on oath for any purpose, and being lawfully sworn, wilfully makes a statement which he knows to be false, or does not believe to be true; or

(b) wilfully uses any false affidavit or statutory declaration for any purpose for which the use of an affidavit or statutory declaration is authorized by any statute –

is guilty of a crime.

Charge:

(a) False swearing.

(b) Using false affidavit [*or* declaration].

96. Evidence on charge of perjury, &c.

No person shall be convicted of any crime under the provisions of [section 94](#) or [section 95](#) solely upon the evidence of one witness as to the falsity of any statement alleged to be false.

97. Fabricating evidence

Any person who, with intent to mislead a judicial tribunal –

(a) fabricates evidence in any manner whatever; or

(b) knowingly makes use of fabricated evidence –

is guilty of a crime.

Charge:

(a) Fabricating evidence.

(b) Using fabricated evidence.

98. Corruption of witnesses

Any person who –

(a) solicits, receives, or obtains, or agrees to receive or obtain, any property or benefit of any kind for himself or any other person, in consideration for any agreement or understanding that any person shall as a witness in any judicial proceeding give false evidence; or

(b) gives, confers, or procures, or offers to give, confer, procure, or attempt to procure, any property or benefit of any kind to, upon, or for any person, as a consideration for any agreement or understanding that any person called or to be called as a witness in any judicial proceeding shall give false evidence –

is guilty of a crime.

Charge:

(a) Corruption with regard to a witness.

(b) Corrupting a witness.

99. Suppressing evidence

Any person who, with intent to mislead any tribunal in any judicial proceeding, or to pervert or defeat the course of justice, wilfully destroys, alters, or conceals any evidence, or anything likely to be required as evidence in any judicial proceeding, is guilty of a crime.

Charge:

Suppressing evidence.

100. Interfering with witnesses

Any person who –

(a) with intent to pervert or obstruct the due course of justice, wilfully prevents, obstructs or dissuades another person from attending as a witness at a judicial proceeding, or from giving any evidence or producing anything to be used as evidence at a judicial proceeding; or

(b) uses, causes, inflicts, procures or threatens any violence, punishment, damage, loss or disadvantage to another person for or on account of –

(i) that other person having given evidence at a judicial proceeding or produced or surrendered any document or thing at a judicial proceeding; or

(ii) any evidence given by that other person at a judicial proceeding or any document or thing produced or surrendered by that other person at a judicial proceeding –

is guilty of a crime.

Charge:

Interfering with a witness.

101. Falsifying evidence as a shorthand writer

Any shorthand writer who–

(a) wilfully falsifies or incorrectly records any evidence, ruling, direction, or summing up which it is his duty to take down or record;

(b) permits any person to falsify any such thing or any transcript thereof; or

(c) wilfully certifies as correct any note or transcript of any such thing which is false in any material particular–

is guilty of a crime.

Charge:

Falsifying evidence as a shorthand writer.

102. Compounding crimes

(1) Any person who solicits, receives, or obtains, or agrees to receive or obtain, any property or benefit of any kind for himself or any other person, as a consideration for any agreement or understanding that he will compound or conceal a crime, or will abstain from, discontinue, or delay a prosecution for a crime, is guilty of a crime.

Charge:

Compounding a crime.

(2) This section shall not apply to any case of common assault or defamation of a private person, or to any case where the court in which any proceedings have been taken in respect of the crime compounded shall have sanctioned any such agreement as aforesaid.

103. Compounding penal actions

Any person who, having brought, or under pretence of bringing, an action against another person upon a penal statute for the recovery of a penalty, compounds the action without the order or consent of the court in which the action is brought, is guilty of a crime.

Charge:

Compounding a penal action.

104. Bringing fictitious action on penal statute

Any person who, in the name of a fictitious plaintiff, or in the name of a real person but without his authority, brings an action against another person upon a penal statute for the recovery of a penalty, is guilty of a crime.

Charge:

Bringing a fictitious action on a penal statute.

105. Perverting justice

Any person who does any act or makes any omission with intent in any way whatever to obstruct, prevent, pervert, or defeat the due course of justice or the administration of the law, is guilty of a crime.

Charge:

Perverting justice.

Chapter XI - Escape

106. Interpretation

In this Chapter, *lawful custody* includes custody or detention pursuant to any of the following:

- (a) lawful arrest;
- (b) a person surrendering to his bail;
- (c) an order for remand, a conviction, or a sentence of imprisonment;
- (d) a restriction order made under the [Criminal Justice \(Mental Impairment\) Act 1999](#) or any other order under that Act that commits a person to detention in a secure mental health unit, within the meaning of the [Mental Health Act 1996](#);
- (da) a continuing care order made under the [Criminal Justice \(Mental Impairment\) Act 1999](#);

(db) apprehension of a person under [section 31 of the Criminal Justice \(Mental Impairment\) Act 1999](#);

(e) a declaration made under [section 19 of the Sentencing Act 1997](#);

(f) an assessment order made under [section 72 of the Sentencing Act 1997](#);

(g) a continuing care order made under [section 75\(1\) of the Sentencing Act 1997](#);

(h) a restriction order made under [section 75\(1\) of the Sentencing Act 1997](#) or any other order under that Act that commits a person to detention in a secure mental health unit, within the meaning of the [Mental Health Act 1996](#).

