I certify that this is a copy of the authorised version of this Act as at 20 November 2026, and that it incorporates all amendments, if any, made before and in force as at that date and any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 20 November 2026.

K Woodward
Chief Parliamentary Counsel
Dated 26 November 2026

TASMANIA

CRIMINAL CODE ACT 1924

No. 69 of 1924

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CRIMINAL CODE ACT 1924

No. 69 of 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(2) The several Acts mentioned in Schedule 2 shall be repealed to the extent in the said schedule indicated.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.

4A. Appointment of Crown Law officers

(1) The Governor may appoint a person to institute or prosecute criminal proceedings in the Supreme Court.

(2) On the commencement of this section, section 5 of the *Australian Courts Act 1828* ceases to be in force and have effect in respect of this State.

(3) For the avoidance of doubt, the fact that section 5 of the *Australian Courts Act 1828* ceases to be in force and have effect on the commencement of this section does not affect the validity of a person appointed under that section before the commencement of this section.

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

Except as otherwise provided by the Code or an Act, 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, attaint, 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, or a majority of them, 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.

(1A) The Rules of Court may provide for –

(a) all matters relating to procedure and practice –

(i) 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

(ii) on or after the committal of a defendant to the Supreme Court for sentence or trial; and

(iii) in all proceedings before courts of trial; and

(b) all incidental matters.

(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;

bestiality means sexual activity of any kind between a human being and an animal;

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;

controlled substance has the same meaning as in the *Misuse of Drugs Act 2001*;

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 device has the same meaning as in the *Police Offences Act 1935*;

explosive substance has the same meaning as in the *Police Offences Act 1935*;

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;

genitalia includes genitalia that have been surgically constructed or reconstructed;

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;

midwife means a person registered under the Health Practitioner Regulation National Law (Tasmania) in the midwifery profession;

motor vehicle has the same meaning as it has in the *Vehicle and Traffic Act 1999*;

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

nurse means a registered nurse or an enrolled nurse;

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 or reconstructed 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;

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

terminate, except in section 64, means to discontinue a pregnancy so that it does not progress to birth by –

(a) using an instrument or a combination of instruments; or

(b) using a drug or a combination of drugs; or

(c) any other means –

but does not include –

(d) the supply or procurement of any thing for the purpose of discontinuing a pregnancy; or

(e) the administration of a drug or a combination of drugs for the purpose of discontinuing a pregnancy by a nurse or midwife

acting under the direction of a medical practitioner;

trafficable quantity has the same meaning as in the *Misuse of Drugs Act 2001*;

vagina includes a surgically constructed or reconstructed 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.

(2A) Without limiting the application of subsection (2) to an act of sexual intercourse, a person does not freely agree to an act of sexual intercourse with another person if the person says or does anything to communicate to the other person that a condom must be used for that sexual intercourse and the other person intentionally –

(a) does not use a condom; or

(b) tampers with the condom; or

(c) removes the condom –

before or during the sexual intercourse.

(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.

2B. Sexual intercourse

(1) In this Code –

sexual intercourse means –

(a) the penetration, to the least degree, of a person's vagina, genitalia, anus or mouth by a penis; or

(b) the penetration, to the least degree, of a person's vagina, genitalia or anus by a body part of a person other than a penis; or

(c) the penetration, to the least degree, of a person's vagina, genitalia or anus by an object held or manipulated by, or attached to, another person; or

(d) the continuation of an act of penetration referred to in paragraph (a), (b) or (c) of this definition.

(2) In this section –

penetration does not include penetration carried out for a proper medical purpose, for the purposes of hygiene or for any purpose that is authorised by law.

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

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 –

(a) that the person does not intend or foresee as a possible consequence; and

(b) that an ordinary person would not reasonably foresee as a possible consequence.

(1A) However, under subsection (1)(b), a person is not excused from criminal responsibility for death, or grievous bodily harm, that results to a

victim because of a defect, weakness or abnormality of the victim.

(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

(1AA) In this section –

relevant sexual offence means –

(a) an offence against section 124, 124A, 124B, 124C, 125A, 125B, 125C, 126, 127 or 185; or

(b) an offence against section 170A, in respect of particulars alleging offences against section 124, 125B, 126, 127 or 185.

(1) In proceedings for a relevant sexual offence, 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 a relevant sexual offence, 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, 124A, 124B, 124C, 125A, 125B, 125C, 126, 127 or 185.

14B. Mistake as to age of victim in relation to certain sexual offences

(1) In this section –

relevant offence means –

(a) an offence against section 124, 125B, 125C, 125D or 127; and

(b) an offence of attempting to commit an offence against section 124, 125B, 125C, 125D or 127.

(2) In proceedings for a relevant offence, by an accused, in respect of a person who is under the age of 13 years, a mistaken belief by the accused as to the age of the person does not excuse the accused from criminal responsibility for any act or omission done or made under such a mistaken belief.

(3) In proceedings for a relevant offence, by an accused, in respect of a person who is under the age of 17 years, a mistaken belief by the accused as to the age of the person is not honest or reasonable if –

(a) the accused did not take all reasonable steps to ascertain the age of the person; or

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

(4) For the avoidance of doubt, in proceedings for a relevant offence, by an accused, in respect of a person who is under the age of 17 years but not under the age of 13 years, an honest and reasonable but mistaken belief by the accused as to the age of the person may be relied on for the purpose of a defence referred to in section 124(3), section 125B(3), section 125C(4), section 125D(5) or section 127(2).

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) . . . . . .

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 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 office 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.

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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.

(1A) Subject to section 149, and despite subsection (1), a termination can be lawfully performed on a woman by a medical practitioner if it is performed in good faith, with reasonable care and skill and with the woman's consent.

(1B) For the purposes of subsection (1A), ***woman*** means a female person of any age.

(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) If a person is in such a condition as to be incapable of giving consent under subsection (1) or (1A), the operation may be performed without such consent if the operation is –

(a) performed in good faith and with reasonable care and skill; and

(b) for the person's benefit; and

(c) reasonable, having regard to all the circumstances.

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. . . . . .

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 child 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 if the 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:

Under (a): Disobeying a riot proclamation.

Under (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:

Under (a): Official corruption.

Under (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:

Under (a): Corruption as an officer of justice.

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

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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:

Under (a): False swearing.

Under (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:

Under (a): Fabricating evidence.

Under (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:

Under (a): Corruption with regard to a witness.

Under (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.

105A. Failing to report the abuse of a child

(1) In this section –

abuse offence means the following:

(a) an offence against section 124, 125, 125A, 125B, 125C, 125D, 126, 127, 129, 130, 130A, 133, 157, 158, 159, 165A, 166, 170, 172, 175, 176, 177, 178, 178A or 178B;

(b) an offence under chapter XIX or XX;

(c) an offence of attempting to commit an offence referred to in paragraph (a) or (b);

(d) an offence under a previous enactment that is substantially similar to an offence referred to in paragraph (a), (b) or (c);

child means a person under the age of 18 years;

proper authority has the same meaning as in section 162A;

religious confession has the same meaning as in section 127 of the *Evidence Act 2001*.

(2) A person is guilty of a crime if the person –

(a) has information that leads the person to form a reasonable belief that an abuse offence has been committed against another person who was a child at the time of the alleged offence; and

(b) fails without reasonable excuse to disclose that information to a police officer as soon as practicable.

Charge: Failing to report the abuse of a child.

(3) A person is not guilty of an offence under subsection (2) if –

(a) the information was obtained by that person when he or she was a child; or

(b) the alleged victim of the offence to which the information relates had attained the age of 18 years at the time the information was obtained by the person and the person believes on reasonable grounds that the alleged victim does not wish the information to be reported to a police officer.

(4) Without limiting the matters that may constitute a reasonable excuse for the purposes of subsection (2), a person has a reasonable excuse for failing to comply with that subsection if –

(a) the person fears on reasonable grounds that disclosing the information would endanger the safety of any person (other than the person reasonably believed to have committed, or to have been involved in, the child abuse offence); or

(b) subject to subsection (5), reporting the information would disclose information in respect of which there is a lawful claim or right of privilege; or

(c) the person believes on reasonable grounds that –

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

(ii) a proper authority already has the information; or

(d) the information is generally available to members of the public.

(5) Despite section 127 of the *Evidence Act 2001*, a member of the clergy of any church or religious denomination is not entitled to refuse to disclose information under subsection (2) on the grounds that the information was communicated to that member of the clergy during a religious confession.

(6) A prosecution for an offence against subsection (2) is not to be commenced without the written authority of the Director of Public Prosecutions.

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 2013*;

(da) a treatment 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 treatment 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 2013*.

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:

Under (a): Aiding escape from lawful custody.

Under (b): Aiding escape from lawful custody.

Under (c): Harbouring.

(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 harbouring 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. . . . . .

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 – Sexual Crimes

122. Bestiality

(1) Any person who engages in an act of bestiality is guilty of a crime.

Charge: Bestiality.

(2) A person does not commit an offence against subsection (1) if the act that the person engaged in –

(a) occurred in the course of a procedure being carried out by the person for a genuine veterinary, agricultural or scientific research purpose; and

(b) was, in the circumstances, reasonable for that purpose.

123. . . . . .

124. Penetrative sexual abuse of child or 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: Penetrative sexual abuse of a child [*or* young person].

(2) . . . . . .

(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) . . . . . .

(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*.

124A. Penetrative sexual abuse of child or young person by person in position of authority

(1) In this section –

child means a person under the age of 18 years;

parent, of a child, includes –

(a) a step-parent, surrogate parent, adoptive parent, foster parent and guardian of the child; and

(b) any other person who has parental responsibility for the child;

person in a position of authority, in relation to a child, includes the following persons:

(a) a person who is a teacher, if the child is a pupil of the teacher or a pupil at the educational institution at which the teacher works;

(b) a parent of the child or a person who is in a significant relationship, within the meaning of the *Relationships Act 2003*, with a parent of the child;

(c) a person who provides religious, sporting, musical or other instruction to the child;

(d) a person who is a religious official or spiritual leader (however described and including lay members and whether paid or unpaid) in a religious or spiritual group attended by the child;

(e) a health professional or social worker providing professional services to the child;

(f) a person who is responsible for the care of the child if that child has a cognitive impairment;

(g) a person employed or providing services in a prison, within the meaning of the *Corrections Act 1997*, or a detention centre, within the meaning of the *Youth Justice Act 1997*, or a person engaged in the administration of those Acts, acting in the course of the person's duties in relation to the child;

(h) a person employed or providing services in a child care service, within the meaning of the *Children, Young Persons and Their Families Act 1997*, or a person engaged in the

administration of that Act, acting in the course of the person's duties in relation to the child;

(i) a person who provides child care to, or a child care service in respect of, the child for fee or reward;

(j) an employer of the child or other person who has the authority to determine significant aspects of the child's terms and conditions of employment or to terminate the child's employment (whether the child is being paid in respect of that employment or is working in a voluntary capacity).

(2) Any person who is 18 years of age or older is guilty of a crime if that person is in a position of authority in relation to a child and that person has sexual intercourse with that child.

Charge: Penetrative sexual abuse of a child [*or* young person] by a person in a position of authority.

(3) Consent to sexual intercourse is not a defence to a charge under this section other than in circumstances where the age difference between the accused and the complainant is not more than 2 years.

(4) This section does not apply to sexual intercourse between persons who are married to each other.

124B. Indecent act with or directed at child or young person by person in position of authority

(1) In this section –

child has the same meaning as in section 124A;

person in a position of authority has the same meaning as in section 124A.

(2) Any person who is 18 years of age or older is guilty of a crime if that person is in a position of authority in relation to a child and that person performs an indecent act with, or directed at, that child.

Charge: Indecent act with or directed at a child [*or* young person] by a person in a position of authority.

(3) Consent to an indecent act is not a defence to a charge under this section other than in circumstances where the age difference between the accused and the complainant is not more than 2 years.

124C. Indecent assault of child or young person by person in position of authority

(1) In this section –

child has the same meaning as in section 124A;

person in a position of authority has the same meaning as in section 124A.

(2) Any person who is 18 years of age or older is guilty of a crime if that person is in a position of authority in relation to a child and that person unlawfully and indecently assaults that child.

Charge: Indecent assault of child [*or* young person] by a person in a position of authority.

(3) Consent to an indecent assault is not a defence to a charge under this section other than in circumstances where the age difference between the accused and the complainant is not more than 2 years.

125. Person permitting penetrative sexual abuse of child or 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 penetrative sexual abuse of a child [*or* young person] on premises.

125A. Persistent sexual abuse of child or young person

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

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

(a) the person commits the persistent sexual abuse of a young person; and

(b) at the time of the abuse, the young person is under the age of 17 and is not married to the accused.

Charge: Persistent sexual abuse of a child [*or* young person].

(3) An accused person is guilty of the persistent sexual abuse of a young person 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 persistent sexual abuse was committed or the exact circumstances in which any of the

persistent sexual abuse was 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; and

(c) on a trial before a jury for an offence against subsection (2), it is not necessary for each member of the jury to be satisfied that the unlawful sexual acts were committed on the same 3 occasions.

(5) . . . . . .

(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 persistent sexual abuse occurred; 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.

(6A) A reference in this section to an unlawful sexual act that is committed by a person in relation to a young person includes a reference to conduct that was, in relation to the young person, committed by the person outside the State if –

(a) the conduct was unlawful in the State, territory or country in which it was committed and, if it had been committed in this State by the person in relation to the young person, would have been an unlawful sexual act; and

(b) at least one unlawful sexual act in relation to the young person was committed by the person in this State.

(6B) A Court sentencing a person for an offence against subsection (2) is to make findings in relation to either the nature or the character, or both the nature and the character, of the persistent sexual abuse and, in doing so, the Court is not required to ask any questions of the jury for the purposes of making those findings.

(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 child or 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 child [*or* young person].

(2) . . . . . .

(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 child or young person for sexual abuse

(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 a child [*or* young person] for penetrative sexual abuse.

(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 a child [*or* young person] for indecent act.

(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) . . . . . .

125D. Communications with intent to procure child or young person

(1) A person (the "**accused person**") who makes a communication by any means, and to any person, 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: Grooming with intent to procure a child [*or* young person] for sexual abuse.

(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, 133 or 185.

(3) A person (the "**accused person**") who makes a communication by any means, and to any person, 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: Grooming with intent to expose a child [*or* young person] 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 the person whom the accused person intended to procure to engage in an unlawful sexual act or to expose to indecent material –

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

(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.

125E. Failure by a person in authority to protect a child from a sexual offence

(1) In this section –

child means a person who is under the age of 18 years;

organisation means a body of persons, whether incorporated or unincorporated;

person associated, in relation to a relevant organisation, includes but is not limited to a person who is an officer, employee, manager, owner, volunteer, contractor, or agent, of the organisation but does not

include a person solely because the person receives services from the organisation;

relevant child means a child (whether identifiable or not) who is, or may come, under the care, supervision or authority of a relevant organisation;

relevant organisation means –

(a) an organisation that exercises care, supervision or authority over children, whether as its primary function or otherwise, and includes but is not limited to –

(i) a religious organisation; and

(ii) a school, within the meaning of the *Education Act 2016*; and

(iii) an education and care service within the meaning of the *Education and Care Services National Law (Tasmania)*; and

(iv) a child care service licensed under the *Child Care Act 2001*; and

(v) a hospital; and

(vi) a council; and

(vii) a State Service Agency; and

(viii) a sporting group; and

(ix) a youth organisation; and

(x) a charity or benevolent organisation; and

(xi) an organisation providing out-of-home care and accommodation services; and

(xii) a community service organisation; and

(b) an organisation that, in accordance with an agreement or arrangement with an organisation referred to in paragraph (a), is required or permitted to engage in activities associated with the care, supervision or authority over children exercised by the organisation referred to in paragraph (a);

religious confession has the same meaning as in section 127 of the*Evidence Act 2001*;

sexual offence means –

(a) an offence against section 8(2) or 9 of the *Sex Industry Offences Act 2005*; or

(b) an offence against section 73 of the *Classification (Publications, Films and Computer Games) Enforcement Act 1995*; or

(c) a crime under section 124, 124A, 124B, 124C, 125, 125A, 125B, 125C, 125D, 126, 127, 129, 130, 133, 178A or 185; or

(d) a crime under section 298, 299 or 300 in relation to a crime specified in a section referred to in paragraph (c).

(2) A person (the ***accused person***) is guilty of a crime if –

(a) the accused person occupies a position within, or in relation to, a relevant organisation; and

(b) the accused person has a reasonable belief that there is a substantial risk that a relevant child may become the victim of a sexual offence committed by another person (the ***perpetrator***) who is –

(i) 18 years of age or more; and

(ii) a person associated with the relevant organisation; and

(c) the accused person, by reason of the person's position, has the power or responsibility to reduce or remove that risk; and

(d) the accused person fails to take all reasonable steps in the circumstances to reduce or remove that risk.

Charge: Failing to protect a child.

(2A) Subsection (2) does not apply if the accused person has not attained the age of 18 years.

(3) For the avoidance of doubt, in a prosecution for an offence against subsection (2), it is not necessary to prove that a sexual offence has been committed.

(4) It is immaterial that some or all of the circumstances constituting an offence against subsection (2) occurred outside Tasmania, so long as the relevant child was in Tasmania at any time while the substantial risk referred to in subsection (2)(b) existed.

(5) It is immaterial that both the accused person and the relevant child were outside Tasmania at the time at which some or all of the circumstances constituting an offence against subsection (2) occurred, so long as the sexual offence was at risk of occurring in Tasmania.

(6) Despite section 127 of the*Evidence Act 2001*, a member of the clergy of any church or religious denomination is not entitled to refuse to comply with subsection (2) on the grounds that that he or

she gained the knowledge as a consequence of information communicated to that member of the clergy during a religious confession.

126. Penetrative sexual abuse of 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: Penetrative sexual abuse of 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 2013*;

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 - 128. . . . . .

129. Procuring a person for penetrative sexual abuse by threats or fraud

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 a person for penetrative sexual abuse 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, 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 or any electronic medium on which the material, or data from which the material may be composed, is stored, or both the material and any such electronic medium, 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, electronic medium or other thing is forfeited to the Crown, the material, electronic medium or other 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. Production or possession of bestiality product

(1) In this section –

bestiality product has the same meaning as in section 71 of the *Classification (Publications, Films and Computer Games) Enforcement Act 1995*;

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

(2) A person who –

(a) produces, or does any thing to facilitate the production of, a bestiality product; and

(b) knows, or ought to have known, that the product is or will be a bestiality product –

is guilty of a crime.

Charge: Producing bestiality product.

(3) A person who –

(a) is in possession of a bestiality product; and

(b) knows, or ought to have known, that the product is a bestiality product –

is guilty of a crime.

Charge: Possessing bestiality product.

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 - 135. . . . . .

136. Warning relating to uncorroborated evidence

(1) At the trial of a person accused of a crime under chapter XIV, XIVA 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.

Chapter XIVA – Human Remains

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:

Under (a): Neglecting duty as to burial.

Under (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

(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 necessaries

(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 necessaries of life, to provide such necessaries 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, whether living or inanimate, 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 - 165. . . . . .

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.

167. Unlawful destruction of human remains

Any person who wilfully and unlawfully burns or cremates, or otherwise destroys, any human remains, or renders the same incapable of identification, is guilty of a crime.

Charge: Unlawfully destroying human remains [*or* unlawfully rendering human remains incapable of identification].

167A. Causing death by dangerous driving

Any person who causes the death of another person by the driving of a motor vehicle at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case, including in the case of the driving of a motor vehicle on a public street, the nature, condition and use of the street, and the amount

of traffic which is actually at the time, or which might reasonably be expected to be, on the street, is guilty of a crime.

Charge: Causing death by dangerous driving.