(f)

107. Escape

A person who escapes from lawful custody is guilty of a crime.

Charge:

Escape from lawful custody.

108. Aiding escape: harbouring of persons unlawfully at large

(1) A person who –

(a) conveys anything, or causes anything to be conveyed –

(i) into a place where a person is in lawful custody; or

(ii) to a person who is in lawful custody at any place –

with intent to aid the escape of that person;

(b) intentionally or recklessly aids or allows a person to escape from lawful custody; or

(c) harbours, maintains, or employs a person who, having escaped from lawful custody, is unlawfully at large –

is guilty of a crime.

Charge:

(a) Aiding escape from lawful custody.

(b) Aiding escape from lawful custody.

(c) Harboursing.

(2) In any proceedings in respect of a charge under [subsection \(1\)](#), it shall be presumed, until the contrary is proved, that the custody of the person charged was lawful.

(3) It is a defence to a charge of harboursing to prove that the person charged did not know that the person harboured, maintained, or employed had escaped from lawful custody and was unlawfully at large.

109.

Chapter XII - Miscellaneous Crimes Against Public Authority

110. Disclosure of official secrets

Any public officer who discloses (except to some person to whom he is authorized to publish or communicate the same) any fact which comes to his knowledge, or the contents of any document which comes to his possession, by virtue of his office and which it is his duty to keep secret, is guilty of a crime.

Charge:

Disclosing official secrets.

111. Bargaining for public offices

Any person who –

(a) corruptly solicits, receives, or obtains, or agrees to receive or obtain, any property or benefit of any kind for himself or any other person on account of anything done or omitted, or to be done or omitted, by him or any other person with regard to the appointment of any person to any public office, or the employment of any person as a public officer, or with regard to any application by any person for appointment or employment as aforesaid; or

(b) corruptly gives, confers, or procures, or promises or offers to give, confer, procure, or attempt to procure, to, upon, or for any person any property or benefit of any kind on account of anything done or omitted, or to be done or omitted, as aforesaid –

is guilty of a crime.

Charge:

Bargaining for a public office.

112.

113. False statutory declarations and other false statements

(1) Any person who wilfully makes a statement false in a material particular, if the statement is made –

(a) in a statutory declaration;

(b) in an abstract, account, balance-sheet, book, certificate, declaration, entry, estimate, inventory, notice, report, return, or other document which he is authorized or required to make, attest, or verify by any public general Act; or

(c) in any oral declaration or oral answer which he is required to make by, under, or in pursuance of any public general Act –

shall be guilty of a crime.

Charge:

Making a false declaration [*or statement*].

(2) No person shall be convicted under the provisions of this section solely upon the evidence of one witness as to the falsity of any statement alleged to be false.

114. Resisting public officers: Resisting lawful apprehension

(1) Any person who assaults, resists, or wilfully obstructs any police officer in the due execution of his duty, or any other person lawfully assisting him therein, is guilty of a crime.

Charge:

Assaulting [*or obstructing*] a police officer.

(2) Any person who assaults, resists, or wilfully obstructs any person lawfully arresting or about to arrest any person is guilty of a crime.

Charge:

Resisting lawful apprehension.

115. Omission by public officer to perform duty

(1) Any public officer who wilfully and without lawful excuse omits to do any act which it is his duty to do as such officer is guilty of a crime.

(2) No person shall be prosecuted under this section without the consent in writing of the Attorney-General.

Charge:

Omitting to perform duty as a public officer.

116. Neglect to aid in suppressing riot

Any person who, having reasonable notice that he is required to assist any sheriff, justice, or police officer in suppressing a riot, omits without reasonable excuse so to do, is guilty of a crime.

Charge:

Neglecting to aid in suppressing a riot.

117. Neglect to aid in arresting offenders

Any person who, having reasonable notice that he is required to assist any sheriff, justice, or police officer in arresting any person, or in preserving the peace, omits, without reasonable excuse, so to do, is guilty of a crime.

Charge:

Neglecting to aid in the arrest of an offender [*or* preserving the peace].

118. Disobedience to lawful authority

(1) Any person who, without lawful excuse, disobeys any order, warrant, or command duly made, issued, or given by any court, officer, or person acting in any public capacity and duly authorized in that behalf, is guilty of a crime.

Charge:

Disobedience to lawful authority.

(2) Where by any statute any such disobedience as aforesaid is in any particular case expressly made punishable as in such statute provided, no proceedings in respect thereof shall be taken under this section.

PART IV - Acts Injurious to the Public in General

Chapter XIII - Crimes Relating to Religion

119. Blasphemy

(1) Any person who, by words spoken or intended to be read, wilfully publishes a blasphemous libel is guilty of a crime.

Charge:

Blasphemy.

(2) The question whether any matter so published is or is not blasphemous is a question of fact.

(3) It is not an offence under this section to express in good faith and in decent language, or to attempt to establish by arguments used in good faith and conveyed in decent language, any opinion whatever upon any religious subject.

(4) No person shall be prosecuted under this section without the consent in writing of the Attorney-General.

120. Interfering with an officiating minister

Any person who –

(a) by threats or force obstructs or prevents any minister of religion in or from lawfully officiating in any place of religious worship, or in or from performing his duty in the lawful burial of the dead in any cemetery or other burial place; or

(b) upon any civil process, or under the pretence of executing any civil process, arrests any minister of religion who is engaged in, or is, to the knowledge of the offender, about to engage in, any of the offices or duties aforesaid, or who is, to the knowledge of the offender, going to perform the same or returning from the performance thereof –

is guilty of a crime.

Charge:

Interfering with an officiating minister.

121. Disturbing religious worship

Any person who wilfully and without lawful justification or excuse disquiets or disturbs any meeting lawfully assembled for religious worship, or in any way disturbs, molests, or misuses any preacher, teacher, or person lawfully officiating at such meeting, is guilty of a crime.

Charge:

Disturbing religious worship.

Chapter XIV - Crimes Against Morality

122. Unnatural crimes

Any person who has sexual intercourse with an animal is guilty of a crime.

Charge:

Unnatural sexual intercourse.

123.

124. Sexual intercourse with young person

(1) Any person who has unlawful sexual intercourse with another person who is under the age of 17 years is guilty of a crime.

Charge:

Sexual intercourse with a young person under the age of 17 years.

(2) It is a defence to a charge under this section to prove that the accused person believed on reasonable grounds that the other person was of or above the age of 17 years.

(3) The consent of a person against whom a crime is alleged to have been committed under this section is a defence to such a charge only where, at the time the crime was alleged to have been committed –

(a) that person was of or above the age of 15 years and the accused person was not more than 5 years older than that person; or

(b) that person was of or above the age of 12 years and the accused person was not more than 3 years older than that person.

(4) This section is to be taken to be in force from 4 April 1924.

(5) [Subsection \(3\)](#) is not a defence to a charge under this section in the case of anal sexual intercourse.

(6) Nothing in [subsection \(4\)](#) impugns or otherwise affects the lawfulness of a conviction arising from conduct that occurred before the commencement of the [Criminal Code Amendment \(Sexual Offences\) Act 1987](#).

125. Person permitting unlawful sexual intercourse with young person on premises

Any person who –

(a) is the owner or occupier of any premises; or

(b) has, or acts or assists in, the management or control of any premises –

and who induces or knowingly permits any person under the age of 17 years to be in or upon the premises for the purposes of having unlawful sexual intercourse with another person is guilty of a crime.

Charge:

Permitting unlawful sexual intercourse with a young person on premises.

125A. Maintaining sexual relationship with young person

(1) In this section, *unlawful sexual act* means an act that constitutes an offence under [section 124](#), [125B](#), [126](#), [127](#), [127A](#), [133](#) or [185](#) whether committed before, on or after the commencement of this section.

(2) A person who maintains a sexual relationship with a young person who is under the age of 17 years, and to whom he or she is not married, is guilty of a crime.

Charge:

Maintaining a sexual relationship with a young person under the age of 17 years.

(3) An accused person is guilty of having committed an offence under [subsection \(2\)](#) if, during a particular period when the young person was under the age of 17 years –

(a) the accused committed an unlawful sexual act in relation to the young person on at least 3 occasions; and

(b) the young person was not married to the accused.

(4) For the purposes of [subsection \(3\)](#) –

(a) it is not necessary to prove the dates on which any of the unlawful sexual acts were committed or the exact circumstances in which any of the unlawful sexual acts were committed; and

(b) the unlawful sexual act that was committed on any one of the occasions need not have been the same as the unlawful sexual act that was committed on each or any of the other occasions.

(5) It is a defence to a charge under [subsection \(2\)](#) to prove that the accused person believed on reasonable grounds that the young person was of or above the age of 17 years.

(6) An indictment charging a person with having committed an offence under [subsection \(2\)](#)

–
(a) is to specify the particular period during which it is alleged that the sexual relationship between the accused and the young person was maintained; and

(b) is not to contain a separate charge that the accused committed an unlawful sexual act in relation to the young person during that period.

(7) A prosecution for an offence under this section is not to be commenced without the written authority of the Director of Public Prosecutions.

125B. Indecent act with young person

(1) Any person who does any indecent act with, or directed at, another person who is under the age of 17 years is guilty of a crime.

Charge:

Indecent act with or directed at a young person under the age of 17 years.

(2) It is a defence to a charge under this section to prove that the accused person believed on reasonable grounds that the other person was of or above the age of 17 years.

(3) The consent of a person against whom a crime is alleged to have been committed under this section is a defence to such a charge only where, at the time the crime was alleged to have been committed –

(a) that person was of or above the age of 15 years and the accused person was not more than 5 years older than that person; or

(b) that person was of or above the age of 12 years and the accused person was not more than 3 years older than that person.

125C. Procuring unlawful sexual intercourse with person under 17 years, &c.

(1) In this section –

young person means a person under the age of 17 years.

(2) A person who procures –

(a) a young person to have unlawful sexual intercourse with another person, either in this State or elsewhere; or

(b) another person to have unlawful sexual intercourse with a young person, either in this State or elsewhere –

is guilty of a crime.

Charge:

Procuring unlawful sexual intercourse with young person.

(3) A person who procures –

(a) a young person to commit an indecent act, either in this State or elsewhere; or

(b) another person to do an indecent act with, or directed at, a young person, either in this State or elsewhere –

is guilty of a crime.

Charge:

Procuring indecent act by, or with, young person.

(4) In any case in which it is provided that the consent of a person to the act charged is a defence to a charge under [section 124](#) or [125B](#), the like consent to an act which is the subject of the alleged procurement given under the like conditions as to the age of the parties is a defence to a charge under this section.