167B. Dangerous driving causing grievous bodily harm

Any person who causes grievous bodily harm to another person by the driving of a motor vehicle at a speed or in a manner that is dangerous to the public, having regard to all the circumstances of the case, including, in the case of the driving of a motor vehicle on a public street, the nature, condition and use of the street and the amount of traffic that is actually at that time, or that might reasonably be expected to be, on the street, is guilty of a crime.

Charge: Causing grievous bodily harm by dangerous driving.

167C. Causing death or grievous bodily harm by dangerous dog or restricted breed dog

(1) A person who has care or charge of a dog is guilty of a crime if –

(a) the dog is a dangerous dog or a restricted breed dog; and

(b) the dog attacks and kills, or causes grievous bodily harm to, another person; and

(c) the person with care or charge of the dog knew, or ought to have known, the dog is a dangerous dog or a restricted breed dog; and

(d) at the time of the attack, the person with care or charge of the dog failed to take reasonable steps to ensure the dog was under appropriate control; and

(e) the person knew, or ought to have known, that a failure to keep the dog under appropriate control could expose any person to a risk of death or grievous bodily harm.

Charge: Causing death or grievous bodily harm by dangerous dog or restricted breed dog.

(2) For the purposes of subsection (1), a dog is under appropriate control if the person with care or charge of the dog complies with section 32 of the *Dog Control Act 2000* in respect of the dog.

(3) For the purposes of subsection (1), a person is taken to have care or charge of a dog if, at the relevant time, the person –

(a) is the owner of the dog; or

(b) has control, possession or custody of the dog; or

(c) is the operator or manager of the premises where the dog is held for commercial purposes.

(4) One or more persons may have care or charge of a dog at any one time.

(5) In this section –

attack has the same meaning as in the *Dog Control Act 2000*;

dangerous dog means a dog that has been declared to be a dangerous dog under section 29(1)(a) of the *Dog Control Act 2000* due to the dog causing, or there being reasonable cause to believe that the dog is likely to cause, serious injury to a person;

restricted breed dog has the same meaning as in the *Dog Control Act 2000*.

Chapter XVIII – Crimes Endangering Life or Health

168. Disabling to aid commission of offence or flight of offender

Any person who, by any means whatever calculated to choke, suffocate, or strangle, or, by any violent means whatever, renders any person incapable of resistance, with intent thereby to facilitate the commission of an offence, or to facilitate the flight of an offender after the commission or attempted commission of an offence, is guilty of a crime.

Charge: Disabling with intent to facilitate the commission of an offence [*or* the flight of an offender].

169. Administering drug to facilitate offence

Any person who administers or causes another person to take any drug, alcohol or other thing with intent to stupefy or overpower that person in order to facilitate the commission of an offence, or to facilitate the flight of an offender after the commission or attempted commission of an offence, is guilty of a crime.

Charge: Administering a drug with intent to facilitate the commission of an offence [*or* the flight of an offender].

170. Acts intended to cause grievous bodily harm or prevent apprehension

(1) Any person who, with intent to maim, disfigure, or disable any person, or to do any grievous bodily harm to any person, or to resist or prevent the lawful arrest or detention of any person –

(a) wounds or does any actual bodily harm to any person by any means whatever;

(b) strikes any person in any manner with any kind of offensive weapon;

(c) causes any explosive substance to explode;

(d) sends or delivers any explosive substance or other dangerous or noxious thing to any person;

(e) ignites any inflammable substance;

(f) causes any substance or thing referred to in the preceding paragraphs to be taken or received by any person;

(g) puts any corrosive fluid or any destructive, explosive, or inflammable substance in any place; or

(h) casts or throws at or upon any person, or applies to any person, any fluid or substance referred to in paragraph (g) –

is guilty of a crime.

Charge: Committing an unlawful act intended to cause bodily harm.

(2) A person who, by actual violence or threats of immediate violence, causes any other person to do any act for the purpose of avoiding or escaping from such violence, whereby such other person suffers actual bodily harm, is deemed to have caused such bodily harm to such other person.

170A. Persistent family violence

(1) In this section –

family relationship has the same meaning as in the *Family Violence Act 2004*;

family violence has the same meaning as in the *Family Violence Act 2004*;

family violence offence has the same meaning as in the *Family Violence Act 2004*;

spouse or partner, of an accused person, means another person with whom the accused person is, or has been, in a family relationship;

unlawful family violence act means an act that constitutes a family violence offence whether committed before, on or after the commencement of this section.

(2) A person who commits persistent family violence in relation to another person with whom the person is, or has been, in a family relationship is guilty of a crime.

Charge: Persistent family violence.

(3) An accused person is guilty of having committed an offence against subsection (2) if the accused person committed an unlawful family violence act in relation to his or her spouse or partner on at least 3 occasions.

(4) For the purposes of subsection (3) –

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

(b) an unlawful family violence act that was committed on any one of the occasions need not have been the same as the unlawful family violence act that was

committed on each or any of the other occasions; and

(c) on a trial before a jury for an offence against subsection (2), it is not necessary for each member of the jury to be satisfied that the unlawful family violence acts were committed on the same 3 occasions.

(5) An indictment charging a person with having committed an offence against subsection (2) –

(a) is to specify the particular period during which it is alleged that the accused person committed the unlawful family violence acts in relation to his or her spouse or partner; and

(b) is not to contain a separate charge that the accused committed an unlawful family violence act in relation to his or her spouse or partner during that period.

(6) A reference in this section to an unlawful family violence act that is committed by a person in relation to his or her spouse or partner includes a reference to conduct that was, in relation to that spouse or partner, committed by the person outside this State if –

(a) the conduct was unlawful in the State, Territory or country in which it was committed and, if it had been committed in this State by the person in relation to his or her spouse or partner, the conduct

would have been an unlawful family violence act; and

(b) at least one unlawful family violence act in relation to the spouse or partner was committed by the person in this State.

(7) A Court sentencing a person for an offence against subsection (2) is to make findings in relation to either the nature or the character, or both the nature and the character, of the unlawful family violence acts committed and, in doing so, the Court is not required to ask any questions of the jury for the purposes of making those findings.

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

170B. Strangulation, &c.

A person who intentionally and unlawfully chokes, suffocates or strangles another person is guilty of a crime.

Charge: Strangulation.

171. Preventing escape from wreck

Any person who unlawfully –

(a) prevents or obstructs any person who is on board, or is escaping from, a vessel which is in distress or wrecked or cast

ashore, in his endeavour to save his life; or

(b) obstructs any person in his endeavour to save the life of any person so situated –

is guilty of a crime.

Charge: Preventing escape from a wreck.

172. Wounding or causing grievous bodily harm

Any person who unlawfully wounds or causes grievous bodily harm to any person by any means whatever is guilty of a crime.

Charge: Wounding [*or* causing grievous bodily harm].

172A. Dangerous driving

Any person who drives a motor vehicle on a public street at a speed, or in a manner, that is dangerous to the public, having regard to all the circumstances of the case, including the nature, condition and use of the street, and the amount of traffic which is actually at the time, or which might reasonably be expected to be, on the street, is guilty of a crime.

Charge: Dangerous driving.

173. Intentionally endangering persons on railways

Any person who, with intent to injure or endanger the safety of any person on any railway –

(a) places any thing upon or across any railway;

(b) does any act likely to interfere with, injure, endanger, or obstruct any engine, carriage, or other vehicle on any railway;

(c) shoots or throws anything at, into, or upon, or causes anything to come in contact with, any such engine, carriage, or other vehicle, or any person;

(d) does anything whatever to any part of any railway, or to any points, machinery, or signal belonging to or near to such railway, or to any engine, carriage, or other vehicle thereon;

(e) deals in any way with any signal or light on or near to any railway or makes or shows any false signal or light, or makes any sign whatever on or near to any railway; or

(f) wilfully omits to do any act which it is his duty to do –

is guilty of a crime.

Charge: Intentionally endangering persons on a railway.

174. Wantonly endangering persons on railways

Any person who unlawfully, and wilfully or recklessly, in a manner likely to injure or endanger the safety of any person on any railway –

(a) by any act or omission endangers or obstructs any engine, carriage, or other vehicle on any railway;

(b) does any act likely to interfere with or to cause injury to any engine, carriage, or other vehicle on any railway;

(c) shoots or throws anything at, into, or upon, or causes anything to come in contact with, any engine, carriage, or other vehicle, or any person;

(d) does anything whatever to any part of any railway, or to any points, machinery, or signal belonging to or near to any railway, or to any engine, carriage, or other vehicle thereon;

(e) deals in any way with any signal or light on or near to any railway, or makes or shows any false signal or light, or makes any sign whatever on or near to any railway; or

(f) by any culpable neglect of duty endangers the safety of any person conveyed or being upon any railway –

is guilty of a crime.

Charge: Wantonly endangering persons on a railway.

175. Unlawfully administering poison with intent to harm

Any person who unlawfully, and with intent to injure or annoy any person, administers or causes any poison or other noxious thing to be administered to, or taken by, such person, and thereby endangers his life, or does him any grievous bodily harm, is guilty of a crime.

Charge: Causing injury by poison.

176. Administering a noxious thing

Any person who unlawfully, and with intent to injure or annoy any person, administers, or causes any poison or other noxious thing to be administered, to, or taken by, any person, is guilty of a crime.

Charge: Administering poison.

177. Failure to supply necessaries

Any person whose legal duty it is to provide the necessaries of life for any person, and who, without lawful excuse, fails to do so, whereby the life of that person is or is likely to be endangered or his health is or is likely to be permanently injured, is guilty of a crime.

Charge: Failing to supply necessaries.

178. Ill-treatment of children

(1) Any person over the age of 14 years who, having the custody, care, or control of a child under the age of 14 years, wilfully ill-treats, neglects, abandons, or exposes such child, or causes such child to be ill-treated, neglected, abandoned, or exposed in a manner likely to cause such child unnecessary suffering or injury to health, is guilty of a crime.

Charge: Ill-treating a child.

(2) . . . . . .

178A. Female genital mutilation

(1) Any person who performs female genital mutilation on another person is guilty of a crime.

Charge: Performing female genital mutilation.

(2) It is not a defence to a charge under this section that the person on whom female genital mutilation was performed or that person's parent or guardian consented to the mutilation.

178B. Removal of child from State

(1) Any person who takes a child under the age of 18 years, or arranges for such a child to be taken, out of the State with the intention of having female genital mutilation performed on that child is guilty of a crime.

Charge: Removal of child for performance of female genital mutilation.

(2) If it is proved that a person took the child, or arranged for the child to be taken, out of the State and that female genital mutilation was performed on the child outside the State, it is a presumption, in absence of proof to the contrary, that the person took the child, or arranged for the child to be taken, out of the State with the intention of having female genital mutilation performed on the child.

178C. Medical procedures

(1) Sections 178A(1) and 178B(1) do not apply in relation to the performance of –

(a) a surgical procedure for a genuine therapeutic purpose; or

(b) a sexual reassignment procedure.

(2) The fact that a surgical procedure is performed as, or as part of, a cultural, religious or other social custom is not, of itself, a genuine therapeutic purpose.

(3) A sexual reassignment procedure is a surgical procedure to give a female, or a person whose sex is ambivalent, the genital appearance of a particular sex.

178D. Termination by person other than medical practitioner or pregnant woman

(1) A person who performs a termination on a woman and who is not –

(a) a medical practitioner; or

(b) the pregnant woman –

is guilty of a crime.

Charge: Termination by person other than medical practitioner or pregnant woman.

(2) For the purposes of subsection (1), ***woman*** means a female person of any age.

178E. Termination without woman's consent

(1) A person who intentionally or recklessly performs a termination on a woman without the woman's consent, whether or not the woman suffers any other harm, is guilty of a crime.

Charge: Termination without woman's consent.

(2) No prosecution is to be instituted against a medical practitioner who performs a termination on a woman if the woman is incapable of giving consent and the termination is –

(a) performed in good faith and with reasonable care and skill; and

(b) is for the woman's benefit; and

(c) is reasonable having regard to all the circumstances.

(3) For the purposes of this section, ***woman*** means a female person of any age.

179. Setting man-traps, &c.

(1) Any person who, with intent to cause death or grievous bodily harm to any person, sets or places, or causes to be set or placed, in any place any spring-gun, man-trap, or other engine calculated to cause death or grievous bodily harm, or knowingly and with such intent allows any such thing to remain so set or placed in any place under his control, is guilty of a crime.

Charge: Setting a spring-gun [*or* man-trap] [*or*, allowing a spring-gun (*or* man-trap) to remain set].

(2) This section shall not apply to any gin or trap set for the purpose of catching or destroying vermin; nor to a spring-gun, man-trap, or engine set or maintained only during the night in a dwelling-house for the protection thereof.

180. Unseaworthy ships: Endangering life on ships: Breaches of duty by seamen: Failure to assist vessel in collision

(1) Any person who in any river or inland waters in this State –

(a) causes, or is a party to causing, or be used or employed for the carriage of passengers or goods any ship that is in such an unseaworthy state that the life of any person is likely to be thereby endangered; or

(b) being the master of any such ship, knowingly uses the same –

is guilty of a crime.

Charge: Using an unseaworthy ship.

(2) Any person who, in or upon any ship, does any act with respect to such ship or any part thereof, or omits to perform any duty with respect thereto, knowing in either case that the safety of any person on such ship is or is likely to be thereby endangered, is guilty of a crime.

Charge: Endangering life on a ship.

(3) Any master, seaman, or apprentice belonging to any ship who, by wilful breach of duty, or by neglect of duty, or by reason of drunkenness –

(a) does any act tending to the immediate loss, destruction, or serious damage of such ship, or tending immediately to endanger the life or limb of any person belonging to or on board of such ship; or

(b) refuses or omits to do any lawful act proper and requisite to be done by him for preserving such ship from immediate loss, destruction, or serious damage, or

for preserving any person belonging to or on board such ship, from immediate danger to life or limb –

is guilty of a crime.

Charge: Breach of duty as a seaman.

(4) In every case of collision between 2 vessels it shall be the duty of the master or person in charge of each vessel, if and so far as he can do so without danger to his own vessel, crew, or passengers, if any, to render to the other vessel, her master, crew, and passengers, if any, such assistance as may be practicable and necessary to save them from any danger caused by the collision, and to stay by the other vessel until he has ascertained that she has no need of further assistance; and any person failing, without reasonable cause, to perform any such duty as aforesaid is guilty of a crime.

Charge: Failing to assist vessel in collision.

(5) For the purposes of this section the term ***ship*** means a ship employed exclusively in trading or going from place to place in any river or inland waters in this State, or employed in carrying passengers therein.

(6) In any proceedings under subsection (1) it shall be a defence to prove –

(a) that the use of such vessel was reasonable and justifiable under the circumstances; or

(b) that the accused, not being such master as aforesaid, used all reasonable means to ensure the ship being in a seaworthy state when so used.

181. Making and possession of dangerous things

Any person who makes or knowingly has in his possession any explosive substance, or any dangerous or noxious engine, instrument, or thing whatever, with intent by means thereof to commit or for the purpose of enabling any other person by means thereof to commit any crime, is guilty of a crime.

Charge: Making [*or* having in possession] a dangerous thing, with intent to facilitate crime.

181A. Using, &c., explosive device

(1) In this section –

supply includes an offer to supply.

(2) A person who, without lawful and reasonable excuse, uses, possesses or supplies an explosive device is guilty of a crime.

Charge: Using, possessing or supplying explosive device.

(3) In proceedings for an offence under subsection (2), it is immaterial whether the device actually caused an explosion in, or with, an explosive substance.

(4) A person who, without lawful and reasonable excuse, takes one or more of the following steps for the purposes of manufacturing an explosive device is guilty of a crime:

(a) acquire equipment, substances or materials;

(b) store equipment, substances or materials;

(c) carry, transport, load or unload equipment, substances or materials;

(d) guard or conceal equipment, substances or materials;

(e) provide or arrange finance, including finance for acquiring equipment, substances or materials;

(f) providing or allowing the use of premises.

Charge: Taking steps in the manufacture of explosive device.

(5) A person who, without lawful and reasonable excuse, possesses or supplies information as to how to manufacture an explosive device is guilty of a crime.

Charge: Possessing or supplying information for manufacture of explosive device.

181B. Using, &c., explosive substance

(1) In this section –

dangerous or suspicious circumstances has the same meaning as in section 43I of the *Police Offences Act 1935*;

supply includes an offer to supply.

(2) A person who, in dangerous or suspicious circumstances and without lawful and reasonable excuse, uses, possesses or supplies an explosive substance is guilty of a crime.

Charge: Using, possessing or supplying explosive substance.

(3) In proceedings for an offence under subsection (2), it is immaterial whether the explosive substance actually produced a practical effect by explosion or an incendiary effect.

(4) A person who, in dangerous or suspicious circumstances and without lawful and reasonable excuse, possesses or supplies –

(a) equipment connected with an explosive substance; or

(b) information as to how to manufacture an explosive substance –

is guilty of a crime.

Charge: Possessing or supplying equipment or information for explosive substance.

181C. Bomb hoaxes

(1) A person who places or sends, or causes to be placed or sent, by means of any form of transportation or delivery, an article or substance in or upon a place with the intention of inducing in another person the belief that the article or substance is likely to –

(a) explode or ignite; or

(b) discharge a dangerous or deleterious matter –

is guilty of a crime.

Charge: Placing or sending article or substance to induce belief of explosion, ignition or discharge.

(2) In proceedings for an offence under subsection (1), it is not necessary to prove that the defendant had an intent to induce a specific belief in the victim.

Chapter XIX – Assaults

182. Definition of assault

(1) An assault is the act of intentionally applying force to the person of another, directly or indirectly, or attempting or threatening by any gesture to apply such force to the person of another if the person making the attempt or threat has, or causes the other to believe on reasonable grounds that he has, present ability to

effect his purpose; or the act of depriving another of his liberty.

(2) Words alone cannot constitute an assault.

(3) An act which is reasonably necessary for the common intercourse of life if done only for the purpose of such intercourse, and which is not disproportionate to the occasion, does not constitute an assault.

(4) Except in cases in which it is specially provided that consent cannot be given, or shall not be a defence, an assault is not unlawful if committed with the consent of the person assaulted unless the act is otherwise unlawful, and the injury is of such a nature, or is done under such circumstances, as to be injurious to the public, as well as to the person assaulted, and to involve a breach of the peace.

183. Aggravated assault

Any person who –

(a) assaults any person with intent to commit a crime, or to resist or prevent the lawful apprehension or detainer of himself or of any other person; or

(b) assaults, resists, or wilfully obstructs any person in the lawful execution of any process against any lands or goods, or in the making of any lawful distress, or with intent to rescue any goods taken under such process or distress –

is guilty of a crime.

Charge: Aggravated assault.

184. Common assault

Any person who unlawfully assaults another is guilty of a crime.

Charge: Assault.

184A. Assault on pregnant woman

Any person who unlawfully assaults a woman, knowing that woman to be pregnant is guilty of a crime.

Charge: Assault on pregnant woman.

Chapter XX – Rape: Abduction: Stalking and Bullying

185. Rape

(1) Any person who has sexual intercourse with another person without that person's consent is guilty of a crime.

Charge: Rape.

(2) . . . . . .

186. Abduction

(1) Any person who, by force, takes away or detains another person against that person's will with intent that the other person be married to, or

have sexual intercourse with, any person, is guilty of a crime.

Charge: Forcible abduction.

(2) Any person who takes away or detains another person against that other person's will with intent that the other person be married to, or have sexual intercourse with, any person, is guilty of a crime.

Charge: Abduction.

187 - 188. . . . . .