(5) It is also a defence to a charge under this section to prove that the accused person believed on reasonable grounds that the young person was of or above the age of 17 years.

125D. Communications with intent to procure person under 17 years, &c.

(1) A person (the "**accused person**") who makes a communication by any means with the intention of procuring a person under the age of 17 years, or a person the accused person believes is under the age of 17 years, to engage in an unlawful sexual act, either in this State or elsewhere, is guilty of a crime.

Charge:

Communicating with intent to procure a person under the age of 17 years to engage in an unlawful sexual act.

(2) For the purposes of [subsection \(1\)](#) –

unlawful sexual act means an act that would, if committed in relation to a person under the age of 17 years, constitute an offence under [section 124](#), [125B](#), [126](#), [127](#), [127A](#), [133](#) or [185](#).

(3) A person (the "**accused person**") who makes a communication by any means with the intention of exposing, without legitimate reason, a person under the age of 17 years, or a person the accused person believes is under the age of 17 years, to any indecent material, either in this State or elsewhere, is guilty of a crime.

Charge:

Making a communication with the intention of exposing a person under the age of 17 years to indecent material.

(4) For the purposes of [subsection \(3\)](#) –

indecent material means any indecent film, printed matter, electronic data and any other thing of any kind (including any computer image or depiction).

(5) It is a defence to a charge under this section to prove that –

(a) the person who received the communication, or to whom the communication was directed, was of or above the age of 15 years and the accused person was not more than 5 years older than that person; or

(b) the person who received the communication, or to whom the communication was directed, was of or above the age of 12 years and the accused person was not more than 3 years older than that person; or

(c) the accused person believed on reasonable grounds that the other person was of or above the age of 17 years.

(6) [Subsections \(1\)](#) and [\(3\)](#) apply notwithstanding that the person who received the communication, or to whom the communication was directed, was a person of or above the age of 17 years who was represented to the accused person as a person under the age of 17 years with a fictitious identity.

(7) Evidence that the person who received the communication, or to whom the communication was directed, was represented to the accused person as being under the age of 17 years is, in the absence of evidence to the contrary, proof that the accused person believed the person was under that age.

126. Sexual intercourse with person with mental impairment

(1) Any person responsible for the care of a person with a mental impairment who has sexual intercourse with that person is guilty of a crime.

Charge:

Sexual intercourse with a person with a mental impairment.

(2) It is a defence to a charge under this section to prove that –

(a) at the time of the act –

(i) the person with the mental impairment consented to the act; and

(ii) the giving of that consent was not unduly influenced by the fact that the person was responsible for the care of the person with the mental impairment; or

(b) at the time of the act, the person was married to, or was in a significant relationship, within the meaning of the [Relationships Act 2003](#), with, the person with the mental impairment.

(3) For the purpose of this section, a person is responsible for the care of a person with a mental impairment if the person provides medical, nursing, therapeutic or educative services to the person with a mental impairment in connection with that mental impairment.

(4) In this section –

mental illness has the same meaning as in the [Mental Health Act 1996](#);

mental impairment means senility, intellectual disability, mental illness or brain damage.

127. Indecent assault

(1) Any person who unlawfully and indecently assaults another person is guilty of a crime.

Charge:

Indecent assault.

(2) In any case in which it is provided that the consent of a person to the act charged shall be a defence to a charge under [section 124](#), the like consent to an act charged under this section given under the like conditions as to the age of the parties shall be a defence to a charge under this section.

(3) Except as hereinbefore provided, the consent of a person under 17 years of age shall be no defence to a charge under this section.

(4) This section is to be taken to be in force from 4 April 1924.

(5) Nothing in [subsection \(4\)](#) impugns or otherwise affects the lawfulness of a conviction arising from conduct that occurred before the commencement of the [Criminal Code Amendment \(Sexual Offences\) Act 1987](#).

127A. Aggravated sexual assault

(1) A person who unlawfully and indecently assaults another person by the penetration to the least degree of the vagina, genitalia or anus of that other person by –

(a) any part of the human body other than the penis; or

(b) an inanimate object –

is guilty of a crime.

Charge:

Aggravated sexual assault.

(2) In any case where it is provided that the consent of a person to the act charged shall be a defence to a charge under [section 124](#), the like consent to an act charged under this section given under the like conditions as to the age of the parties shall be a defence to a charge under this section.

(3) Except as provided by [subsection \(2\)](#), the consent of a person under 17 years shall be no defence to a charge under this section.

128.

129. Procuring by threats, fraud, or drugs

Any person who –

(a) by threats or intimidation of any kind procures another person to have unlawful sexual intercourse, either in this State or elsewhere; or

(b) by any false pretence or false representation procures another person to have unlawful sexual intercourse, either in this State or elsewhere –

(c)

is guilty of a crime.

Charge:

Procuring by threats [*or* fraud].

130. Involving person under 18 years in production of child exploitation material

A person who –

(a) involves, or does anything to facilitate the involvement of, a person under the age of 18 years in the production of child exploitation material; and

(b) knows, or ought to have known, that the material is or will be child exploitation material –
is guilty of a crime.

Charge:

Involving a person under the age of 18 years in the production of child exploitation material.

130A. Production of child exploitation material

A person who –

(a) produces, or does any thing to facilitate the production of, child exploitation material; and

(b) knows, or ought to have known, that the material is or will be child exploitation material –
is guilty of a crime.

Charge:

Producing child exploitation material.

130B. Distribution of child exploitation material

(1) A person who –

(a) distributes, or does anything to facilitate the distribution of, child exploitation material; and

(b) knows, or ought to have known, that the material is child exploitation material –
is guilty of a crime.

Charge:

Distributing child exploitation material.

(2) For the purposes of [subsection \(1\)](#) –

distribute, in relation to child exploitation material, includes –

(a) send, sell, deal, supply, exhibit, transmit or communicate that material to another person, or enter into an agreement or arrangement to do so; and

(b) make that material available for access by another person, or enter into an agreement or arrangement to do so.

130C. Possession of child exploitation material

A person who –

(a) is in possession of child exploitation material; and

(b) knows, or ought to have known, that the material is child exploitation material –

is guilty of a crime.

Charge:

Possessing child exploitation material.

130D. Accessing child exploitation material

A person who, with intent to access child exploitation material, accesses child exploitation material is guilty of a crime.

Charge:

Accessing child exploitation material.

130E. Defences in relation to child exploitation material

(1) It is a defence to a charge under [section 130](#), [130A](#), [130B](#), [130C](#) or [130D](#) to prove that –

(a) the material which is the subject of the charge was classified (whether before or after the commission of the alleged offence) under the *Classification (Publications, Films and Computer Games) Act 1995* of the Commonwealth, other than as refused classification (RC); or

(b) the accused person engaged in the conduct that is alleged to constitute the offence for a genuine child protection, scientific, medical, legal, artistic or public benefit purpose and the accused person's conduct was, in the circumstances, reasonable for that purpose; or

(c) the accused person was a police officer acting in the course of his or her official duties and the accused person's conduct was reasonable, in the circumstances, for the performance of the duties; or

(d) the accused person was acting in the course of his or her official duties in connection with the classification of the material which is the subject of the charge under the *Classification (Publications, Films and Computer Games) Act 1995* of the Commonwealth.

(2) It is also a defence to a charge under [section 130](#), [130A](#), [130C](#) or [130D](#) to prove that the material which is the subject of the charge depicts sexual activity between the accused person and a person under the age of 18 years that is not an unlawful sexual act.

(3) It is also a defence to a charge under [section 130C](#) to prove that –

(a) the material which is the subject of the charge came into the accused person's possession unsolicited; and

(b) as soon as the accused person became aware that it was child exploitation material, he or she took reasonable steps to dispose of that material.

(4) For the purposes of this section –

police officer includes –

(a) a member of the Australian Federal Police; and

(b) a member of the police force or service of another State or a Territory of the Commonwealth;

unlawful sexual act means an act that constitutes an offence under [section 124](#), [125B](#), [126](#), [127](#), [127A](#), [133](#) or [185](#).

130F. Forfeiture of child exploitation material, &c.

(1) This section applies if a person is prosecuted for a crime under [section 130](#), [130A](#), [130B](#), [130C](#) or [130D](#).

(2) The court may, if it considers material which is the subject of a charge under any of the sections referred to in [subsection \(1\)](#) to be child exploitation material, order that the material be forfeited to the Crown.

(3) The court may make an order under [subsection \(2\)](#) whether or not the person is convicted of a crime under any of the sections referred to in [subsection \(1\)](#).

(4) If the person is convicted of a crime under any of the sections referred to in [subsection \(1\)](#), the court may also order that any thing used to commit the crime be forfeited to the Crown.

(5) The court may also make any order that it considers appropriate to enforce the forfeiture.

(6) This section does not limit the court's powers under the [Crime \(Confiscation of Profits\) Act 1993](#) or any other law.

(7) When any material or thing is forfeited to the Crown, the material or thing becomes the Crown's property and may be disposed of or destroyed in such manner as the Attorney-General may direct.

130G. Excluding non-essential persons from court when child exploitation material displayed

(1) When material alleged to be child exploitation material is on display in court, the court may exclude from the court any person who is not an essential person.

(2) For the purposes of [subsection \(1\)](#), an "essential person" is –

(a) a party, or a person representing a party, to the proceeding in relation to the child exploitation material; or

(b) a Crown Law Officer or a person authorised by a Crown Law Officer; or

(c) the prosecutor; or

(d) a witness giving evidence; or

(e) a person who a witness is entitled to have present in court under the [Evidence \(Children and Special Witnesses\) Act 2001](#); or

(f) a person whose presence is, in the court's opinion, necessary or desirable for the proper conduct of the proceeding; or

(g) a person who applies to the court to be present and whose presence, in the court's opinion –

(i) would serve a proper interest of the person; and

(ii) would not be prejudicial to the interests of any person under the age of 18 years described or depicted in the child exploitation material, whether or not any person under the age of 18 years can be identified from the child exploitation material.

(3) When forming an opinion under [subsection \(2\)\(f\)](#) or [\(g\)](#), the court is to consider the public benefit of limiting the number of persons with access to child exploitation material.

131.

132.

133. Incest

(1) Any person who has sexual intercourse with another person knowing that other person to be his or her lineal ancestor, lineal descendant, or sibling, is guilty of a crime whether or not that other person has consented to such sexual intercourse.

Charge:

Incest.