189. Abduction of young persons

Any person who unlawfully takes away, or causes to be taken away, an unmarried person under the age of 17 years out of the possession and against the will of a parent of that person or a person having the lawful charge or care of that person, is guilty of a crime.

Charge: Abduction of a young person under the age of 17 years.

190. Defences in abduction of young persons

(1) In any proceedings under section 189, it is a defence to prove that the accused person did not know, or did not have reasonable grounds for believing, that the young person was in the lawful charge of the person out of whose possession the young person was taken.

(2) It is not a defence in any proceedings under section 189 –

(a) to prove that the young person suggested or consented to being taken away; or

(b) to prove that the accused person believed on reasonable grounds that the young person was of or above the age of 17 years.

191. Abduction of children: Harbouring an abducted child

(1) Any person who unlawfully, by force or fraud takes away, or decoys or entices away, or detains, any child under the age of 14 years, with intent to deprive any parent, guardian, or other person having the lawful charge or care of such child, of the possession of such child, or with intent to steal any article upon or about the person of such child, is guilty of a crime.

Charge: Abduction of a child.

(2) Any person who, with any such intent as aforesaid, receives or harbours any such child, knowing it to have been so taken, decoyed, or enticed away, or detained, is guilty of a crime.

Charge: Harbouring an abducted child.

(3) In any proceedings under subsection (1), it shall be a defence to prove that the accused –

(a) acted upon a claim of right to the possession of such child;

(b) is the mother of such child, if the child is illegitimate; or

(c) acted in good faith upon a claim that he is the father of such child, if the child is illegitimate.

191A. Kidnapping

Any person who –

(a) with intent to extort or gain anything from, or procure anything to be done or omitted to be done, by any person, by a demand containing threats of injury or detriment of any kind to be caused to any person (whether by the offender or any other person) if the demand is not complied with, takes or entices away, or detains, the person in respect of whom those threats are made; or

(b) receives or harbours the person in respect of whom the threats referred to in paragraph (a) are made knowing that person to have been taken or enticed away or detained as mentioned therein –

is guilty of a crime.

Charge: Kidnapping.

192. Stalking and bullying

(1) A person who, with intent to cause another person physical or mental harm, including self-

harm, or extreme humiliation or to be apprehensive or fearful, pursues a course of conduct made up of one or more of the following actions:

(a) following the other person or a third person;

(b) keeping the other person or a third person under surveillance;

(c) loitering outside the residence or workplace of the other person or a third person;

(d) loitering outside a place that the other person or a third person frequents;

(e) entering or interfering with the property of the other person or a third person;

(ea) making threats to the other person or a third person;

(eb) directing abusive or offensive acts towards the other person or a third person;

(f) sending offensive material to the other person or a third person or leaving offensive material where it is likely to be found by, given to or brought to the attention of the other person or a third person;

(g) publishing or transmitting offensive material by electronic or any other means

in such a way that the offensive material is likely to be found by, or brought to the attention of, the other person or a third person;

(h) using the internet or any other form of electronic communication in a way that could reasonably be expected to cause the other person to be apprehensive or fearful;

(i) contacting the other person or a third person by postal, telephonic, electronic or any other means of communication;

(j) acting in another way that could reasonably be expected to cause the other person physical or mental harm, including self-harm, or extreme humiliation or to be apprehensive or fearful –

is guilty of a crime.

Charge: Stalking and bullying.

(2) For the purposes of subsection (1) –

(a) a person pursues a course of conduct if the conduct is sustained or the conduct occurs on more than one occasion; and

(b) if the conduct occurs on more than one occasion, it is immaterial whether the actions that make up the conduct on one of those occasions are the same as, or different from, the actions that make up

the conduct on another of those occasions.

(3) A person who pursues a course of conduct of a kind referred to in subsection (1) and so causes another person physical or mental harm, including self-harm, or extreme humiliation or to be apprehensive or fearful is taken to have the requisite intent under that subsection if at the relevant time the person knew, or ought to have known, that pursuing the course of conduct would, or would be likely to, cause the other person physical or mental harm, including self-harm, or extreme humiliation or to be apprehensive or fearful.

(4) Subsection (3) does not apply to a person who, in good faith, pursues a course of conduct of a kind referred to in subsection (1) in the course of performing official duties to –

(a) enforce the criminal law; or

(b) administer an Act; or

(c) enforce a law imposing a pecuniary penalty; or

(d) execute a warrant; or

(e) protect the public revenue.

(5) A reference in this section to mental harm includes a reference to suicidal thoughts.

(6) A prosecution under this section must not be commenced without the consent of the Director of Public Prosecutions.

192A. Extra-territorial operation of offence

(1) If –

(a) a person takes an action referred to in section 192(1)(f), (g), (h), (i) or (j) outside, or partly outside, Tasmania; and

(b) there is a real and substantial link between the action taken and Tasmania –

those provisions apply in relation to the action taken as if it had been taken wholly within Tasmania.

(2) For the purposes of subsection (1), there is a real and substantial link between the action taken and Tasmania if –

(a) a significant part of the conduct relating to, or constituting, the action occurred in Tasmania; or

(b) where the action was taken wholly or partly outside Tasmania, substantial harmful effects arose in Tasmania.

Chapter XXI – . . . . . .

193 - 194. . . . . .

Chapter XXII – Crimes Relating to Mentally Disordered Persons

195. Illegally receiving, &c., mentally disordered persons

Any person who wilfully and without lawful authority receives into custody or detains any person suffering from mental disorder is guilty of a crime.

Charge: Illegally receiving [*or* detaining] a mentally disordered person.

Chapter XXIII – Criminal defamation

196. Criminal defamation

(1) A person who, without lawful excuse, publishes matter defamatory of another living person (the "**victim**") –

(a) knowing the matter to be false or without having regard to whether the matter is true or false; and

(b) intending to cause serious harm to the victim or any other person or without having regard to whether such harm is caused –

is guilty of a crime.

Charge: Defamation.

(2) In proceedings for an offence under this section, the accused has a lawful excuse for the publication of defamatory matter about the victim if, and only if, subsection (3) applies.

(3) This subsection applies if the accused would, having regard only to the circumstances happening before or at the time of the publication, have had a defence for the publication if the victim had brought civil proceedings for defamation against the accused.

(4) The prosecutor bears the onus of negativing the existence of a lawful excuse if, and only if, evidence directed to establishing the excuse is first adduced by or on behalf of the accused.

(5) On a trial before a jury for an offence under this section –

(a) the question of whether the matter complained of is capable of bearing a defamatory meaning is a question for determination by the judge; and

(b) the question of whether the matter complained of does bear a defamatory meaning is a question for the jury; and

(c) the jury may give a general verdict of guilty or not guilty on the issues as a whole.

(6) A prosecution under this section must not be commenced without the consent of the Director of Public Prosecutions.

(7) In this section –

publish and "**defamatory**" have the meanings that those terms have in the law of tort (as modified by the *Defamation Act 2005*) relating to defamation.

197. Proceedings for an offence do not bar civil proceedings

The commencement of criminal proceedings for an offence under section 196(1) does not prevent –

(a) the commencement of civil proceedings for defamation against the accused; or

(b) the determination of the civil proceedings pending the determination of the criminal proceedings.

198 - 225. . . . . .

PART VI – CRIMES RELATING TO PROPERTY

Chapter XXIV – Stealing

226. Interpretation

(1) A person who, without the consent of the owner thereof, dishonestly –

(a) takes; or

(b) being lawfully in the possession thereof, either as a servant of the owner or as a bailee or part owner thereof, converts to his own use or to the use of any person other than the owner –

anything capable of being stolen, with intent permanently to deprive the owner thereof, steals such thing.

(2) In this chapter –

(a) the term ***takes*** includes obtaining possession –

(i) by any trick;

(ii) by intimidation;

(iii) through a mistake on the part of the owner, if the taker knows of such mistake; or

(iv) by finding, if at the time of the finding the taker believes that the

owner can be discovered by reasonable means;

(b) the term ***owner*** includes any part owner or person having possession or control of, or a special property in, anything capable of being stolen.

(3) A servant who takes anything out of the possession of his master with intent to apply it to his master's use, and who so applies it, or who converts anything belonging to his master to his master's use, does not steal the thing, although such taking or conversion is wrongful.

227. Things capable of being stolen

(1) Every movable thing which is the property of any person is capable of being stolen.

(2) A thing which is attached to or forms part of any real property becomes capable of being stolen as soon as it is completely severed therefrom.

(3) A person shall not acquire any property in the dead body of an animal wild by nature only by reason of such animal dying on his land.

228. Special cases of stealing

A person shall be guilty of stealing a thing, although at the time of taking or converting the same he does not intend permanently to deprive the owner thereof, if he takes or converts it dishonestly and with intent –

(a) to use the same, or to allow any other person to use the same, as a pledge or security;

(b) to use or deal with the same in such manner that it cannot be returned to the owner in the form in which it was when he took or converted it; or

(c) in the case of money, to use it at his own will, although he intends to repay to the owner an equivalent amount of money.

229. Stealing by agent

(1) Any person who –

(a) being entrusted either solely or jointly with any other person with any property in order that he may retain in safe custody or apply, pay or deliver, for any purpose or to any person, the property or any part thereof or any proceeds thereof; or

(b) having either solely or jointly with any other person received any property for or on account of any other person –

dishonestly converts to his own use or benefit, or to the use or benefit of any other person, the property or any part thereof, or any proceeds thereof, is deemed to steal the property so converted.

(2) For the purposes of this section, if it be part of the terms on which such property is so entrusted or received that the same, or the proceeds thereof, shall form an item in a debtor and creditor account between the person receiving the same, and the person to whom he is to account for or pay the same, and that such last-mentioned person shall rely only on the personal liability of the other as his debtor in respect thereof, the proper entry of any part of such proceeds in such account shall be deemed a sufficient accounting for the part of the proceeds so entered.

(3) A factor or agent shall not be guilty of stealing by pledging or giving a lien on any goods or document of title to goods entrusted to him for the purpose of sale or otherwise if such pledge or lien is for any sum of money not exceeding the amount due to him from his principal at the time of pledging or giving a lien on the same, together with the amount of any bill of exchange or promissory note accepted or made by him for or on account of his principal.

(4) The provisions of subsection (1) shall not apply to or affect any trustee under any express trust created by a deed or will or any mortgagee of any property, real or personal, in respect of any act done by the trustee or mortgagee in relation to the property comprised in or affected by such trust or mortgage.

230. Stealing by person holding power of attorney

Any person who, being entrusted, either solely or jointly with any other person, with any power of attorney for the sale, mortgage, pledge, or other disposition of any property, real or personal, dishonestly sells, mortgages, pledges, or otherwise disposes of the same or any part thereof, or dishonestly converts the proceeds of any sale, mortgage, pledge, or other disposition of such property, or any part of such proceeds, to some purpose other than that for which he was entrusted with such power of attorney, shall be deemed to have stolen the property so mortgaged, pledged, or disposed of, or converted, if the same is capable of being stolen, or money to the value thereof if otherwise.

231. Stealing by misappropriation

(1) Any person who, having received, either solely or jointly with any other person, any money or valuable security, or any other property, with a direction express or implied that such money or any part thereof, or the proceeds or any part of the proceeds of such security or property, shall be applied to any purpose or paid to any person specified in such direction, in violation of good faith and contrary to such direction, dishonestly applies to any other purpose, or pays to any other person, such money or proceeds or any part thereof, shall be deemed to have stolen the property so applied or paid.

(2) Where the person receiving such money, security, or power of attorney, and the person from whom he receives it, deal with each other on such terms that all money paid to the former would in the absence of any such direction be properly treated as an item in a debtor and creditor account between them, this section shall not apply unless such direction is in writing.

232. Assisting married persons to take property

Any person who, while married persons are living together, assists either of them in doing, with respect to the property of the other, any act which would constitute stealing if they were not married, knowing that such property is being so dealt with, is deemed to steal such property.

233. Stealing electricity

Any person who dishonestly or wantonly abstracts, takes, uses, diverts, or causes to be diverted or wasted, any electricity or electric current the property of any other person, is deemed to steal the same.

234. Stealing

Any person who steals anything is guilty of a crime.

Charge: Stealing.

234A. Stealing firearm or firearm part

(1) A person who steals a firearm or firearm part is guilty of a crime.

Charge: Stealing a firearm or firearm part.

(2) For the purposes of this section –

firearm has the same meaning as in the *Firearms Act 1996*;

firearm part has the same meaning as in the *Firearms Act 1996*.

Chapter XXV – Crimes Analogous to Stealing

235. Unlawfully dealing with registers and records

Any person who wilfully and unlawfully conceals or destroys any public register or record required to be kept under the provisions of any public general statute or with intent to defraud, removes the same from its proper place of deposit, is guilty of a crime.

Charge: Unlawfully dealing with a register [*or* record].

236. Unlawfully dealing with wills and documents of title

Any person who retains, conceals, cancels, or destroys the whole or any part of any will or other testamentary instrument (whether the testator is living or dead), or of any document which is evidence of title to any property, or of

any encumbrance over or dealing with any land, with intent to defraud, is guilty of a crime.

Charge: Unlawfully dealing with a testamentary instrument [*or* document of title].

237. Killing animals with intent to steal

Any person who kills any animal with intent to steal the same or any part thereof is guilty of a crime.

Charge: Killing an animal with intent to steal.

238. Severing with intent to steal

Any person who severs anything attached to, or forming part of, any real property with intent to steal the same or any part thereof is guilty of a crime.

Charge: Severing with intent to steal.

239. Unlawfully branding animals

Any person who unlawfully brands any animal with a brand registered under any Act with intent to defraud is guilty of a crime.

Charge: Unlawfully branding an animal.

Chapter XXVA – Crimes relating to firearms and firearm parts

239A. Interpretation

In this Chapter –

firearm has the same meaning as in the *Firearms Act 1996*;

firearm part has the same meaning as in the *Firearms Act 1996*.

239B. Recklessly discharging a firearm

A person who discharges a firearm recklessly or without due regard to the safety of any other person or property is guilty of a crime.

Charge: Recklessly discharging a firearm.

239C. Possession or use of firearm or firearm part

A person who is subject to a firearms prohibition order under the *Firearms Act 1996* and who possesses or uses a firearm or firearm part is guilty of a crime.

Charge: Possession or use of a firearm or firearm part by person who is subject to a firearms prohibition order.

239D. Selling or giving possession of firearm or firearm part

A person who sells, or gives possession of, a firearm or firearm part to another person, knowing that the other person is prohibited from possessing a firearm under a firearms prohibition order under the *Firearms Act 1996*, is guilty of a crime.

Charge: Selling, or giving possession of, firearm or firearm part to person who is subject to a firearms prohibition order.

239E. Possession of firearm or firearm part

For the purposes of this Chapter, a person is taken to possess a firearm or firearm part if –

(a) the firearm or firearm part is found in or on any premises, structure, vehicle, vessel, aircraft or other place; and

(b) the person is in, on, or in occupation of, the premises, structure, vehicle, vessel, aircraft or place where the firearm or firearm part is found.

Chapter XXVI – Robbery and Extortion

240. Robbery, &c.

(1) A person who steals anything and, immediately before, at, or immediately after the time of stealing that thing, uses or threatens to use

violence to any person or property in order to obtain that thing or to prevent or overcome resistance to the stealing of that thing is guilty of a crime which is called robbery.

Charge: Robbery.

(2) A person who commits robbery and –

(a) is in company with any other person or persons at the time of committing that robbery; or

(b) causes bodily harm to any person immediately before, at, or immediately after the time of committing that robbery –

is guilty of a crime which is called aggravated robbery.

Charge: Aggravated robbery.

(3) A person who commits robbery and is armed with a firearm or other dangerous or offensive weapon or instrument at the time of committing that robbery is guilty of a crime which is called armed robbery.

Charge: Armed robbery.

(4) A person who commits aggravated robbery and is armed with a firearm or other dangerous or offensive weapon or instrument at the time of committing that robbery is guilty of a crime which is called aggravated armed robbery.

Charge: Aggravated armed robbery.

240A. Carjacking

(1) A person (***the perpetrator***) –

(a) who –

(i) assaults a person with intent to take a motor vehicle; and

(ii) without having the consent of the owner of the vehicle, or the person in lawful possession of the vehicle, takes and drives it or takes it for the purpose of driving it; or

(b) who, without having the consent of the owner, or the person in lawful possession, of a motor vehicle –

(i) takes and drives it; or

(ii) takes it for the purpose of driving it –

when a person, other than a person with whom the perpetrator is in company, is in or on the vehicle –

is guilty of a crime which is called carjacking.

Charge: Carjacking.

(2) A person who commits carjacking and who –

(a) is in company with any other person or persons at the time of committing that carjacking; or

(b) is armed with a firearm or other dangerous or offensive weapon or instrument at the time of committing that carjacking; or

(c) causes bodily harm to any person immediately before, at, or immediately after, the time of committing that carjacking –

is guilty of a crime which is called aggravated carjacking.

Charge: Aggravated carjacking.

(3) In this section –

drive includes operate.

241. Blackmail

(1) Any person who, with a view to temporary or permanent gain for himself or for any other person or with intent to cause temporary or permanent loss to any other person, makes any unwarranted demand with menaces, is guilty of a crime.

Charge: Blackmail.

(2) For the purposes of subsection (1) –

(a) a demand with menaces is unwarranted unless the person making it does so in the belief that –

(i) he has reasonable grounds for making the demand; and

(ii) the use of the menaces is a proper means of reinforcing the demand; and

(b) the nature of the act or omission that constitutes a demand is immaterial, and it is also immaterial whether the menaces relate to action to be taken by the person making the demand.

242. Demanding with menaces with intent to steal

Any person who, with menaces or by force, demands of any person anything capable of being stolen with intent to steal the same, is guilty of a crime.

Charge: Demanding property with menaces with intent to steal.

Chapter XXVII – Burglary and Like Crimes

243. Interpretation

(1) The crime of burglary is a crime committed in relation to the places to which this chapter applies.

(2) Subject to this section, any building or conveyance is a place to which this chapter applies.

(3) References in this chapter to a building shall be construed as including references to –

(a) any structure or erection attached to or resting on the ground or any other building; and

(b) any building, structure, or erection that is in the course of construction or erection or that is partly demolished.

(4) For the purposes of this chapter a ***conveyance*** means any vehicle, vessel, or aircraft, or any other contrivance intended for the carriage of persons or property over land or water or in the air, but does not include anything intended to be carried by a person or propelled by a person walking.

(5) Where a conveyance is not intended to be moved or has become incapable of being moved, whether by reason of any alteration thereto or otherwise, it nevertheless remains a place to which this chapter applies so long as it is ordinarily used for the purposes of human habitation or for the keeping of property, whether the person having a habitation in it or any property is there or not.

(6) For the purposes of this chapter but without affecting the generality of the provisions thereof a tent shall be deemed an erection and a caravan a conveyance.

(7) Where this chapter applies to any place, any part of that place shall be deemed also to be a place to which this chapter applies.

(8) For the purposes of this chapter a person shall be deemed to have entered a place to which this chapter applies when entry thereto is made by the whole or any part of his body or by the whole or any part of any instrument or object that he has with him or that is used by him for the purpose of –

(a) gaining entry to that place;

(b) abstracting or taking anything therefrom or attempting so to do; or

(c) committing any crime therein.

244. Burglary

Any person who enters any place to which this chapter applies as a trespasser, or by means of any threat, artifice, or collusion, with intent to commit a crime therein, is guilty of a crime, which is called burglary.

Charge: Burglary.

245. Aggravated burglary

Any person who commits burglary and –

(a) at the time he or she commits that burglary –

(i) has with him or her any offensive weapon or instrument or any explosive substance; or

(ii) . . . . . .