(2) Any person of or above the age of 16 years who, with consent, permits another person to have sexual intercourse with him or her knowing that other person to be his or her lineal ancestor, lineal descendant, or sibling, is guilty of a crime.

Charge:

Permitting incest.

(3) This section applies whether or not the relationship between the persons is traced through lawful wedlock.

(4) In this section, *sibling* includes half-brother and half-sister.

134. Abortion

(1) Any woman who, being pregnant, unlawfully administers to herself, with intent to procure her own miscarriage, any poison or other noxious thing or with such intent unlawfully uses any instrument or other means whatsoever, is guilty of a crime.

(2) Any person who, with intent to procure the miscarriage of a woman, unlawfully administers to her, or causes her to take, any poison or other noxious thing, or with such intent unlawfully uses any instrument or other means whatsoever, is guilty of a crime.

Charge:

Administering poison [*or using means*] to procure abortion.

135. Aiding in intended abortion

Any person who unlawfully supplies to or procures for any other person anything whatever, knowing that it is intended to be unlawfully used with intent to procure the miscarriage of a woman, is guilty of a crime.

Charge:

Aiding in intended abortion.

136. Warning relating to uncorroborated evidence

(1) At the trial of a person accused of a crime under chapter [XIV](#) or [XX](#), no rule of law or practice shall require a judge to give a warning to the jury to the effect that it is unsafe to convict the person on the uncorroborated evidence of a person against whom the crime is alleged to have been committed.

(2) A judge shall not give a warning of the kind referred to in [subsection \(1\)](#) unless satisfied that the warning is justified in the circumstances.

137. Indecency

Any person who wilfully –

(a) does any indecent act in any place to which the public have access or in the public view; or

(b) does any such act in any place with intent to insult or offend any other person –

is guilty of a crime.

Charge:

Indecency.

138. Obscene publications

(1) Any person who knowing, or having a reasonable opportunity of knowing, the nature thereof –

(a)

(b) publicly exhibits any disgusting object or indecent show –

is guilty of a crime.

Charge:

Exhibiting obscene matter.

(2) In any prosecution for a crime under this section it shall be a defence to prove that the act alleged was done for the public good.

(3) The questions whether any such act as aforesaid was capable of being for the public good, and whether there is any evidence in the circumstances of excess beyond the requirements of the public good, are questions of law.

(4) The questions whether any such act as aforesaid was for the public good, and whether there was any such excess as aforesaid, are questions of fact.

139. Misconduct in respect of human remains

Any person who –

(a) neglects to perform any duty, either imposed upon him by law or undertaken by him, with reference to the burial of any dead human body or human remains; or

(b) improperly or indecently interferes with or offers any indignity to any dead human body or human remains, whether buried or not –

is guilty of a crime.

Charge:

(a) Neglecting duty as to burial.

(b) Interfering with human remains.

Chapter XV - Common Nuisances

140. Common nuisance defined

(1) A common nuisance is an unlawful act or an omission to discharge a legal duty, such act or omission being one which endangers the lives, safety, health, property, or comfort of the public, or by which the public are obstructed in the exercise or enjoyment of any right common to all His Majesty's subjects.

(2) For the purposes of this section the comfort of the public shall be deemed to be affected by any pollution of the environment within the meaning of the [Environmental Management and Pollution Control Act 1994](#).

141. Common nuisances that are punishable

(1) A person who commits any common nuisance which endangers the lives, safety, or health of the public, or which occasions injury to the person of any individual, is guilty of a crime.

Charge:

Creating a nuisance.

(2) A person who commits a common nuisance of a kind mentioned in [subsection \(1\)](#) and causes or suffers it to continue is guilty of a crime.

Charge:

Creating and continuing a nuisance.

(3) A person who commits a common nuisance of a kind not mentioned in [subsection \(1\)](#) and causes or suffers it to continue is guilty of a crime.

Charge:

Continuing a nuisance.

(4) A person guilty of a crime under [subsection \(3\)](#) is not liable to be punished otherwise than as provided in chapter [XLIIA](#).

142.

143. Disorderly houses: Common bawdy-houses

(1) A person who keeps any disorderly house— that is to say, any common gaming-house, or common betting-house— is guilty of a crime.

Charge:

Keeping a disorderly house.

(2)

(3) Any one who appears to be or acts or behaves as master or mistress, or as the person having the care, government, or management, of any such disorderly house, shall be deemed to be the keeper thereof, and shall be liable to be prosecuted and punished as such, although, in fact, he or she is not the real owner or keeper thereof.

(4) The owner of any house, or any tenant, lessee, or occupier thereof, or of any part thereof, who knowingly permits such house or any part thereof to be kept as a disorderly house shall be liable to be prosecuted and punished as if he were the keeper of such house.

PART V - Crimes Against the Person

Chapter XVI - Duties Relating to the Preservation of Human Life

144. Duty to provide necessities

(1) It is the duty of every person having charge of another, who is unable by reason of age, sickness, unsoundness of mind, detention, or any other cause to withdraw himself from such charge, and who is unable to provide himself with the necessities of life, to provide such necessities for that other person.

(2) It is immaterial how such charge arose.

145. Duty of head of family

It is the duty of every person who, as head of a family, has the charge of a child under the age of 16 years, being a member of his household, to provide the necessaries of life for such child.

146. What are necessaries in certain cases

For the purposes of [sections 144](#) and [145](#), the expression *necessaries of life* shall include medical and surgical aid and medicine.