(iii) the place in relation to which the burglary is committed is being used or is ordinarily used for the purposes of human habitation; or

(b) uses or offers violence to any person, deprives any person of his or her liberty or otherwise assaults any person –

(i) while committing that burglary; or

(ii) while he or she is still in or is leaving the place in relation to which the burglary was committed –

is guilty of a crime which is called aggravated burglary.

Charge: Aggravated burglary.

246 - 247. . . . . .

248. Being armed, &c., with intent to commit a crime

Any person who is found –

(a) armed with any dangerous or offensive weapon or instrument, with intent to commit a crime;

(b) having in his possession without lawful excuse any instrument for making an

entry into a place to which this chapter applies;

(c) having his face masked or blackened, or being otherwise disguised, with intent to commit a crime –

(d) . . . . . .

is guilty of a crime.

Charge: Being found prepared for the commission of a crime.

Chapter XXVIII – False Pretences, Cheating, and Frauds Concerning Titles

249. Interpretation

In this chapter –

false pretence means a false representation of fact, made by words or otherwise, which the person making it knows to be false or does not believe to be true; but does not include –

(a) a promise as to future conduct not intended to be kept, unless such promise is based upon a fact falsely alleged to exist, or implies the existence of a fact which does not exist;

(b) untrue commendation or untrue depreciation of an article, unless such untrue commendation or

untrue depreciation is made by means of a definite false assertion as to some matter of fact capable of being positively determined;

obtain means an obtaining by the offender from the owner, with an intent on the part of the offender to deprive the owner permanently and entirely of the thing obtained, and it includes cases in which things are obtained by a contract which is obtained by false pretence, unless the obtaining under the contract is merely remotely connected with the false pretence.

250. Obtaining goods by false pretences

Any person who by any false pretence, and with intent to defraud, obtains from any person anything capable of being stolen, or induces any person to deliver to any person anything capable of being stolen, is guilty of a crime.

Charge: Obtaining goods by a false pretence.

251. Obtaining execution of a security by false pretences

Any person who by any false pretence, and with intent to defraud, induces any person to execute, make, accept, indorse, alter, or destroy the whole or any part of any valuable security, or to write, impress, or affix any name or seal upon or to any paper or parchment, in order that it may be afterwards made or converted into or used or

dealt with as a valuable security, is guilty of a crime.

Charge: Obtaining execution of a valuable security by a false pretence.

252. Cheating

Any person who, with intent to defraud, by means of any trick or device, obtains from any person, or induces any person to deliver to any person, anything capable of being stolen, is guilty of a crime.

Charge: Cheating.

252A. Acquiring a financial advantage

(1) Any person who by any deception dishonestly acquires for himself or for any other person any financial advantage is guilty of a crime.

Charge: Dishonestly acquiring a financial advantage.

(2) For the purposes of subsection (1) ***deception*** means any deception (whether deliberate or reckless) by words or conduct as to fact or as to law, including a deception as to the present intentions of the person using the deception or of any other person.

253. Fraud in respect of payment for work

Any person who unlawfully, and without claim of right takes, removes, or conceals anything capable of being stolen, with intent thereby to obtain for himself or for any person not lawfully entitled thereto, any payment for work done in respect of such thing, or with intent to deprive of any such payment any person entitled to the same, is guilty of a crime.

Charge: Fraud in respect of payment for work.

253A. Fraud

Any person who, with intent to defraud, or by deceit or any fraudulent means –

(a) obtains property from a person; or

(b) induces a person to –

(i) deliver, transfer, or assign, property to another person; or

(ii) cause property to be delivered, transferred, or assigned, to another person; or

(c) gains a benefit, pecuniary or otherwise, for any person; or

(d) causes a detriment, pecuniary or otherwise, to any person; or

(e) induces any person to do an act that the person is lawfully entitled to abstain from doing; or

(f) induces any person to abstain from doing any act that the person is lawfully entitled to do –

is guilty of a crime.

Charge: Fraud.

254. Fraud on sale or mortgage of property

(1) Any person who, being a seller or mortgagor of any property, or being the Australian legal practitioner or agent of any such seller or mortgagor, with intent to induce the purchaser or mortgagee to accept the title offered or produced to him, and with intent to defraud –

(a) conceals from the purchaser or mortgagee any instrument material to the title, or any incumbrance; or

(b) falsifies any pedigree on which the title depends or may depend –

is guilty of a crime.

Charge: Fraud on disposition of property.

(2) No proceedings shall be instituted under this section without the leave of a judge, which may be granted upon the *ex parte* application of the prosecutor, or, if the judge so directs, upon

summons to be served upon the person against whom the proceedings are intended.

255. Fraud as to land under *Land Titles Act 1980*

Any person who, with intent to defraud, by any false statement or other fraudulent means, procures the issue or registration of any certificate of title or other instrument, or the recording of any false entry affecting the title to, or any dealing with, any land held under the *Land Titles Act 1980*, or is in any way privy to so doing, is guilty of a crime.

Charge: Fraud in relation to land under the *Land Titles Act 1980*.

255A. Evidence relating to intention to deceive or defraud

On the trial of a person charged with a crime under this Chapter of which an intent to deceive or defraud is an element, it is not necessary to prove an intent to deceive or defraud any particular person.

256. Salting mines

Any person who, with intent to defraud, places or inserts, or causes to be placed or inserted, in any mine or place or in any sample or specimen, real or pretended, of any mineral or substance usually obtained from a mine, any valuable substance or thing calculated or intended to deceive any person as to the value of any mine or place, is guilty of a crime.

Charge: Salting a mine.

257. Concealing mining discoveries

Any person who, with intent to defraud any co-partner or other person having a joint interest with him in any mine or mining tenement or any place that is being or is intended to be worked, searched, or prospected for any valuable substance or thing, conceals from any such person any valuable discovery made, or any substance or thing found therein or thereon, is guilty of a crime.

Charge: Fraudulently concealing a mining discovery.

Chapter XXVIIIA – Crimes Relating to Computers

257A. Interpretation

In this Chapter –

data includes information, a computer programme or part of a computer programme;

gain access includes to communicate with a computer.

257B. Computer-related fraud

A person who, with intent to defraud –

(a) destroys, damages, erases, alters or otherwise manipulates data stored in, or used in connection with, a computer; or

(b) introduces into, or records or stores in, a computer or system of computers by any means data for the purpose of –

(i) destroying, damaging, erasing or altering other data stored in that computer or that system of computers; or

(ii) interfering with, interrupting or obstructing the lawful use of that computer or that system of computers or the data stored in that computer or system of computers; or

(c) otherwise uses a computer –

is guilty of a crime.

Charge: Computer-related fraud.

257C. Damaging computer data

A person who intentionally and without lawful excuse –

(a) destroys, damages, erases or alters data stored in a computer; or

(b) interferes with, interrupts or obstructs the lawful use of a computer, a system of computers or any part of a system of

computers or the data stored in that computer or system of computers –

is guilty of a crime.

Charge: Damaging computer data.

257D. Unauthorized access to a computer

A person who, without lawful excuse, intentionally gains access to a computer, system of computers or any part of a system of computers, is guilty of a crime.

Charge: Unauthorized access to a computer.

257E. Insertion of false information as data

A person who dishonestly introduces into, or records or stores in, a computer or a system of computers, by any means, false or misleading information as data is guilty of a crime.

Charge: Insertion of false information as data.

257F. Extra-territorial application of this Chapter

(1) If –

(a) a person does an act or thing referred to in sections 257B to 257E (both inclusive) outside, or partly outside, Tasmania; and

(b) there is a real and substantial link within the meaning of subsection (2) between doing the act or thing and Tasmania –

those sections apply in relation to that act or thing as if it had been done wholly within Tasmania.

(2) For the purposes of subsection (1), there is a real and substantial link with Tasmania –

(a) if a significant part of the conduct relating to, or constituting, the doing of the act or thing occurred in Tasmania; or

(b) where the act or thing was done wholly outside Tasmania or partly within Tasmania, if substantial harmful effects arose in Tasmania.

Chapter XXIX – Receiving Stolen Property and Rewards for Recovery Thereof

258. Receiving stolen property

(1) Any person who, without lawful excuse, receives or has in his possession any stolen property, knowing it to be stolen property, is guilty of a crime.

Charge: Receiving stolen property.

(2) For the purposes of the Code, ***stolen property*** shall include anything capable of being stolen which has been obtained in this State or elsewhere under circumstances which constitute, or which, if they had occurred in this State would constitute, a crime under any of the provisions of chapters XXIV to XXVII or of this chapter, but shall not include any such thing

which, after having been so obtained, has been returned to its owner, or to which any person has acquired a lawful title completed by delivery.

(3) In any proceedings under this section –

(a) the fact that the accused had in his possession other stolen property which had been obtained as aforesaid within 12 months preceding the date of his alleged crime; and

(b) the fact that within 3 years preceding his being charged with the crime the accused had been convicted of a crime under any of the provisions of chapters XXIV to XXVII or of this chapter –

may be given in evidence against the accused in support of the averment of guilty knowledge.

(4) The facts mentioned in paragraph (b) of subsection (3) shall not be admissible unless –

(a) 7 days' notice in writing has been given to the accused of the intention to prove such fact; and

(b) evidence has previously been given that the stolen property in respect of which the accused is charged was found or had been in his possession.

259. Taking rewards for stolen property

Any person who corruptly takes or agrees to take any reward, directly or indirectly, under pretence

or on account of helping any person to recover any stolen property, is (unless he has used all due diligence to cause to be brought to trial the person who stole or obtained such property) guilty of a crime.

Charge: Corruptly taking a reward for recovery of stolen property.

Chapter XXX – Frauds by Trustees and Company Officers: False Accounting: Secret Commissions

260. Fraudulent dealing by trustees

(1) Any trustee who, with intent to defraud, destroys the trust property or any part thereof, or converts the same or any part thereof to any use not authorized by the trust, is guilty of a crime.

Charge: Fraudulently dealing with trust property.

(2) In this section ***trustee*** means –

(a) trustees upon express trusts created by a deed, will, or instrument in writing, whether for a public or private or charitable purpose;

(b) trustees appointed by or under the authority of a statute for any such purpose;

(c) persons upon whom the duties of any such trust as aforesaid devolve;

(d) executors and administrators; and

(e) receivers, assignees, liquidators, trustees, and other like officers acting under any law relating to companies, bankrupts, or insane persons, by whomsoever appointed or elected.

(3) No prosecution shall be instituted under this section against a trustee by any person who has taken civil proceedings against such trustee in respect of the same matter except by leave of the judge of the court in which such civil proceedings were taken or are pending.

261. Officers of companies fraudulently appropriating property, or falsifying accounts

Any person who –

(a) being a director or officer of a corporation or company, receives or possesses himself as such of any of the property of the corporation or company, and, with intent to defraud, omits either to make a full and true entry thereof in the books and accounts of the corporation or company, or to cause or direct such entry to be made therein; or

(b) being a director or officer, member, or contributory of a corporation or company, with intent to defraud –

(i) destroys, alters, mutilates, or falsifies any book, document, valuable security, or account which belongs to the corporation

or company, or any entry in any such book, document, or account, or is privy to any such act; or

(ii) omits or is privy to omitting any material particular from any such book, document, or account –

is guilty of a crime.

Charge:

Under (a): Misappropriation as a company officer.

Under (b): Fraud against a company as an officer [*or* member] [*or* contributory].

262. False statements by promoters and officers of companies

Any person being –

(a) a director, officer, or auditor of a company; or

(b) engaged or interested in the formation, flotation, or registration of any body of persons as a company –

who makes, circulates, or publishes, or is privy to making, circulating, or publishing, any written statement or account which is to his knowledge false in any material particular, with intent to deceive or defraud any member or creditor of such company, or to induce any person, whether

a particular person or not, to become a member of such company or to apply for any share in such intended company, or to entrust or advance any property to such company, or to any person for any such intended company, or to enter into any security for the benefit of such company or intended company, is guilty of a crime.

Charge: Fraudulent statement as a promoter [*or* officer] of a company.

263. Defence

(1) In any proceedings under any of the foregoing provisions of this chapter it shall be a defence to prove that the accused person, before being charged with the crime, and in consequence of the compulsory process of a court of justice in an action or proceeding instituted in good faith by a party aggrieved, or in a compulsory examination or deposition before a court of justice, disclosed on oath the act alleged to constitute the crime.

(2) In any such proceedings as aforesaid a statement or admission made by any person in any compulsory examination or deposition before any court on the hearing of any matter in bankruptcy or in any statement verified by oath filed for the purposes of any such matter, or in any compulsory examination in the winding-up of a company, shall not be admissible in evidence against such person.

(3) No person shall be entitled to refuse to answer any question or interrogatory in any civil proceeding in any court, on the ground that his

doing so might tend to show that he had committed any crime under the foregoing provisions of this chapter.

264. Fraudulent false accounting

Any person, being a clerk or servant, or being employed or acting in the capacity of a clerk or servant, who, with intent to defraud –

(a) destroys, alters, mutilates, or falsifies any book, document, valuable security or account, which belongs to or is in the possession of his employer, or has been received by him on account of his employer, or any entry in any such book, document, or account, or is privy to any such act; or

(b) omits or is privy to omitting any material particular from any such book, document, or account –

is guilty of a crime.

Charge: Fraud as a clerk or servant.

265. False accounting by public officer

Any public officer charged with the receipt, custody, or management of any part of the public revenue or property who knowingly furnishes any false statement or return of any money or property received by him or entrusted to his care, or of any balance of money in his possession or under his control, is guilty of a crime.

Charge: Falsely accounting as a public officer.

266. Secret commissions, &c.

(1) Any person who –

(a) corruptly gives or agrees to give, or offers to an agent, or to any other person on his behalf; or

(b) being an agent, corruptly solicits, receives, obtains, or agrees to accept for himself or any person other than his principal –

any gift or consideration as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, any act in relation to the principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to the same, is guilty of a crime.

Charge: Corruption in relation to business.

(2) Any person who knowingly gives to an agent, or any agent who knowingly receives or uses with intent to deceive his principal, any receipt, account, or other document in respect of which his principal is interested, or which relates to any dealing, transaction, or matter in which his principal is interested, and which contains any statement which is false or erroneous, or defective in any material particular, is guilty of a crime.

Charge: Corruptly using a false document.

(3) For the purposes of this section –

(a) ***agent*** includes any person employed by or acting for another, and any person serving under the Crown or under any corporation or public body;

(b) ***consideration*** means any kind of valuable consideration;

(c) ***principal*** includes any employer.

(4) In any proceedings under this section, where it is proved that any consideration has been solicited or received by an agent from, or given or offered to an agent by, any person having business relations with the principal, the burden of proving that such consideration was not solicited, received, given, or offered in contravention of the provisions of this section shall be on the accused.

(5) In any such proceedings as aforesaid it shall be a defence to prove that the consideration was solicited, received, given, or offered with the principal's knowledge, and that he was aware of all facts material to the transaction.

266A. Evidence relating to intention to defraud

On the trial of a person charged with a crime under this Chapter of which an intent to deceive or defraud is an element, it is not necessary to

prove an intent to deceive or defraud any particular person.

266B. Evidence on certain charges relating to money, goods and advantages

(1) On the trial of a person charged with a crime under this Chapter or Chapters XXIV, XXV, XXVIII or XXVIIIA in relation to money, goods, financial advantage or other advantage, an entry in any book of account or any other records made by any means, including computer or other technological methods and kept by that person or kept in, under or subject to that person's charge or supervision, purporting to be an entry of the receipt of any money, goods, financial advantage or other advantage is evidence that the money, goods, financial advantage or other advantage was received, obtained or acquired by that person or another person.

(2) On the trial of a person charged with a crime referred to in subsection (1), it is not necessary to prove that the person or another person received, obtained or acquired any specific sum of money, specific goods or specific advantage to a specific degree if –

(a) on examination of the books of account or any other records referred to in subsection (1) or of entries kept by that person or kept in, under or subject to that person's charge or supervision or by any

other evidence, there is proof of a general deficiency; and

(b) the jury is satisfied that the person was guilty as charged.

Chapter XXXI – Arson and Other Unlawful Injuries to Property

267. Injuries to property

(1) Every injury to property which is caused with intent to defraud is unlawful, although caused by the owner of such property.

(2) No person is justified in causing any injury to property by the fact that he has a partial interest therein.

(3) An act causing injury to property shall not constitute a crime under this chapter unless it is done wilfully and without claim of right.

268. Arson

Any person who unlawfully sets fire to any building, erection, or structure whatever, whether the same is completed or not, or to any stack or heap of cultivated vegetable produce, or of timber, or of mineral or vegetable fuel, or to any mine, or to any ship or vessel, whether completed or not, is guilty of a crime, which is called arson.

Charge: Arson.

268A. Unlawfully setting fire to crops, forest, moorland, peat, &c.

(1) Any person who unlawfully sets fire to any vegetation, whether live or dead, is guilty of a crime.

Charge: Unlawfully setting fire to vegetation.

(2) Without limiting the generality of subsection (1), a reference to vegetation in that subsection includes a reference to –

(a) any cultivated vegetable produce, whether standing or cut;

(b) any crop of hay or grass, whether the natural or indigenous product of the soil or not, whether under cultivation or not, and whether standing or cut;

(c) any forest, standing tree, sapling, or shrub, whether indigenous or cultivated;

(d) any moorland, heath, scrub, fern, tussocks, sags, gorse or other weeds; or

(e) any peat, humus, litter, bark, stump, or log.

269. Unlawfully setting fire to property

Any person who unlawfully sets fire to any property not comprised in section 268 or 268A is guilty of a crime.

Charge: Unlawfully setting fire to property.

269A. Causing a fire with intent to injure person or property

A person who puts or places flammable or combustible material, or does any other act, in any place, for the purpose of causing a fire with intent to injure any person or property is guilty of a crime.

Charge: Causing a fire with intent to injure a person or property.

270. Casting away ships and endangering vessels

Any person who unlawfully –

(a) casts away or destroys any ship, whether complete or not;

(b) does any act which tends to the immediate loss or destruction of a ship in distress; or

(c) with intent to bring a vessel into danger, interferes with any light, beacon, mark, or signal, used for purposes of navigation, or for the guidance of seamen, or exhibits any false light or signal –

is guilty of a crime.

Charge:

Under (a): Casting away [*or* destroying] a ship.

Under (b): Endangering a vessel.

Under (c): Endangering a vessel.

271. Unlawfully interfering with railways

Any person who, with intent to obstruct the use of a railway or to injure any property thereon, does any of the acts or makes any of the omissions specified in section 174, is guilty of a crime.

Charge: Unlawfully interfering with a railway.

272. Injuring public utilities

Any person who unlawfully does any act or makes any omission causing damage or injury to –

(a) any public reservoir, waterworks, or water-supply, or any spring or stream supplying the same;

(b) any gasworks, electric light or power plant, machinery, works, or appliances used for supplying light or power to the public; or

(c) any public bridge, whether over any stream or not, or any viaduct or aqueduct, over or under any of which any railway, highway, or canal shall pass, whereby any such thing as aforesaid is destroyed or rendered dangerous or impassable –

is guilty of a crime.

Charge: Unlawfully injuring a public utility.

273. Unlawful injuries in general

Any person who unlawfully destroys or injures any property is guilty of a crime.

Charge: Unlawfully injuring property.

273A. Interference with war memorial or war memorial area

(1) A person who, without reasonable or lawful excuse, interferes with a war memorial or a war memorial area is guilty of a crime.

Charge: Interfering with a war memorial [*or* a war memorial area].