147. Duty of masters

It is the duty of every person who as a master or mistress has contracted to provide necessary food, clothing, or lodging for any servant or apprentice under the age of 16 years, to provide the same.

148. Delegation of duty

In any case in which a person has authorized another to discharge on his behalf any of the duties mentioned in [sections 144](#), [145](#), and [147](#), it is the duty of such other person to discharge such duty; and it is the duty of such first-mentioned person to use reasonable care to ensure the discharge of such duty.

149. Duty of persons doing dangerous acts

(1) Subject to the provisions of [subsection \(2\)](#), it is the duty of a person who undertakes to administer surgical or medical treatment to another, or to do any other lawful act of a dangerous character which requires special knowledge, skill, attention, or caution, to employ in so doing a reasonable amount of such knowledge, skill, attention, and caution.

(2) In a case of necessity, and where no person having such knowledge or skill as aforesaid can be procured by reasonable means to do such act, it is lawful for a person not having such knowledge or skill to do such act, but it is his duty to employ in so doing such amount of attention and caution as is reasonable in the circumstances.

150. Duty of persons in charge of dangerous things

It is the duty of every person who has anything in his charge or under his control, or who erects, makes, or maintains anything which, in the absence of precaution or care in its use or management may endanger human life, to take reasonable precautions against, and to use reasonable care to avoid, such danger.

151. Duty to do certain acts

When a person undertakes to do any act, the omission to do which is or may be dangerous to human life or health, it is his duty to do that act.

152. Omission of duty

A person who without lawful excuse omits to perform any of the duties mentioned in this chapter shall be criminally responsible for such omission if the same causes the death of or grievous bodily harm to any person to whom such duty is owed, or endangers his life, or permanently injures his health.

Chapter XVII - Homicide: Suicide: Concealment of Birth

153. Definition of homicide: Killing: When child becomes human being

(1) Homicide is the killing of a human being by another.

(2) Killing is causing the death of a person by an act or omission but for which he would not have died when he did, and which is directly and immediately connected with his death.

(3) The question whether an act is directly and immediately connected with a person's death is a question of fact depending upon the circumstances of each particular case.

(4) A child becomes a human being when it has completely proceeded in a living state from the body of its mother, whether it has breathed or not, and whether it has an independent circulation or not, and whether the navel-string is severed or not.

(5) The killing of any such child is homicide if it dies in consequence of injuries received before, during, or after birth.

(6)

(7)

154. Special cases of homicide

A person is deemed to have killed another in the following cases where his act or omission is not the immediate, or not the sole, cause of death:

(a) where he causes bodily injury to the other which requires surgical or medical treatment, and such treatment causes death, if such treatment is applied in good faith, and with reasonable knowledge and skill, but not otherwise;

(b) where he causes bodily injury to the other which causes death, though it would not have caused death if the other had submitted to proper treatment or had observed proper precautions;

(c) where by actual violence, or threats, or intimidation of any kind, or by deceit, he causes the other to do an act or make an omission likely to cause death, and which he knows, or ought to have known, the other would be likely to do, and which causes the death of the other;

(d) where by any act or omission he hastens the death of another who is suffering under any disease or injury which would itself have caused death;

(e) where his act or omission causes death, but would not have caused death unless it had been accompanied by the acts or omissions of the person killed or of other persons.

155.

156. Culpable homicide

(1) Homicide may be culpable or not culpable.

(2) Homicide is culpable when it is caused –

(a) by an act intended to cause death or bodily harm, or which is commonly known to be likely to cause death or bodily harm, and which is not justified under the provisions of the Code;

(b) by an omission amounting to culpable negligence to perform a duty tending to the preservation of human life, although there may be no intention to cause death or bodily harm; or

(c) by any unlawful act.

(3) The question what amounts to culpable negligence is a question of fact, to be determined on the circumstances of each particular case.

(4) For the purposes of this chapter it is unlawful –

(a) to cause death in the manner described in [section 154\(c\)](#);

(b) to wilfully frighten a child of tender years; or

(c) to wilfully frighten a sick person knowing such person to be sick.

(5) Homicide that is not culpable is not punishable.

157. Cases in which culpable homicide is murder

(1) Culpable homicide is murder if it is committed–

(a) with an intention to cause the death of any person, whether of the person killed or not;

(b) with an intention to cause to any person, whether the person killed or not, bodily harm which the offender knew to be likely to cause death in the circumstances, although he had no wish to cause death;

(c) by means of any unlawful act or omission which the offender knew, or ought to have known, to be likely to cause death in the circumstances, although he had no wish to cause death or bodily harm to any person;

(d) with an intention to inflict grievous bodily harm for the purpose of facilitating the commission of any of the crimes hereinafter mentioned or the flight of the offender upon the commission, or attempted commission, thereof;

(e) by means of administering any stupefying thing for either of the purposes mentioned in [paragraph \(d\)](#); or

(f) by wilfully stopping the breath of any person by any means for either of such purposes as aforesaid—

although, in the cases mentioned in [paragraphs \(d\), \(e\), and \(f\)](#), the offender did not intend to cause death, and did not know that death was likely to ensue.

(2) The following are the crimes referred to in [paragraph \(d\)](#) of [subsection \(1\)](#) – Piracy, and offences deemed to be piracy; murder; escape or rescue from prison or lawful custody; resisting lawful apprehension; rape; forcible abduction; robbery with violence; robbery; burglary; arson.