(2) In this section –

interfere, in relation to –

(a) a war memorial, means –

(i) destroy, damage, move, or deface, the war memorial; or

(ii) otherwise deal with the war memorial in a manner, or in circumstances, that the person knows, or ought reasonably be expected to

know, is or are likely to cause offence to a reasonable person; or

(b) a war memorial area, means –

(i) destroy the war memorial area; or

(ii) damage, or deface, the war memorial area in a manner, or in circumstances, that the person knows, or ought reasonably be expected to know, is or are likely to cause offence to a reasonable person; or

(iii) otherwise deal with the war memorial area in a manner, or in circumstances, that the person knows, or ought reasonably be expected to know, is or are likely to cause offence to a reasonable person;

multi-purpose building means a building, structure, or facility, that is intended –

(a) for display to the public as a public memorial dedicated to war remembrance; and

(b) for use by the public for purposes other than war remembrance;

outdoor memorial area means –

(a) a public garden, or a public park, that is a public memorial dedicated to war remembrance, whether or not it is also intended to be used by the public for purposes other than war remembrance; and

(b) an area of land, surrounding a war memorial, that –

(i) ought reasonably to be considered to be intended for the purpose of displaying the war memorial; and

(ii) is not more than 20 metres from the closest point of the war memorial; and

(c) a public avenue of trees, or plants, that is a public memorial dedicated to war remembrance, whether or not it is also intended to be used by the public for purposes other than war remembrance; and

(d) the area beneath or between trees, or plants, to which paragraph (c) applies;

war memorial means a war monument that is lawfully erected in a public place and includes –

(a) a plinth, or base, on which such a monument is situated; and

(b) a war monument that is situated within a war memorial area –

but does not include a multi-purpose building;

war memorial area means –

(a) an outdoor memorial area; and

(b) a multi-purpose building –

but does not include a war memorial situated in a war memorial area;

war monument means a statue, obelisk, cenotaph, plaque, building, or other man-made object, that is intended for display to the public as a public memorial dedicated to war remembrance;

war remembrance means for the remembrance of persons, collectively, who –

(a) have served in war; or

(b) have died in war or as a result of any war or warlike operations in which Australians have been on active service; or

(c) have died during or as a result of active service.

274. Killing or wounding cattle

(1) Any person who unlawfully kills, maims, or wounds any cattle, is guilty of a crime.

Charge: Unlawfully killing [*or* maiming] [*or* wounding] cattle.

(2) For the purposes of this section ***cattle*** includes horses, oxen, mules, asses, sheep, and swine, of any sex or age.

275. Interfering with boundary marks

Any person who unlawfully, and with intent to defraud, moves, destroys, or defaces any object or mark which has been lawfully erected or made as an indication of the boundary of any land, is guilty of a crime.

Charge: Interfering with a boundary mark.

276. Sending letters threatening to burn or destroy, &c.

Any person who, knowing the contents thereof, directly or indirectly causes any person to receive any writing threatening that any property

shall be unlawfully burnt, destroyed, or injured, is guilty of a crime.

Charge: Causing a person to receive a letter threatening injury to property.

276AA. False threats of danger

A person who makes a statement or conveys information, being a statement or information that he knows to be false, to the effect that, or from which it could be reasonably inferred that, some act has been, will be, or is likely to be, done at any place that is of such a nature as to give rise, or be likely to give rise, to serious risk of danger to persons or property at or near that place, is guilty of a crime.

Charge: Making false threats of danger.

Chapter XXXIA – Crimes Relating to Aircraft

276A. Destruction of aircraft

Any person who, with intent to cause the death of, or with reckless indifference to the safety of the life of, a person, destroys an aircraft is guilty of a crime.

Charge: Destroying an aircraft with intent to endanger life.

276B. Prejudicing safe operation of aircraft

(1) Any person who does an act or thing capable of prejudicing the safe operation of an aircraft –

(a) with intent to prejudice the safe operation of that aircraft; and

(b) with intent to cause the death of a person or with reckless indifference to the safety of the life of a person –

is guilty of a crime.

Charge: Prejudicing the safe operation of an aircraft with intent to endanger life.

(2) Any person who does any act or thing capable of prejudicing the safe operation of an aircraft with intent to prejudice the safe operation of that aircraft is guilty of a crime.

Charge: Prejudicing the safe operation of an aircraft.

276C. Endangering safety of aircraft

Any person who, while on board an aircraft, does any act or thing that to his knowledge is likely to endanger the safety of the aircraft is guilty of a crime.

Charge: Endangering the safety of an aircraft.

276D. Taking control of aircraft

(1) Any person who, unlawfully, by force or violence, or by threat of force or violence, or by any trick or false pretence, takes or exercises control, whether direct or through another person, of an aircraft while another person, not being an accomplice of the first-mentioned person, is on board the aircraft is guilty of a crime.

Charge: Taking control of an aircraft by force or deceit while another person is on board.

(2) Any person who unlawfully takes or exercises control, whether direct or through another person, of an aircraft while another person, not being an accomplice of the first-mentioned person, is on board the aircraft is guilty of a crime.

Charge: Taking control of an aircraft while another person is on board.

(3) Any person who unlawfully takes or exercises control, whether direct or through another person, of an aircraft is guilty of a crime.

Charge: Taking control of an aircraft.

276E. Interference with crew of aircraft

(1) A person who, while on board an aircraft, assaults, intimidates, or threatens with violence, a member of the crew of the aircraft so as to

interfere with the performance by that member of the crew of his functions or duties connected with the operation of the aircraft or so as to lessen his ability to perform those functions or duties is guilty of a crime.

Charge: Interference with a member of the crew of an aircraft.

(2) In this section ***member of the crew*** when used in relation to an aircraft, means a person having duties or functions on board the aircraft.

276F. Threats, &c., with respect to safety of aircraft, &c.

(1) A person who threatens, or states that it is his intention, or makes a statement from which it could reasonably be inferred that it is his intention, to destroy, damage or endanger the safety of an aircraft, or to kill or injure all or any of the persons on board an aircraft is guilty of a crime.

Charge: Making threats in relation to an aircraft.

(2) A person who makes a statement or conveys information, being a statement or information that he knows to be false, to the effect that, or from which it could reasonably be inferred that, there has been, is, or is to be a plan, proposal, attempt, conspiracy, or threat to –

(a) take or exercise control, by force or violence, of an aircraft;

(b) destroy, damage, or endanger the safety of, an aircraft; or

(c) kill or injure all or any of the persons on board an aircraft –

is guilty of a crime.

Charge: Making false threats in relation to aircraft.

276G. Dangerous goods on aircraft

(1) Any person who –

(a) carries or places dangerous goods on board an aircraft; or

(b) has dangerous goods in his possession on board an aircraft –

is guilty of a crime.

Charge: Causing dangerous goods to be on board an aircraft.

(2) Any person who delivers dangerous goods to a person for the purpose of their being placed on board an aircraft is guilty of a crime.

Charge: Delivering dangerous goods for the purpose of their being placed on board an aircraft.

(3) In any proceedings under this section it is a defence to prove that the act to which the proceedings relate was done –

(a) with the consent of the owner or operator of the aircraft given with a knowledge of the nature of the goods concerned; or

(b) with authority or permission granted or subsisting by virtue of any law of the Commonwealth.

(4) In this section ***dangerous goods*** means –

(a) firearms, ammunition, weapons, and explosive substances; and

(b) substances or things that, by reason of their nature or condition, may endanger the safety of an aircraft or of persons on board an aircraft.

(5) References in this section to a law of the Commonwealth shall be construed as including references to any law having effect by virtue of the *Air Navigation Act 1937*.

Chapter XXXII – Forgery and Uttering

277. Interpretation

(1) In this chapter –

bank note means any note or bill of exchange of any person, body corporate, or company carrying on the business of banking in any part of the world, and includes a bank bill, bank post bill, blank bank note, blank bank bill of exchange, and blank bank post bill;

die includes any chip or token that may be used in exchange for money and any plate, type, tool, or implement whatsoever, and also any part of any die, plate, type, tool, or implement, and any stamp or impression thereof, or any part of such stamp or impression;

revenue paper means any paper provided by the proper authority for the purpose of being used for stamps, licences, permits, post-office money orders, or postal orders, or for any purpose whatever connected with the public revenue;

seal includes any stamp or impression of a seal or any stamp or impression made or apparently intended to resemble the stamp or impression of a seal, as well as the seal itself;

stamp includes a stamp impressed by means of a die as well as an adhesive stamp;

to forge means to make a false document in order that it may be used as genuine, and in the case of a seal or die, to counterfeit such seal or die; and the doing of any such act is forgery;

to utter means to use, offer, publish, deliver, dispose of, tender in payment or in exchange, expose for sale or exchange, exchange, tender in evidence or put off any forged document, seal, or die, with intent to defraud, knowing the same to be

forged wheresoever the same may have been forged;

treasury bill includes exchequer bill, exchequer bond, exchequer debenture, inscribed stock certificate, and war bond.

(2) A document is false within the meaning of this section if the whole or any material part thereof purports to be made by or on behalf or on account of any person who did not make it nor authorize its making; or, if, though made by or on behalf or on account of the person by whom or by whose authority it purports to have been made, the time or place of making, if material, or, in the case of a document identified by number or mark, the number or any distinguishing mark identifying the document, is falsely stated therein; and, in particular, a document is false if –

(a) any material alteration, whether by addition, insertion, obliteration, erasure, removal, or otherwise has been made therein;

(b) if the whole or some material part purports to be made by or on behalf of a fictitious or deceased person; or

(c) though made in the name of an existing person it is made by him or by his authority with the intention that it should pass as having been made by some person, real or fictitious, other than the person who made or authorized it –

or if for any reason other than those hereinbefore enumerated the document is so made as to be calculated to mislead.

(3) For the purposes of this chapter –

(a) it is immaterial in what language a document is expressed or in what country it is expressed to take effect;

(b) forgery of a document may be complete even if the document when forged is incomplete, or is not or does not purport to be such a document as would be binding in law;

(c) in any case in which the crossing of a document is authorized or recognized by law, the crossing is a material part of the document.

(4) Any person who, by means of any false representation as to the nature, contents, or operation, of a document, procures another to sign or execute the document, is deemed to have forged the document, and the document is deemed to be forged.

278. Forgery

Any person who forges any document, seal, or die, with intent to defraud, is guilty of a crime.

Charge: Forgery.

279. Uttering

Any person who utters any forged document, seal, or die, is guilty of a crime.

Charge: Uttering.

280. Obtaining property by false documents or dies

Any person who, with intent to defraud, demands, receives, or obtains or procures to be delivered, paid, or transferred to any person any property whatever upon or by virtue of –

(a) any forged document whatsoever, knowing it to be forged;

(b) any probate or letters of administration knowing the testamentary writing on which such probate or letters of administration shall have been obtained to have been forged or knowing such probate or letters of administration to have been obtained by any false oath, affirmation, or affidavit; or

(c) any forged die, knowing it to be forged –

is guilty of a crime.

Charge:

Under (a): Obtaining property on a forged document.

Under (b): Obtaining property on a document obtained by false evidence.

Under (c): Obtaining property on a forged die.

281. Purchasing, &c., forged bank notes

Any person who, without lawful authority or excuse, purchases or receives from any person, or has in his possession, a forged bank note, knowing it to be forged, is guilty of a crime.

Charge: Unlawfully purchasing [*or* receiving] [*or* having in possession] a forged bank note.

282. Falsifying registers and records

Any person having the actual custody of any register or record required by any public general statute to be kept who makes, or permits to be made therein, any entry which to his knowledge is false in any material particular, is guilty of a crime.

Charge: Falsifying [*or* permitting the falsification of] a register [*or* record].

283. Procuring unauthorized status: Fraudulently misrepresenting status

Any person who –

(a) by any representation, which he knows to be false, procures to be issued to any person by any person thereunto authorized by any public general statute a document certifying that the holder thereof is entitled to any right, privilege, or status;

(b) with intent to defraud, falsely represents to any person that he has obtained, or is the holder of, any such document; or

(c) by any representation which he knows to be false, procures himself or any other person to be registered as a person entitled to any such document, or as a person entitled to any right, privilege, or status –

is guilty of a crime.

Charge:

Under (a): Procuring unauthorized status.

Under (b): Fraudulently misrepresenting status.

Under (c): Procuring unauthorized status.

284. Supplying false copies of rules, &c.

Any person who, with intent to deceive or defraud, gives or sends to any person a document which purports to be a copy of the memorandum or articles of association or other constitution of a corporation or company, or of

the rules or by-laws of any corporation, company, or society, constituted under the authority of any statute, or to be a copy of a list of the members of any such corporation, company, or society, knowing that the same is not a true copy thereof, is guilty of a crime.

Charge: Fraudulently using a false copy of a document relating to a company or society.

285. Being in possession of materials for forgery

Any person who –

(a) makes, uses, or knowingly has in his custody or possession any paper intended to resemble and pass as –

(i) special paper, such as is provided and used for making any bank note or treasury bill; or

(ii) revenue paper;

(b) makes, uses, or knowingly has in his custody or possession, any frame, mould, or instrument for making such paper, or for producing in or on such paper any words, figures, letters, marks, lines, or devices peculiar to and used in or on any such paper;

(c) engraves or in anywise makes upon any plate, wood, stone, or other material, any words, figures, letters, marks, lines, or

devices, the print whereof resembles, in whole or in part, any words, figures, letters, marks, lines, or devices peculiar to and used in or on any bank note, or, in or on any document entitling or evidencing the title of any person to any share or interest in any public stock, annuity, fund, or debt of any part of His Majesty's dominions, or of any foreign state, or in any stock, annuity, fund, or debt of any body corporate, company, or society, whether within or without His Majesty's dominions;

(d) uses or knowingly has in his custody or possession any plate, wood, stone, or other material, upon which any such words, figures, letters, marks, lines, or devices have been engraved, or in anywise made as aforesaid; or

(e) uses or knowingly has in his custody or possession, any paper upon which any such words, figures, letters, marks, lines, or devices have been printed, or in anywise made as aforesaid –

is guilty of a crime.

Charge: Unlawfully using [*or* having in possession] materials for forgery.

286. Being unlawfully in possession of revenue paper, &c.

Any person who, without lawful authority or excuse, purchases, receives, or knowingly has in his custody or possession –

(a) any special paper provided and used for making treasury bills or any revenue paper, before such paper has been duly stamped, signed, and issued for public use;

(b) any die peculiarly used in the manufacture of any such paper; or

(c) any forged representation or imitation of any such thing as aforesaid –

is guilty of a crime.

Charge: Unlawfully purchasing [*or* having in possession] revenue paper [*or* a die for revenue paper].

287. Fraudulently using stamps, &c.

Any person who, with intent to defraud –

(a) knowing the same to be forged, uses any forged stamp or die;

(b) uses any genuine stamp or seal which, for the purpose of being again used, has been removed from any document or thing to which it had been affixed or

attached, or upon which it had been impressed;

(c) removes for such purpose as aforesaid any stamp or seal from any material upon which it had been used; or

(d) erases or removes from any stamped material any figure, letter, or word with intent that the stamp thereon may be again used –

is guilty of a crime.

Charge: Fraudulently using a stamp [*or* seal] [*or* die].

Chapter XXXIIA – Crimes Relating To Serious Animal Diseases

287A. Interpretation

In this Chapter, unless the contrary intention appears –

animal has the same meaning as in the *Biosecurity Act 2019*;

serious animal disease means an animal disease, within the meaning of the *Biosecurity Act 2019*, that is prohibited matter within the meaning of that Act;

serious animal disease agent means a disease agent, within the meaning of the *Biosecurity Act 2019*, that is capable of

causing a serious animal disease in an animal, animal product or animal food.

287B. Possession or administration of List A disease agents

(1) A person who introduces a serious animal disease into Tasmania is guilty of a crime.

Charge: Introducing a serious animal disease.

(2) A person who –

(a) is in possession of a serious animal disease agent; or

(b) administers a serious animal disease agent, or causes or permits the administration of a serious animal disease agent, directly or indirectly, to an animal, animal material or class of animal or animal material; or

(c) threatens to administer a serious animal disease agent, directly or indirectly, to an animal, animal material or class of animal or animal material –

is guilty of a crime.

Charge: Possession or administration of serious animal disease agent.

(2A) A person who knowingly or recklessly exposes an animal, animal material or class of animal or animal material to a serious animal disease is guilty of a crime.

Charge: Exposure to a serious animal disease.

(3) Subsections (1), (2) and (2A) do not apply to a person who –

(a) is authorised under the *Biosecurity Act 2019* to import, administer or be in possession of a serious animal disease agent or expose an animal or animal material to a serious animal disease; and

(b) is acting in accordance with that authorisation.

Chapter XXXIIB – Contamination of Goods

287C. Interpretation

In this Chapter, a reference to economic loss caused through public awareness of the contamination of goods includes a reference to economic loss caused through –

(a) members of the public not purchasing or using those goods or similar goods; or

(b) steps taken to avoid public alarm or anxiety or to avoid harm to members of the public.

287D. Contaminating goods with intent to cause public alarm or economic loss

A person who contaminates goods with the intention of –

(a) causing public alarm or anxiety; or

(b) causing economic loss through public awareness of the contamination –

is guilty of a crime.

Charge: Contaminating goods.

287E. Threatening to contaminate goods with intent to cause public alarm or economic loss

(1) A person who makes a threat that goods will be contaminated with the intention of –

(a) causing public alarm or anxiety; or

(b) causing economic loss through public awareness of the contamination –

is guilty of a crime.

Charge: Threatening to contaminate goods.

(2) For the purposes of this section, a threat may be made by any conduct, and may be explicit or implicit and conditional or unconditional.

287F. Making false statements concerning contamination of goods with intent to cause public alarm or economic loss

(1) A person who makes a statement that the person believes to be false –

(a) with the intention of inducing the person to whom the statement is made or other

persons to believe that goods have been contaminated; and

(b) with the intention of –

(i) causing public alarm or anxiety; or

(ii) causing economic loss through public awareness of the contamination –

is guilty of a crime.

Charge: Making false statements concerning contamination.

(2) For the purposes of this section, making a statement includes conveying information by any means.

287G. Territorial nexus for offences

It is immaterial that the conduct of a person constituting an offence under this Chapter occurred outside Tasmania, if the person intended by that conduct –

(a) to cause public alarm or anxiety in Tasmania; or

(b) to cause economic loss in Tasmania through public awareness of the contamination.

PART VII – FRAUDS BY PERSONATION AND RELATING TO TRADE

Chapter XXXIII – Personation

288. Personation in general

Any person who, with intent to defraud, falsely represents himself to be some person, living or dead, other than he is, is guilty of a crime.

Charge: Personation.

289. Personating witnesses and jurors

Any person who personates any person called as a witness in a judicial proceeding, or as a juror, is guilty of a crime.

Charge: Personating a witness [*or* juror].

290. Personating public officers

Any person who, with intent to defraud or to exercise any unlawful authority, personates any public officer, or falsely represents himself to be a public officer, is guilty of a crime.

Charge: Personating [*or* falsely assuming authority of] a public officer.

291. Falsely acknowledging deeds, recognizances, &c.

Any person who, without lawful authority or excuse, makes, in the name of any other person,

before any court or person lawfully authorized to take the same, an acknowledgment of liability of any kind, or of a deed or other instrument, is guilty of a crime.

Charge: Falsely acknowledging a liability [*or* an instrument].

Chapter XXXIV – Fraudulent Debtors

292. Interpretation

For the purposes of this chapter ***an insolvent*** means a person who has been adjudged bankrupt, or whose affairs are in course of liquidation by arrangement under the law relating to bankruptcy, and who, in either case, has not been granted a discharge; and the insolvency of such a person shall be deemed to commence on the date of the order of adjudication, or of the resolution that his affairs be liquidated by arrangement, as the case may be; and ***bankruptcy petition*** includes a petition for liquidation by arrangement.

293. Crimes by insolvents

An insolvent shall, in each of the cases following, be guilty of a crime:

(a) If he does not, to the best of his knowledge and belief, fully and truly discover to the trustee all his property, real and personal, and how and to whom, and for what consideration and when, he

disposed of any part thereof, except such part as has been disposed of in the ordinary way of his trade, if any, or laid out in the ordinary expense of his family, unless he proves that he had no intent to defraud.

Charge: Being an insolvent, failing to make full discovery of property;

(b) If he does not deliver up to the trustee, or as he directs, all such part of his real and personal property as is in his custody or under his control, and which he is required by law to deliver up, unless he proves that he had no intent to defraud.

Charge: Being an insolvent, failing to deliver up property;

(c) If he does not deliver up to the trustee, or as he directs, all books, documents, papers, and writings in his custody or under his control relating to his property or affairs, unless he proves that he had no intent to defraud.

Charge: Being an insolvent, failing to deliver up documents;

(d) If, after the presentation of a bankruptcy petition by or against him, or within 6 months next before such presentation, he conceals any part of his property, to the value of $20 or upwards, or conceals any

debt due to or from him, unless he proves that he had no intent to defraud.

Charge: Being an insolvent, concealing property [*or* liabilities];

(e) If, after the presentation of a bankruptcy petition by or against him, or within 6 months next before such presentation, he fraudulently removes any part of his property to the value of $20 or upwards.

Charge: Being an insolvent, fraudulently removing property;

(f) If he makes any material omission in any statement relating to his affairs, unless he proves that he had no intent to defraud.

Charge: Being an insolvent, making fraudulent statement of affairs;

(g) If, knowing or believing that a false debt has been proved by any person under the insolvency, he fails for the period of a month to inform the trustee thereof.

Charge: Being an insolvent, failing to inform trustee of false claim;

(h) If, after the presentation of a bankruptcy petition by or against him, he prevents the production of any book, document, paper, or writing affecting or relating to his property or affairs, unless he proves

that he had no intent to conceal the state of his affairs or to defeat the law.

Charge: Being an insolvent, preventing production of documents;

(i) If, after the presentation of a bankruptcy petition by or against him, or within 6 months next before such presentation, he conceals, destroys, parts with, mutilates, alters, makes any omission in, or otherwise falsifies, or is privy to the concealment, destruction, parting with, mutilation, alteration, omission in, or falsification of any book or document affecting or relating to his property or affairs, unless he proves that he had no intent to conceal the state of his affairs or to defeat the law.

Charge: Being an insolvent, fraudulently dealing with documents;

(j) If, after the presentation of a bankruptcy petition by or against him, or within 6 months next before such presentation, he makes or is privy to the making of any false entry in any book or document affecting or relating to his property or affairs, unless he proves that he had no intent to conceal the state of his affairs, or to defeat the law.

Charge: Being an insolvent, making a false entry;

(k) If, after the presentation of a bankruptcy petition by or against him, or at any meeting of his creditors within 6 months next before such presentation, he attempts to account for any part of his property by alleging fictitious losses or expenses.

Charge: Being an insolvent, alleging fictitious losses [*or* expenses];

(l) If, within 6 months next before the presentation of a bankruptcy petition by or against him, he, by any false representation or other fraud, has obtained any property on credit and has not paid for the same.

Charge: Being an insolvent, obtaining credit by fraud;

(m) If, within 6 months next before the presentation of a bankruptcy petition by or against him, he obtained under the false pretence of carrying on business, and, if a trader, of dealing in the ordinary way of his trade, any property on credit and has not paid for the same, unless he proves that he had no intent to defraud.

Charge: Being an insolvent, obtaining credit by false pretence;

(n) If, within 6 months next before the presentation of a bankruptcy petition by or against him, he pawns, pledges, or disposes of any property which he has

obtained on credit and has not paid for, unless, in the case of a trader, such pawning, pledging, or disposing is in the ordinary way of his trade, and unless in any case he proves that he had no intent to defraud.

Charge: Being an insolvent, fraudulently disposing of property obtained on credit;

(o) If he is guilty of any false representation or other fraud for the purpose of obtaining the consent of his creditors or any of them to an agreement with reference to his affairs or to his insolvency.

Charge: Being an insolvent, fraudulently misleading creditors.

294. Concealing insolvency

An insolvent who –

(a) either alone or jointly with any other person obtains credit to the extent of $20 or upwards from any person without informing that person that he is an insolvent; or

(b) engages in any trade or business under a name other than that under which he became an insolvent without disclosing to all persons with whom he enters into

any business transactions the name under which he became an insolvent –

shall be guilty of a crime.

Charge:

Under (a): Being an insolvent, obtaining credit without disclosing insolvency.

Under (b): Being an insolvent, changing trade name, without disclosing former name.

295. Incurring losses by speculation: Failing to account for losses

(1) An insolvent who, having been engaged in any trade or business, and having outstanding at the date of the commencement of his insolvency any debts contracted in the course and for the purposes of such trade or business –

(a) has, within 2 years prior to the presentation of the bankruptcy petition, materially contributed to or increased the extent of his insolvency by gambling or by rash and hazardous speculations, and such gambling or speculations are unconnected with his trade or business;

(b) has, between the date of the presentation of the petition and the date of his becoming an insolvent, lost any part of

his estate by such gambling or rash and hazardous speculations as aforesaid; or

(c) on being required by the trustee at any time, or by the court, in the course of his public examination, to account for the loss of any substantial part of his estate incurred within a period of a year next preceding the date of his becoming an insolvent, he fails to give a satisfactory explanation of the manner in which such loss was incurred –

shall be guilty of a crime.

Charge:

Under (a): Being an insolvent incurring losses by speculation.

Under (b): Being an insolvent incurring losses by speculation.

Under (c): Being an insolvent, failing to account for losses.

(2) In determining for the purposes of this section whether any speculations were rash and hazardous, the financial position of the accused person at the time when he entered into the speculations shall be taken into consideration.

(3) A prosecution shall not be instituted against any person under this section except by order of the Supreme Court, nor where the insolvency occurs within 2 years from 1st April 1924.

296. Frauds on creditors

(1) If any person –

(a) in incurring any debt or liability has, with intent to defraud, obtained credit by a false pretence or by means of any other fraud;

(b) with intent to defraud his creditors or any of them, has made or caused to be made any gift or transfer of, or charge on, his property; or

(c) with intent to defraud his creditors or any of them, has concealed or removed any part of his property since, or within 2 months before, the date of any unsatisfied judgment or order for payment of money obtained against him –

he shall be guilty of a crime.

Charge: Fraud on a creditor.

(2) For the purposes of this section a person who obtains a judgment against any such person shall be deemed to have been a creditor at the date on which any such act as aforesaid is alleged to have been done, if the suit or action in which such judgment is obtained had been instituted at that date.

PART VIII – CONSPIRACIES AND CRIMES RELATING TO OTHER CRIMES

Chapter XXXV – Conspiracies: Inciting: Attempts: Accessories

297. Conspiracy

(1) Any person who conspires with another –

(a) to kill any person, whether a subject of His Majesty or not, and whether he is in this State or elsewhere, under circumstances which, if he were killed in this State, would constitute murder;

(b) to obstruct, prevent, pervert, or defeat the due course of justice, or the administration of the law, whether such purpose is to be effected in this State or elsewhere;

(c) to commit any crime;

(d) . . . . . .

(e) to extort, by any means, any property whatever from any person;

(f) to inflict by any unlawful means any injury or harm upon the public, or any particular person or class of persons;

(g) to facilitate the seduction of a woman;

(h) to do any act involving, and known to be likely to involve, public mischief; or

(i) to do any act without lawful justification or excuse with intent thereby to injure any person –

is guilty of a crime.

Charge: Conspiracy.

(2) Married persons are not criminally responsible for any conspiracy between themselves only.

(3) Nothing in this section shall affect the provisions of the *Trades Unions Act 1889*.

298. Inciting to commit crimes

Any person who incites another to commit a crime is guilty of a crime.

Charge: Inciting to commit [*specify particular crime*].

299. Attempts to commit crimes

Any person who attempts to commit a crime is guilty of a crime.

Charge: Attempting to commit [*specify particular crime*].

300. Accessories after the fact

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

Charge: Being an accessory after the fact to [*specify particular crime*].

PART IX – PROCEDURE

Chapter XXXVI – Duties as to Arrest and Detainer

301. Duty of persons arresting

(1) It is the duty of a person executing any process or warrant to have it with him, and to produce it if required.

(2) It is the duty of a person arresting another, whether with or without warrant, to give notice, if practicable, of the process or warrant under which he is acting, or of the cause of the arrest.

(3) A failure to fulfil either of the aforesaid duties shall not of itself deprive the person executing the process or warrant or making the arrest, or his assistants, of protection from criminal responsibility, but shall be relevant to the question whether the process or warrant might not have been executed or the arrest made by reasonable means in a less forcible manner.

(4) Notwithstanding subsection (1), a police officer may arrest a person, whether or not the police officer has a warrant for the arrest of that person in his or her possession at the time of making the arrest, if the police officer has reasonable grounds for believing that a warrant for the arrest has been issued in relation to that person.

(5) If a police officer arrests a person under subsection (4), the police officer must, as soon as practicable –

(a) deliver the arrested person into the custody of a custody officer; and

(b) produce or cause to be produced, or provide or cause to be provided, to the arrested person the warrant or a certified copy of it.

(6) If an arrested person is delivered into the custody of a custody officer under subsection (5), it is lawful for the custody officer to detain the arrested person until the warrant or a certified copy of the warrant is produced or otherwise provided to the arrested person.

(7) The warrant is taken to be executed at the time at which the warrant or certified copy of the warrant is produced or otherwise provided in accordance with subsection (5) to the arrested person.

(8) . . . . . .

(9) A certified copy of a warrant may be used to execute the original warrant for a period not exceeding 8 hours from the time when the certified copy is produced or otherwise provided.

(10) If a certified copy of a warrant is sent or otherwise provided to an arrested person by facsimile machine, email or any other means of electronic communication, within the meaning of the *Electronic Transactions Act 2000*, the copy of the certified copy received by the arrested person (the ***received copy***), and any paper copy of the received copy which is printed directly or indirectly from the machine that received the

received copy, is taken to be a certified copy of the warrant.

(11) In this section –

arrested person means a person arrested under subsection (4);

certified copy, in relation to a warrant, is a true copy of the warrant that contains a statement –

(a) to the effect that the person sending or otherwise providing the copy has seen the original warrant and that the copy is a true copy of that warrant; and

(b) that is signed by that person;

custody officer means a police officer appointed as a custody officer under section 14(1) of the *Criminal Law (Detention and Interrogation) Act 1995*.

302. Duties of police officers

It is the duty of every police officer to arrest any person against whom an accusation has been made to him of having committed a crime for which he may be arrested without warrant, unless he has reasonable grounds for believing such accusation to be without foundation.

303. Duties after arrest

(1) . . . . . .

(2) It is the duty of every police officer to receive into custody any person arrested by a private person and charged with an offence.

Chapter XXXVII – Bail: Trial by Magistrate

304 - 306. . . . . .

307. Place of trial

(1) A person charged with committing a crime may be tried at any place in the State at which sittings of the Supreme Court in its criminal jurisdiction are appointed to be held.

(2) In any case in which the court or a judge orders that an accused person shall be tried at any place other than that at which he has been committed to take his trial, every recognizance, whether of bail or otherwise, conditioned for the appearance of any person at the trial of such accused person, shall be deemed to have reference to the time and place mentioned in such order.

(3) Notice of any such order as aforesaid shall be given as may be prescribed to all persons bound by any such recognizances, and upon proof that such notice has been duly given any such recognizance may be forfeited if the condition thereof has not been observed as herein provided.

307A. Change in place of trial

(1) A person against whom a crime is alleged to have been committed under chapters XIV or XX, before the trial starts, may make application to a judge to change the place of the trial in respect of that crime.

(2) A judge may at his discretion grant or refuse an application made under subsection (1).

(3) Where a judge grants an application to change the place of a trial, the provisions of subsections (2) and (3) of section 307 apply as if the judge made an order under that section.

(4) Where the place of a trial is changed pursuant to this section, the accused person is entitled to compensation by the Crown for any reasonable additional costs which he may incur by reason of the change in the place of the trial.

(5) For the purposes of determining whether the additional costs referred to in subsection (4) are reasonable, a judge may obtain the assistance of the Registrar of the Supreme Court.

308. Trial before magistrate

(1) In any case in which it appears to a judge that the punishment provided in this section will be adequate for the circumstances of the particular case, he may order that the accused shall be tried summarily before a magistrate as hereinafter provided.

(2) Any such order as aforesaid may provide for the time and place of trial, and for admitting the accused person to bail, and the provisions of section 307 shall apply to any recognizances in any such cases in the same manner as if such order were made under that section.

(3) Where in any case any such order as aforesaid is made, the magistrate hearing such case in pursuance thereof shall, for the purposes of the conduct of the trial of the accused, have the powers and jurisdiction of a judge on the trial of an accused person upon indictment.

(4) A magistrate to whom the trial of any person has been remitted under the provisions of this section shall, upon conviction of the accused person, have power to inflict a sentence of a fine not exceeding 20 penalty units or imprisonment for a term not exceeding one year.

(5) No order shall be made for the imprisonment for non-payment of any fine imposed under the provisions of this section for any term exceeding 6 months.

(6) In any case in which the trial of an accused person has been so remitted as aforesaid, to the magistrate before whom he was committed for trial, he may be tried upon the depositions taken upon his committal for trial, and such other evidence as may be adduced upon either side.

(7) An order shall only be made under subsection (1) on an application made to a judge in chambers or in an open court, and no such

application shall be made otherwise than by, or with the consent of, the accused person.

(8) . . . . . .

(9) Every conviction and sentence made or imposed under the provisions of this section shall be subject to appeal in the same manner in every respect as a conviction or sentence in the Supreme Court, and for the purposes of any such appeal the magistrate before whom the accused person was so tried as aforesaid shall be deemed to be the judge of the court of trial.

309. Arrest of accused in certain cases

(1) In any case in which an indictment has been presented against any person who has not been committed for trial, and in any case in which any accused person does not attend to be tried upon an indictment, a judge may issue a warrant under his hand for the arrest of such person.

(2) In any such case the person so arrested shall be held to take his trial, but may in a proper case be granted bail in the meantime.

Chapter XXXVIII – Indictments

310. Indictments

(1) When a person charged with a crime has been committed for trial and it is intended to put him on his trial therefor, the charge is to be reduced to writing in a document called an indictment.

(2) An indictment shall be signed by a Crown Law Officer and filed in the Supreme Court.

(3) A Crown Law Officer may file an indictment against any person for a crime whether he has been committed for trial or not.

(4) Before filing an indictment a Crown Law Officer shall satisfy himself that there is evidence against the defendant sufficient to put him on his trial or to raise a strong or probable presumption of his guilt.

311. Form and contents of indictments

(1) An indictment shall be intituled "In the Supreme Court of Tasmania", with the addition of the name of the place of trial, and shall contain and be sufficient if it contains a statement of the specific crime or crimes with which the accused person is charged, together with such particulars as may be necessary for giving reasonable information as to the nature of the charge.

(2) Except as provided in section 125A(6), charges of more than one crime may be joined in the same indictment, if those charges arise substantially out of the same facts or closely related facts, or are, or form part of, a series of crimes of the same or a similar character. In any other case an indictment shall charge one crime only.

(3) . . . . . .

(4) The statement of the crime charged in an indictment, or where more than one crime is charged in the same indictment, the statement of each crime, with the particulars thereof, shall be set out in a separate paragraph, called a count.

(5) Where an indictment contains more than one count the counts shall be numbered consecutively.

(6) Where there are more counts than one in an indictment each count shall be regarded as a separate indictment.

312. Statement of crimes

(1) The statement of a crime in an indictment shall describe the crime shortly, in ordinary language, avoiding as far as possible the use of technical terms, and without necessarily stating all the essential elements of the crime.

(2) The words following the word "Charge" at the foot of any section or subsection of the Code or of any statute, together with a reference to such section or subsection, shall be a sufficient statement of a crime under that section or subsection.

313. Charge against accessories

Where a person is to be charged with attempting to commit, or with inciting, instigating, aiding, or abetting the commission of, or as an accessory after the fact to, a crime, it shall be sufficient to

use the charge appropriate to such crime, with such additional words as will indicate that such person is charged with attempting to commit, or inciting, instigating, aiding, or abetting the commission of, or as an accessory after the fact to, such crime.

314. Particulars

(1) After the statement of the crime particulars of such crime shall be set out in ordinary language, avoiding as far as possible the use of technical terms.

(2) Where any statute limits the particulars of a crime which are required to be given in an indictment, nothing in this section shall require any more particulars to be given than those so required.

(3) The omission of any fact from the particulars shall not vitiate the count to which they are appended if the particulars are sufficient to describe with reasonable clearness the nature of the charge.

315. Alternative statements

(1) Where an enactment constituting a crime states the crime to be the doing or the omission to do any one of any different acts in the alternative, or the doing or the omission to do any act in any different capacities, or with any one of any different intentions, or states any part of the offence in the alternative, the acts, omissions,

capacities, or intentions or other matters stated in the alternative in the enactment may be stated in the alternative in the count charging the crime.

(2) This section shall not be construed to authorize the statement of more than one crime in one count.

316. Acts must be established

Nothing in this chapter shall affect or diminish in any respect the obligation to establish by evidence according to law any acts or omissions or intentions which are legally necessary to constitute the crime with which the accused person is charged, or otherwise affect the law of evidence in criminal cases.

317. Forms of indictment

(1) An indictment shall conform as nearly as may be to the forms set out in Appendix C, the statement of the crime and the particulars thereof being varied according to the circumstances of each particular case. Figures and abbreviations may be used in an indictment for expressing anything which is commonly expressed thereby.

(2) The forms of indictment set forth in Appendix C shall be taken as a guide as to what particulars are necessary.

318. General rule as to description

(1) It shall be sufficient to describe any place, time, matter, act, or omission whatsoever to which it is necessary to refer in any indictment in ordinary language in such a manner as to indicate the same with reasonable clearness.

(2) In any case in which the time or place at which any crime is alleged to have been committed cannot be stated precisely, it shall be sufficient to state the same as nearly as may be practicable.

(3) In an indictment in which it is necessary to mention money, such money may be described simply as money, without specifying any particular form of money.

318A. Indictments for burglary, &c.

Subject to section 318 it is not necessary in an indictment for a crime under Chapter XXVII to specify whether the place in relation to which the crime is alleged to have been committed is any particular kind of place or to describe the nature or any of the characteristics of that place.

319. Statements in proceedings for perjury

In an indictment for a crime which relates to giving false testimony, or procuring or attempting to procure the giving of false testimony, it is not necessary to allege the jurisdiction of the court or tribunal before which the false testimony was given, or intended or

proposed to be given, or to set forth the proceedings or any part of the proceedings in the course of which the crime is alleged to have been committed.

320. Proof of obtaining money by false pretence, &c.

In an indictment for obtaining property by a false pretence, or for stealing by a clerk or servant, or person acting in the capacity of a clerk or servant, an averment as to obtaining or stealing money shall be sustained by proof that the accused obtained or converted any coin or bank note, or any part of the value of either, although such coin or note was delivered to him in order that some part of the value thereof should be returned to the person who delivered the same or to some other person, and has been returned accordingly.

321. Description of property

The description of property in an indictment shall be in ordinary language, and such as to indicate with reasonable clearness the property referred to, and if the property is so described it shall not be necessary, except when required for the purpose of describing a crime depending on any special ownership of property or special value of property, to name the person to whom the property belongs or the value of the property.