158. Murder

Any person who commits murder is guilty of a crime, and is liable to imprisonment for the term of the person's natural life or for such other term as the Court determines.

Charge:

Murder.

159. Manslaughter

(1) Culpable homicide not amounting to murder is manslaughter.

(2) Any person who commits manslaughter is guilty of a crime.

Charge:

Manslaughter.

160.

161. Accessory after the fact to murder

Any person who becomes accessory after the fact to murder is guilty of a crime.

Charge:

Being accessory after the fact to murder.

162. Written threat to murder

Any person who, knowing the contents thereof, wilfully, and with intent thereby to intimidate or influence any person, causes such person to receive any writing threatening to kill him or any other person, is guilty of a crime.

Charge:

Threatening to murder.

162A. Failing to report the killing of a person

(1) In this section,

proper authority means any of the following:

- (a) a police officer;
- (b) a correctional officer within the meaning of the [Corrections Act 1997](#);
- (c) a probation officer within the meaning of the [Corrections Act 1997](#);
- (d) a Crown Law Officer.

(2) A person is guilty of a crime if he or she –

- (a) discovers that another person has been killed; and
- (b) fails without reasonable excuse to report that discovery to a proper authority as soon as practicable.

Charge:

Failing to report the killing of a person.

(3) A person is guilty of a crime if he or she –

- (a) discovers that another person is being subjected to conduct that, if repeated or continued, is reasonably likely to result in that other person being killed; and
- (b) fails without reasonable excuse to report that discovery to a proper authority as soon as practicable.

Charge:

Failing to report the impending killing of a person.

(4) A person is guilty of a crime if he or she –

(a) discovers that the killing of another person is being planned; and

(b) fails without reasonable excuse to report that discovery to a proper authority as soon as practicable.

Charge:

Failing to report the planned killing of a person.

(5) Without limiting the matters that may constitute a reasonable excuse for the purposes of [subsection \(2\)](#), [\(3\)](#) or [\(4\)](#), a person is excused from reporting a discovery to a proper authority under this section if –

(a) the person knows or reasonably suspects that –

(i) another person has already reported the discovery to a proper authority; or

(ii) a proper authority has already made the same discovery; or

(b) reporting the discovery would disclose information that is privileged on the ground of legal professional privilege.

163. Aiding suicide

Any person who instigates or aids another to kill himself is guilty of a crime.

Charge:

Instigating [*or* aiding] suicide.

164. Medical termination of pregnancy

(1) Notwithstanding anything contained in [section 134](#), [135](#) or [165](#), but subject to this section, a person is not guilty of a crime in relation to the termination of a pregnancy which is legally justified.

(2) The termination of a pregnancy is legally justified if –

(a) two registered medical practitioners have certified, in writing, that the continuation of the pregnancy would involve greater risk of injury to the physical or mental health of the pregnant woman than if the pregnancy were terminated; and

(b) the woman has given informed consent unless it is impracticable for her to do so.

(3) In assessing the risk referred to in [subsection \(2\)](#), the registered medical practitioners may take account of any matter which they consider to be relevant.

(4) If it is impracticable for the woman to give informed consent, the two registered medical practitioners referred to in subsection (2)(a) are to make a declaration in writing detailing the reasons why it was impracticable for the woman to give informed consent.

(5) At least one of the registered medical practitioners referred to in subsection (2)(a) is to specialise in obstetrics or gynaecology.

(6) A legally justified termination can only be performed by a registered medical practitioner.

(7) Subject to [subsection \(8\)](#), no person is under a duty, whether by contract or by any statutory or other legal requirement, to participate in any treatment, including any counselling authorised by this section, to which the person has a conscientious objection.

(8) Nothing in [subsection \(7\)](#) affects any duty to participate in treatment which is necessary to save the life of a pregnant woman or to prevent her immediate serious physical injury.

(9) In this section –

informed consent means consent given by a woman where –

(a) a registered medical practitioner has provided her with counselling about the medical risk of termination of pregnancy and of carrying a pregnancy to term; and

(b) a registered medical practitioner has referred her to counselling about other matters relating to termination of pregnancy and carrying a pregnancy to term;

woman means any female person of any age.

165. Causing death of child before birth

(1) Any person who causes the death of a child which has not become a human being in such a manner that he would have been guilty of murder if such child had been born alive is guilty of a crime.

Charge:

Causing the death of a child before birth.

(2) No one commits a crime who by any means employed in good faith for the preservation of its mother's life causes the death of any such child before or during its birth.

165A. Infanticide

A woman who by any wilful act or omission, causes the death of her child (being a child under the age of 12 months), and who was at the time not fully recovered from the effect of giving birth to the child, and the balance of her mind being, by reason thereof, disturbed, is guilty of a crime, which is called infanticide, although, the offence would, but for this section, have amounted to murder.

Charge:

Infanticide.

166. Concealment of birth

(1) Any person who, when a woman is delivered of a child, by any secret disposition of the dead body of the child, whether the child died before, at, or after, its birth, endeavours to conceal the birth thereof, is guilty of a crime.

Charge:

Concealment of birth.

(2) The provisions of this section shall not apply to a case in which the child has not reached such a stage of maturity as would in the ordinary course of nature render it probable that such child would live.