322. Statement of ownership of property

Where property is vested in more than one person and the owners of the property are referred to in an indictment, it shall be sufficient to describe the property as owned by one of those persons, naming him, with the addition of the words "and another", or "and others", and if the persons owning the property are a body of persons with a collective name, such as – "The Trustees of the property of the Grand Lodge of Tasmania", "The Tasmanian Racing Club", (or the like) – it shall be sufficient to use the collective name without naming any individual.

323. Description of persons

The description and designation in an indictment of the accused person, or of any other person to whom reference is made therein, shall be such as is reasonably sufficient to identify him without necessarily stating his correct name, or his abode or occupation; and if for any reason it is impracticable to give such a description or designation, such description or designation shall be given as is reasonably practicable in the circumstances, or such person may be described as "a person unknown".

324. Description of document

Where it is necessary to refer to any seal or die or document or instrument in an indictment, it shall be sufficient to describe it by any name or designation by which it is usually known, or by

the purport thereof, without setting out any copy thereof.

325. Statement of intent

It shall not be necessary in stating any intent to defraud, deceive, or injure, to state an intent to defraud, deceive, or injure any particular person where the statute creating the offence does not make an intent to defraud, deceive, or injure a particular person an essential ingredient of the crime.

326. Amendment of indictment: Power to order separate trial

(1) Where, before trial or at any stage of the trial, it appears to a judge that the statement of the crime or the particulars, or the name or description of any person or thing mentioned therein is or are defective or erroneous, he shall make such order for the amendment of the indictment as he thinks necessary to meet the circumstances of the case, unless, having regard to the merits of the case, the required amendment cannot be made without injustice.

(2) Where an indictment is so amended a note of the order for amendment shall be endorsed on the indictment, and the indictment shall be treated for the purposes of the trial and of all proceedings in connection therewith as having been filed in its amended form.

(3) Where, before trial or at any stage of the trial, it appears to a judge that an accused person may be prejudiced or embarrassed in his defence by reason of being charged with more than one crime in the same indictment, or that for any other reason it is desirable to direct that he should be tried separately for any one or more crimes charged in the indictment, the judge may order a separate trial of any count or counts in such indictment.

(4) Where, before the trial or at any stage of the trial, it appears to a judge that the postponement of the trial of the accused person is expedient as a consequence of the exercise of any power of a judge under this section to amend an indictment, or to order the separate trial of a count, the judge shall make such order as to postponement of the trial as appears necessary.

(5) Where an order is made for a separate trial or for the postponement of a trial –

(a) if such order is made during the trial the judge may order that the jury are to be discharged from giving a verdict on count or counts the trial of which is postponed or on the indictment, as the case may be;

(b) the procedure on the separate trial of a count shall be the same in all respects as if it had been charged in a separate indictment, and the procedure on the postponed trial shall be the same in all respects (if the jury have been

discharged) as if the trial had not commenced; and

(c) the judge may make such order as to admitting the accused person to bail, and as to the enlargement of recognizances and otherwise, as the circumstances of the case may require.

(6) The power conferred by this section shall be in addition to, and not in derogation of, any other power of the court for the same or similar purposes; and may before trial be exercised upon summons by a judge in chambers.

326A. Order for separate trial for sexual offences

(1) In this section –

sexual offence means –

(a) a crime under section 124, 124A, 124B, 124C, 125, 125A, 125B, 125C, 125D, 126, 127, 127A, 129, 130, 133 or 185; or

(b) a crime under section 298, 299 or 300 in relation to a crime specified in a section referred to in paragraph (a).

(2) Despite section 326 and any rule of law to the contrary, if in accordance with this Act 2 or more charges for sexual offences are joined in the same indictment, it is presumed that those charges are to be tried together.

(3) The presumption created by subsection (2) is not rebutted merely because evidence on one charge is inadmissible on another charge.

327. Pleadings

The provisions of this chapter shall, so far as the same are applicable thereto, apply to all criminal pleadings, subject to any modifications which may be made by rules under the Code.

328. Duty to furnish copy of indictment, &c.

Upon the application of a person against whom an indictment has been filed the Crown Law Officer filing such indictment shall supply such person, 2 clear days at least before the day of trial, with a copy of the indictment and a copy of the jury panel free of charge; and shall permit such person, upon his trial, to inspect, free of charge, all depositions taken against him and forwarded to the Attorney-General.

329. Particulars in indictments for treason

(1) The particulars contained in an indictment for treason must state the overt act or acts of the treason alleged; and no evidence of any overt act not stated therein shall be admissible unless it is relevant as tending to prove any overt act so stated.

(2) No indictment for treason shall be amended by the addition of any overt acts not so stated as aforesaid.

(3) A person indicted for treason shall be served, in the presence of 2 credible witnesses, with a copy of the indictment against him and with a list setting forth the full names and the addresses and occupations of all jurors summoned for his trial, 10 days at least before his arraignment.

330. Parties to crimes

(1) Any number of persons who are alleged –

(a) to be parties within the meaning of the Code to the same crime (notwithstanding that some other party or parties to that crime is or are not included in the indictment or is or are not amenable to justice); or

(b) to have committed different crimes arising substantially out of the same facts or closely related facts –

may be joined in the same indictment and tried together or separately.

(2) Any number of persons who are alleged to have committed perjury or false swearing may be joined in the same indictment and tried together or separately if the statements alleged to be false are alleged to have been made in the same proceedings and before the same tribunal.

(3) Any party to whom subsection (1) relates who is alleged to have instigated, aided, or abetted the commission of a crime may be convicted upon a count charging him with having committed the

crime, or upon a count charging him with having instigated, aided, or abetted, as the case may be, the commission thereof.

331. Accessories after the fact

Any number of accessories after the fact to the same crime, though becoming so at different times, or any number of receivers, though at different times, of the same stolen property or of any part or parts thereof, may be joined in the same indictment, and may be tried with the principal offender, or separately, or may be indicted and tried, either together or separately, although the principal offender has not been convicted or is not amenable to justice.

331A. Release from prison if no indictment filed

(1) If –

(a) a person is in a prison, by reason of having been remanded in custody by justices; and

(b) justices have committed that person for trial in the Supreme Court for an indictable offence; and

(c) a Crown Law Officer decides on the evidence before him or her not to file an indictment against that person for that offence –

the Crown Law Officer may issue a warrant to the person in charge of that prison to release that person immediately.

(2) A person in charge of a prison who is provided with a warrant under subsection (1) is to immediately release the person named in the warrant from custody in respect of the offence mentioned in the warrant.

331B. First appearance of defendant in Supreme Court following committal

(1) At the first appearance before the Supreme Court of a defendant committed to the Court on a plea of guilty entered before justices, the Supreme Court is to list the defendant for sentencing on a day fixed by the Court.

(2) At the first or a subsequent appearance before the Supreme Court of a defendant committed to the Court on any plea, other than a plea of guilty –

(a) subject to subsection (2A), the defendant or a Crown law officer may apply for an order that the witnesses named in the application give evidence on oath in preliminary proceedings; and

(b) the Court may make such an order; and

(c) the Court is to warn the defendant that he or she may not be permitted at trial to give evidence of an alibi or to call witnesses in support of an alibi unless he

or she gives the Director of Public Prosecutions written notice of that alibi and of those witnesses within the time provided in section 368A; and

(d) the Court is to warn the defendant of the requirements of section 368B(1).

(2A) An application may only be made under subsection (2)(a) if the applicant is granted leave of the Court to apply as a result of one or more of the following special circumstances:

(a) if the applicant is the defendant, relevant evidence in respect of the witness to which the application relates was not disclosed to the defendant before the committal order in respect of the offence was made;

(b) if the applicant is a Crown Law Officer, it is in the interests of justice to allow the Crown to examine the witness to which the application relates;

(c) the witness to which the application relates is ill or is going to leave the jurisdiction indefinitely;

(d) both the defendant and the Crown Law Officer agree that a preliminary proceedings order should be made under the application;

(e) it is in the interests of justice, on any other grounds, for the preliminary

proceedings order to be made under the application.

(3) The Supreme Court may only make an order under subsection (2)(b) requiring a witness named in the order to give evidence on oath in preliminary proceedings –

(a) if the defendant, or Crown law officer, in his or her application for the order has identified a matter in respect of which the witness is to be questioned, has specified why the evidence of the witness is relevant to that matter and has specified why cross-examination, or examination, of the witness is justified; and

(b) if, in a case where the witness is an affected person, the Court is satisfied that exceptional circumstances require the witness to give evidence on oath at preliminary proceedings; and

(c) the Court is satisfied that it is necessary in the interests of justice.

(4) An order under subsection (2)(b) –

(a) in respect of a witness who is not an affected person, may limit the matters on which the witness may be examined, cross-examined and re-examined and impose conditions in relation to such examination, cross-examination and re-examination; and

(b) in respect of a witness who is an affected person, must limit the matters on which the witness may be examined, cross-examined and re-examined and may impose conditions in relation to such examination, cross-examination and re-examination.

(5) If the Supreme Court makes an order under subsection (2)(b), the Court is to remand the defendant in custody or admit him or her on bail to appear before justices, at the time and on the day specified in the order.

(6) In this section –

affected person means the following:

(a) an affected person within the meaning of the *Justices Act 1959*;

(b) a prescribed witness within the meaning of the *Evidence (Children and Special Witnesses) Act 2001*.

331C. Jurisdiction of Supreme Court to sentence

If a defendant is committed, by justices in accordance with the *Justices Act 1959*, to the Supreme Court for sentence, the Supreme Court has jurisdiction over the defendant as if the defendant had appeared and entered the plea to an indictment for the offence in respect of which he or she was committed.

Chapter XXXIX – Powers of Conviction Upon Particular Indictments

332. Alternative convictions

(1) Except as provided in this chapter no person shall on an indictment for a crime be convicted of any other crime.

(2) Where pursuant to this chapter a person may, on indictment for any crime, be convicted of any other crime it is intended that, if the jury find him not guilty of the crime with which he is charged, he may be convicted of that other crime if it is established by the evidence to have been committed by him.

333. Murder

Upon an indictment for murder the accused person may be convicted of –

(a) manslaughter;

(b) concealment of birth;

(c) causing the death of a child before birth; or

(d) infanticide.

333A. Attempted murder

Upon an indictment for attempting to commit murder the accused person may be convicted of –

(a) an unlawful act intended to cause bodily harm; or

(b) strangulation.

334. Manslaughter

Upon an indictment for manslaughter the accused person may be convicted of –

(a) concealment of birth;

(b) causing the death of a child before birth;

(c) illtreating a child;

(ca) causing death by dangerous driving; or

(cb) dangerous driving; or

(d) an offence under subsection (1) of section 32 of the *Traffic Act 1925*.

334AA. Strangulation

Upon an indictment for strangulation the accused person may be convicted of assault.

334A. Wounding or causing bodily harm

(1) Upon an indictment for committing an unlawful act intended to cause bodily harm the accused person may be convicted of –

(a) wounding or causing grievous bodily harm; or

(ab) strangulation; or

(b) assault.

(2) Upon an indictment for wounding or causing grievous bodily harm the accused person may be convicted of assault or strangulation.

334B. Dangerous driving causing grievous bodily harm

Upon an indictment for causing grievous bodily harm by dangerous driving, the accused person may be convicted of –

(a) dangerous driving; or

(b) an offence under section 32(1) or (2B) of the *Traffic Act 1925*.

334C. Causing death by dangerous driving

Upon an indictment for causing death by dangerous driving, the accused person may be convicted of –

(a) dangerous driving; or

(b) an offence under section 32(1) or (2A) of the *Traffic Act 1925*.

335. Rape

Upon an indictment for rape the accused person may be convicted of –

(a) penetrative sexual abuse of a child [*or* young person];

(ab) penetrative sexual abuse of a child [*or* young person] by a person in a position of authority;

(b) penetrative sexual abuse of a person with a mental impairment;

(c - d) . . . . . .

(e) incest;

(ea) indecent act with or directed at a child [*or* young person] by a person in a position of authority;

(eb) indecent assault of child [*or* young person] by a person in a position of authority;

(f) indecent assault; or

(g) assault.

335A. Abduction

Upon an indictment for forcible abduction or abduction the accused person may be convicted of assault.

336. Child sexual abuse

Upon the indictment for penetrative sexual abuse of a child [*or* young person] or sexual

intercourse with a young person under 17 years of age, the accused person may be convicted of –

(a) penetrative sexual abuse of a person with a mental impairment;

(ab) penetrative sexual abuse of a child [*or* young person] by a person in a position of authority;

(b) indecent act with or directed at a child [*or* young person] by a person in a position of authority;

(ba) indecent assault of child [*or* young person] by a person in a position of authority;

(c) indecent assault; or

(d) assault.

(e) . . . . . .

336A. Indecent assault

Upon an indictment for indecent assault the accused person may be convicted of assault whatever may have been the age of the person against whom the offence is alleged to have been committed.

336B. Child sexual abuse by a person in a position of authority

Upon the indictment for penetrative sexual abuse of a child [*or* young person] by a person in a position of authority, the accused person may be convicted of –

(a) penetrative sexual abuse of a child [*or* young person]; or

(b) persistent sexual abuse of a child [*or* young person]; or

(ba) indecent act with or directed at a child [*or* young person] by a person in a position of authority;

(bb) indecent assault of child [*or* young person] by a person in a position of authority;

(c) incest; or

(d) indecent assault; or

(e) assault.

337. Incest

Upon an indictment for incest the accused person may be convicted of –

(a) penetrative sexual abuse of a child [*or* young person];

(ab) penetrative sexual abuse of a child [*or* young person] by a person in a position of authority;

(b) penetrative sexual abuse of a person with a mental impairment;

(c) indecent act with or directed at a child [*or* young person] by a person in a position of authority;

(ca) indecent assault of child [*or* young person] by a person in a position of authority;

(d) indecent assault.

(e) . . . . . .

337A. Persistent family violence

(1) Subject to subsection (2), upon an indictment for persistent family violence, the accused person may be convicted of one or more of the following crimes or offences:

(a) assault;

(ab) aggravated assault;

(b) assault on pregnant woman;

(ba) committing an unlawful act intended to cause bodily harm;

(c) abduction;

(d) rape;

(e) stalking;

(f) indecent assault;

(g) wounding [*or* causing grievous bodily harm];

(ga) strangulation;

(h) penetrative sexual abuse of a person with a mental impairment;

(i) an offence against section 8 of the *Family Violence Act 2004*;

(j) an offence against section 9 of the *Family Violence Act 2004*;

(k) attempting to commit any crime or offence referred to in paragraphs (a) to (j), both inclusive;

(l) inciting a person to commit any crime or offence referred to in paragraphs (a) to (j), both inclusive;

(m) being an accessory after the fact to any offence or crime referred to in paragraphs (a) to (j), both inclusive.

(2) The accused person may only be convicted of a crime or an offence specified in subsection (1) if the trial judge is satisfied, on the evidence adduced at trial, that the accused person was capable of being tried on indictment for that crime or being convicted summarily for that offence.

337B. Persistent child sexual abuse

(1) Subject to subsection (2), upon an indictment for persistent sexual abuse of a child [*or* young person] or maintaining a sexual relationship with a young person under the age of 17 years the accused person may be convicted of one or more of the following crimes:

(a - b) . . . . . .

(c) penetrative sexual abuse of a child [*or* young person];

(ca) penetrative sexual abuse of a child [*or* young person] by a person in a position of authority;

(d) penetrative sexual abuse of a person with a mental impairment;

(e) indecent act with or directed at a child [*or* young person];

(ea) indecent act with or directed at a child [*or* young person] by a person in a position of authority;

(eb) indecent assault of child [*or* young person] by a person in a position of authority;

(f) indecent assault;

(g) . . . . . .

(h) incest;

(i) rape.

(2) The accused person may only be convicted of a crime specified in subsection (1) if the trial judge is satisfied on the evidence adduced at trial that the accused person was capable of being tried on indictment for that crime.

337C. Involving person under 18 years in production of child exploitation material

Upon an indictment for involving a person under the age of 18 years in the production of child exploitation material, the accused person may be convicted of –

(a) producing child exploitation material; or

(b) distributing child exploitation material; or

(c) possessing child exploitation material.

338. Stealing, false pretences, receiving, and cheating

(1) Upon an indictment for –

(a) stealing;

(b) obtaining goods by a false pretence;

(ba) fraud;

(c) cheating;

(ca) dishonestly acquiring a financial advantage; or

(d) receiving stolen property –

the accused person may be convicted of any of such crimes respectively.

(2) Upon an indictment of several persons jointly for receiving stolen property any one of such persons may be convicted separately of receiving the same or any part thereof.

339. Stealing and killing animals with intent to steal

Upon an indictment for stealing an animal the accused person may be convicted of killing such animal with intent to steal it.

339A. Robbery, &c.

Upon an indictment for –

(a) robbery;

(b) aggravated robbery;

(c) armed robbery; or

(d) aggravated armed robbery –

the accused person may be convicted of –

(e) any of those crimes; or

(f) any of the following crimes:

(i) stealing;

(ii) receiving stolen property;

(iii) . . . . . .

(iv) assault.

340. Principals and accessories after the fact

Upon an indictment for a crime, the accused person may be convicted of being an accessory after the fact to that crime or to any other crime of which, subject to subsection (2) of section 332, he could be convicted on that indictment.

341. Part of charge proved

Every count in an indictment shall be deemed to be divisible, and if the commission of the crime charged, as described in the enactment creating that crime or as charged in the count, involves the commission of any other crime, the person accused may, on that indictment, be convicted of that other crime.

342. Attempts

(1) Upon an indictment for a crime, the accused person may be convicted of attempting to commit that crime or any other crime of which, subject to subsection (2) of section 332, he could be convicted on that indictment.

(2) Where a person is charged in an indictment with an attempt to commit a crime and the evidence establishes that he committed the full crime he may be convicted of that full crime.

(3) Where a person has been convicted of an attempt to commit a crime he is not liable to be tried for the crime of which he was so convicted of having attempted to commit.

342AA. Alternative verdicts

Subject to section 332(2), an accused person charged in an indictment with –

(a) attempting to commit a crime may be convicted of committing or attempting to commit any of the alternative crimes available under this Chapter on an indictment charging the accused person with having committed that crime; or

(b) being an accessory after the fact to a crime or inciting another person to commit a crime may be convicted, respectively, of being an accessory after, or inciting that other person to commit, any of the alternative crimes available under this Chapter on an indictment charging the accused person with having committed that crime.

342A. Incitements

Upon an indictment for a crime, the accused person may be convicted of inciting any person to commit that crime or any other crime of which, subject to subsection (2) of section 332, he could be convicted on that indictment.

343. Indictment for treasonable crimes and inciting mutiny

A person charged with a crime under the provisions of section 59 or of section 62 shall not be acquitted of such crime on the ground that the evidence discloses that he is guilty of treason, but no person acquitted or convicted of such crime shall be afterwards prosecuted for treason upon the same facts.

344. Indictments in respect of unlawful oaths

A person charged with a crime under the provisions of section 63 shall not be acquitted of such crime on the ground that the evidence discloses that he is guilty of a crime under the provisions of section 56 or of section 58, but no person acquitted or convicted of such crime shall be afterwards prosecuted upon the same facts under either of the last-mentioned sections.

Chapter XL – Trial: Adjournment: Pleadings: Practice

345. Right to be tried

(1) A person committed for a trial for a crime may, at any time during the first week of the term, or the first day of the sessions of oyer and terminer and general gaol delivery held after his committal, make application in open court to be brought to trial.

(2) If such person is not indicted within such term or sessions as aforesaid he may, upon the last day

of such term or sessions, make application in open court for bail, which the court shall grant, unless it appears upon oath to the court that the witnesses for the Crown could not be produced at the same term or sessions as aforesaid.

(3) If any such person as aforesaid is not indicted during the sessions next after such sessions as aforesaid, he shall, upon his prayer or petition in open court, the first week of the term or the first day of the sessions thereafter, be discharged.

346. Accelerating trial of persons not under committal

When an indictment is filed in the Supreme Court against any person who has not been committed for trial upon the charge set forth in the indictment, and the accused person is not brought to trial within a year after the indictment is so filed, the court may, upon the application of the accused person, order him to be discharged from all proceedings on such indictment.

347. Adjournment of trial

The judge may in any case, if he thinks fit, adjourn the trial of the accused person at any stage thereof, whether a jury has or has not been sworn, and whether evidence has or has not been given, and may, if necessary, discharge the jury.

348. On adjournment of trial accused may be remanded, &c.

(1) In this section –

Chief Psychiatrist has the same meaning as in the *Mental Health Act 2013*;

secure mental health unit has the same meaning as in the *Mental Health Act 2013*;

specified means specified in an order under this section that commits an accused person to a secure mental health unit.

(2) When a trial is adjourned, the judge may –

(a) direct the trial to be held either at that or a later sitting of the court; and

(b) either –

(i) remand the accused person accordingly; or

(ii) in a proper case, admit the accused person to bail and, if necessary, enlarge the recognisances of the witnesses.

(3) Instead of remanding the accused person to a gaol or detention centre, or to the custody of the Director of Corrective Services or the Secretary of the responsible Department in relation to the *Youth Justice Act 1997*, the judge may commit him or her to a secure mental health unit if –

(a) the judge considers that remand is appropriate in the circumstances; and

(b) the accused person appears to be suffering from a mental illness within the

meaning of the *Mental Health Act 2013*; and

(c) the judge considers that the accused person should be admitted to a secure mental health unit for his or her own health or safety or for the protection of others; and

(d) the Chief Psychiatrist has provided a report to the effect that –

(i) the admission of the accused person to the secure mental health unit is necessary for his or her care or treatment; and

(ii) adequate facilities and staff exist at the secure mental health unit for the appropriate care and treatment of the accused person; and

(iii) in the case of an accused person who has not attained the age of 18 years, the secure mental health unit is the most appropriate place available to accommodate him or her in the circumstances having regard to the objectives and general principles set out in sections 4 and 5 of the *Youth Justice Act 1997*.

(4) Each of the following persons may apply at any time to the Supreme Court for the variation or revocation of an order under this section that

commits an accused person to a secure mental health unit:

(a) the Director of Public Prosecutions;

(b) the Secretary of the responsible Department in relation to the *Mental Health Act 2013*;

(c) the Chief Psychiatrist;

(d) the accused person.

(5) The Chief Psychiatrist must apply to the Supreme Court for the revocation of an order under this section that commits an accused person to a secure mental health unit if the Chief Psychiatrist is of the opinion that the accused person no longer requires such treatment or would no longer benefit from such treatment.

(6) On hearing an application, the judge –

(a) may vary, revoke or confirm the order committing the accused person to a secure mental health unit; and

(b) if the judge revokes the order, may make any other order he or she could have made under this section.

(7) An application is to be heard and determined within 14 days after it is made.

(8) The Secretary of the responsible Department in relation to the *Mental Health Act 2013* may delegate his or her power under subsection (4)(b)

to apply for the variation or revocation of an order under this section.

(9) If a judge makes an order under this section that commits a person to a secure mental health unit –

(a) the judge is to specify in the order that the specified person, or a person of the specified class of person, is to be responsible for taking the accused person to the specified secure mental health unit; and

(b) the judge may specify in the order that that or another specified person, or a person of that or another specified class of person, is to be responsible for bringing the accused person from the specified secure mental health unit before the Court in connection with the exercise by the Court of its powers under this Act.

(10) A copy of an order under this section that commits an accused person to a secure mental health unit and the report of the Chief Psychiatrist are to accompany the accused person to the specified secure mental health unit.

(11) While an accused person is the responsibility of another person as specified in an order that commits the accused person to a secure mental health unit –

(a) that other person has the custody of the accused person; and

(b) the accused person is taken to be a forensic patient for the purposes of the application of relevant provisions of Parts 4 and 5 of Chapter 2 of the *Mental Health Act 2013*.

(12) A judge may make such orders as to the distribution and security of the report provided by the Chief Psychiatrist as he or she considers necessary or appropriate.

(13) Unless a judge orders otherwise, the Chief Psychiatrist must give, as soon as practicable, a copy of his or her report to –

(a) the prosecutor; and

(b) the Australian legal practitioner representing the accused person or, if the accused person is unrepresented, the accused person.

(14) The prosecution or the defence may dispute the whole or any part of the report of the Chief Psychiatrist.

(15) If the whole or any part of the report of the Chief Psychiatrist is disputed, a judge must not take into consideration the report or part in dispute unless the party disputing the report or part has had the opportunity –

(a) to lead evidence on the disputed matters; and

(b) to cross-examine on the disputed matters the Chief Psychiatrist or, if the Chief

Psychiatrist has delegated his or her function of writing the report, the author of the report.

349. Bringing up a prisoner for trial

When any person against whom an indictment has been filed is in prison for any other cause, the court may, by order in writing, without writ of *habeas corpus*, direct the gaoler to bring up the body of such person as often as is required for the purposes of the trial, and the gaoler shall obey such order.

350. *Nolle prosequi*

(1) If at any stage of the proceedings upon an indictment a Crown Law Officer or a person appearing for the Crown informs the court that the Crown will not proceed further upon that indictment –

(a) the judge, if the trial of the accused person has begun and a jury has been sworn, may direct the jury to return a verdict of not guilty and thereupon the accused person shall be discharged; or

(ab) the judge, if the trial of the accused person has begun but a jury has not been sworn, may direct that an entry of not guilty be made on the indictment in which case the entry has effect in all respects as if it were the verdict of a jury

upon the trial of the accused person on the indictment; or

(b) in the absence of a direction under paragraph (a) or (ab), the accused person shall be discharged from any further proceedings upon that indictment but may be again indicted upon a fresh indictment, subject to the limitation of time, if any, within which proceedings must be instituted.

(2) The accused person shall be charged upon any such fresh indictment at sittings of the court held at the place where he was first charged next after the hearing of such first charge.

351. Arraignment

(1) When an accused person is to be tried he shall be brought to the bar of the court and informed of the crime charged against him as set forth in the indictment; and if he so requires, the indictment shall, subject to the provisions of subsection (2), be read over to him; and he shall be then called upon to plead.

(2) In any case in which a previous conviction is alleged in the indictment the accused person shall in the first place be arraigned on so much of the indictment as charges the subsequent crime, and no reference to such previous conviction shall be then made to the jury, except as provided in subsection (5).

(3) If the accused person pleads, or is found, guilty of such subsequent crime, he shall then, and not before, be asked whether he has been previously convicted as so alleged.

(4) If the accused person denies such previous conviction, or wilfully refuses to answer, or does not answer directly to, such question as aforesaid, the jury shall then be charged to inquire whether he has been so previously convicted or not.

(5) In any such case as aforesaid, if the accused person gives evidence of good character, either by cross-examination or calling witnesses, such previous conviction as aforesaid may be proved before the jury give their verdict upon the charge for the subsequent crime.

(6) The trial shall be deemed to begin when the accused is called upon to plead.

352. Motion to quash indictment

(1) The accused person may before pleading apply to the judge to quash the indictment on the ground that it is calculated to prejudice or embarrass him in his defence to the charge, or that it is formally defective.

(2) Upon such application the judge may quash the indictment, or may order it to be amended in such manner as he thinks just, or may refuse the application.

(3) If at any stage of the trial it appears to the judge that there is any defect in the indictment, and the judge does not see fit to amend it, he may quash the indictment, or may leave the objection to be taken in arrest of judgment.

(4) If an indictment is quashed under the provisions of this section, the accused person is entitled to be discharged from any further proceedings thereon, but he may be again indicted upon a fresh indictment, subject to the limitation, if any, as to the time within which a prosecution must be instituted.

353. Pleading to indictment

If the indictment is not quashed under the provisions of section 352(1), the accused person must –

(a) demur to the indictment on the ground that it does not in substance disclose any crime; or that it appears on the face of the indictment that the court has no jurisdiction;

(b) plead to the indictment; or

(c) plead and demur together.

354. Demurrer

(1) If a demurrer pleaded by an accused person is allowed the judgment shall be that the accused person shall be discharged from the premises set

forth in the indictment to which such demurrer is pleaded, and he shall be discharged accordingly.

(2) When an accused person demurs only, the judge shall, subject to his power to adjourn the trial, hear and determine the matter forthwith, and if the demurrer is overruled, the accused person shall be called upon to plead to the indictment.

(3) When an accused person pleads and demurs together, it shall be in the discretion of the judge whether the plea or the demurrer shall be determined first.

(4) Every demurrer shall be in writing, and filed with the clerk of the court at the time it is pleaded, and no joinder in demurrer shall be necessary.

355. Pleas

(1) An accused person may plead to an indictment –

(a) that he is guilty of the crime charged in the indictment; or, with the consent of the Crown, of any other crime of which he might be convicted upon such indictment;

(b) that he has already been acquitted or convicted –

(i) of the crime charged in the indictment;

(ii) upon an indictment upon which he might have been convicted of that crime;

(iii) of a crime arising out of the same facts and substantially the same crime as that charged in that indictment;

(iv) of any crime, an acquittal or conviction of which is, under the provisions of the Code, a bar to a prosecution for the crime charged in the indictment; or

(v) summarily, of an offence in respect of which he might have been indicted upon the charge to which he is called upon to plead;

(c) that he has received the Royal pardon for the crime charged in the indictment, or for any other crime of which he might be convicted thereon;

(d) that he is not guilty;

(e) that the court has no jurisdiction to try him for such crime; or

(f) for defamation, that the defamatory matter published by him was true, and that it was for the public benefit that such matter should be published at the time when, and in the manner in which, it was published.

(2) An accused person may plead together any pleas under –

(a) paragraphs (a) and (c);

(b) paragraphs (b) and (c);

(c) paragraphs (b) and (e); or

(d) paragraphs (d), (e), and (f) –

of subsection (1).

(3) Where any plea or pleas under paragraphs (b), (c), or (e) of subsection (1) have been determined against an accused person, and he has not pleaded any other plea, he shall be called upon to plead afresh, and he may then plead under paragraph (d) of that subsection, with or without any other plea, not already pleaded, which may be joined therewith.

(4) Every plea, other than the pleas of guilty or not guilty, shall be in writing, and shall be filed with the clerk of the court at the time it is pleaded.

(5) Where 2 or more pleas may be pleaded together, the order in which they are pleaded shall be immaterial.

356. Withdrawal of pleas

An accused person may, by leave of the judge, at any time –

(a) before sentence, withdraw a plea of guilty and plead not guilty; or

(b) before verdict, withdraw any plea, and substitute a demurrer or some other plea.

357. Standing mute, &c.

(1) If an accused person, when called upon to plead to an indictment, stands mute or does not directly answer to the indictment and it appears to the judge that there is no reason to reserve the question of that person's fitness to stand trial for investigation under Part 2 of the *Criminal Justice (Mental Impairment) Act 1999*, the judge may order a plea of not guilty to be entered on that person's behalf.

(2) A plea endorsed under subsection (1) has the same effect as if it had been pleaded by the accused person.

358. Plea of *autrefois* acquit or *autrefois* convict

In a plea that the accused person has already been acquitted or convicted, it is sufficient to state that he has been lawfully acquitted or convicted, as the case may be, of the crime charged in the indictment, or of the other offence of which he alleges that he has been acquitted or convicted, and, in the latter case, to describe the offence by any term by which it is commonly known.

359. Joinder of issue not necessary

No joinder of issue upon any plea shall be necessary, but issue shall be deemed to have

been joined at the time when such plea is pleaded, or, if there is a demurrer to such plea, when such demurrer is overruled.

360. Trial on plea to the jurisdiction

(1) Upon a plea to the jurisdiction of the court, the judge shall determine the question of jurisdiction in such manner and upon such evidence as he thinks fit, and may, in his discretion, order a jury to be impanelled and sworn to try any question of fact necessary to such determination.

(2) Any jury so impanelled may be resworn for the trial of the indictment if the judgment on such plea is against the accused person.

361. Trial by jury

If the accused person pleads any plea other than the plea of guilty or a plea to the jurisdiction of the court, he shall be deemed by such plea, and without any further form, to have demanded that the issues raised thereby shall be tried by a jury, and shall be entitled to have them tried accordingly, but if the plea is that the accused person has already been acquitted or convicted, or that he has received the Royal pardon, of the crime charged in the indictment the judge shall determine the plea in such manner and upon such evidence as he thinks fit, and may, in his discretion, order a jury to be empanelled and sworn to try any question of fact necessary for such determination.

361AA. Trial by judge alone

(1) Despite section 361, a party to proceedings in respect of a crime may apply to the court for an order to have the trial in respect of the crime be determined by a single judge in place of a trial by jury.

(2) An application for an order under subsection (1) in respect of a crime –

(a) may only be made within the 3-month period immediately after the accused person, in respect of the crime, has first appeared before the Supreme Court in respect of the crime; and

(b) may only be made by the prosecutor for the crime if –

(i) the accused person, in respect of the crime, has given informed consent to the proposed order; or

(ii) as part of the application, the prosecutor requests that the court make the proposed order without the consent of the accused person, in respect of the crime, in accordance with subsection (8); and

(c) may not be made in respect of an offence against a law of the Commonwealth.

(3) Despite subsection (2)(a), the court may consider an application made outside of the period

specified in that paragraph if the court is satisfied that the applicant has provided a reasonable explanation for the delay in the making of the application.

(4) In determining whether to make an order under subsection (1), the court may inform itself in any manner it thinks appropriate.

(5) The court must not make an order under subsection (1) in respect of a crime unless the court is satisfied that –

(a) the accused person, in respect of the crime, has given informed consent in accordance with subsection (6) to the proposed order; and

(b) it is in the interests of justice for the order to be made; and

(c) if the accused person has been charged with more than one offence in addition to the crime and the offences are to be tried together, the order is to relate to all of the charges that are to be tried together; and

(d) if there is more than one accused person to be tried together for the crime –

(i) an application has been made, under this section in respect of the crime, in relation to each accused person to be tried together for the crime; and

(ii) each such accused person has given informed consent to the proposed order that is relevant to the accused person.

(6) For the purposes of subsection (5)(a), the court may only be satisfied that an accused person has given informed consent under this section to a proposed order if the court is satisfied of each of the following in respect of the accused person:

(a) the accused person understands the nature of the proposed order and the effect of an order under this section, if made;

(b) the accused person –

(i) has been provided with legal advice on the effect of the proposed order, if made; or

(ii) has been offered, or advised to obtain, such legal advice and has refused the offered legal advice or to obtain the legal advice;

(c) if the accused person has been provided with legal advice in accordance with paragraph (b)(i), the legal practitioner who provided the legal advice to the accused person has certified in writing –

(i) that the legal advice was provided; and

(ii) whether the legal practitioner believes that the accused person has freely given the informed consent.

(7) In determining whether it is in the interests of justice for an order to be made under this section as required under subsection (5)(b), the court –

(a) is to take into account whether the crime to which the order relates involves an element or a question of fact that –

(i) is more appropriate to be determined by a jury to ensure that community standards and opinions are reflected in its determination; and

(ii) includes, but is not limited to, an element relating to, or a question of, reasonableness, dangerousness indecency, negligence or obscenity; and

(b) may take into account any other matter or circumstance that the court considers relevant.

(8) The court does not have to be satisfied of the matters in subsection (5)(a) and (d) in respect of an accused person if the court is satisfied that there is a significant risk that an offence under section 63 of the *Juries Act 2003* may occur if the accused person is tried by jury.

(9) Unless otherwise specified and as necessary in the context, if an order is granted under this section in respect of a crime, a reference in this Act or any other Act to a trial by jury is taken to include a reference to a trial by a single judge undertaken in accordance with the order so made.

(10) If an application is made under this section in respect of a crime and is later withdrawn before the application is determined, the applicant may not make another application under this section in respect of the crime except where the court is satisfied that exceptional circumstances exist.

(11) An order made under subsection (1) may only be revoked if the court –

(a) is satisfied that the information on which the order was made was false or misleading in a material particular; or

(b) otherwise considers that there are reasonable grounds to revoke it.

361AB. Appeal to Court of Criminal Appeal in respect of application for trial by judge alone

(1) A party to proceedings in respect of a crime may appeal, to the Court of Criminal Appeal, against one of the following decisions of the court:

(a) a decision of the court to make an order under section 361AA in respect of the crime;

(b) a decision of the court to refuse to make an order under section 361AA in respect of the crime.

(2) An accused person, in respect of a crime, may only appeal a decision of a court to make an order under section 361AA in respect of the crime if the order was made without the informed consent, within the meaning of that section, of the accused person.

(3) An appeal under this section is to be by way of a new hearing.

361A. Argument before jury is sworn

(1) If an accused person is to be tried for a crime, all or any of the following may occur before a jury is sworn if the court thinks fit:

(a) the accused person may make admissions under section 184 of the *Evidence Act 2001*;

(b) the court may determine any question of law or procedure that has arisen or is expected to arise in the trial;

(c) the court may determine any question of fact that may lawfully be determined by a judge alone without a jury;

(d) the court may determine any other question that it considers necessary or convenient to determine in order to

ensure that the trial will be conducted fairly and expeditiously;

(e) the court may give such directions as it thinks fit in order to resolve any issue or matter that it considers necessary or convenient to resolve before a jury is sworn.

(2) If –

(a) an admission, determination or direction is made or given under subsection (1); and

(b) a new trial of the indictment is had at the same or any future sittings of the court, whether before the same or a different judge –

the admission, determination or direction has the same status for the purposes of the new trial as if it had been made or given, between the arraignment of the accused and the empanelment of the jury, during that new trial.

(3) Subsection (2) does not apply to an admission, determination or direction made or given under subsection (1) in respect of a matter if a judge presiding over a trial for the matter is satisfied that –

(a) it is not in the interests of justice for the admission, determination or direction to remain in force; or

(b) the admission, determination or direction is inconsistent with another order, or determination, made in respect of the matter on appeal.

362. Effect of plea

When an accused person pleads any plea other than a plea of guilty, and succeeds on the issue so raised, the judgment shall be that he be discharged from the premises set forth in the count of the indictment to which such plea is pleaded; and he shall be discharged accordingly.

363. Separate trials

When 2 or more persons are charged in the same indictment, whether with the same crime or with different crimes, the judge may at any time during the trial, on the application of any of the accused persons, direct that the trial of any of them shall be had separately from the trial of the other or others of them, and for that purpose may, if a jury has been sworn, discharge such jury from giving a verdict as to any accused person in respect of whom such direction is made.

364 - 367. . . . . .

368. Defence

A person charged upon indictment shall be entitled to make his defence, and to examine or

cross-examine witnesses, as the case may be, either personally or by his counsel.

368A. Notice of alibi

(1) On a trial on indictment the defendant shall not without the leave of the court adduce evidence in support of an alibi unless, before the end of the prescribed period, he gives notice of particulars of the alibi.

(2) Without prejudice to subsection (1) on a trial on indictment the defendant shall not without the leave of the court call any other person to give any such evidence as is referred to therein unless –

(a) the notice under that subsection includes the name and address of the witness or, if the name or address is not known to the defendant at the time he gives the notice, any information in his possession which might be of material assistance in finding the witness;

(b) if the name or the address is not included in that notice, the court is satisfied that the defendant, before giving the notice, took and thereafter continued to take all reasonable steps to secure that the name or address would be ascertained;

(c) if the name or the address is not included in that notice, but the defendant subsequently discovers the name or address or receives other information

which might be of material assistance in finding the witness, he forthwith gives notice of the name, address or other information, as the case may be; and

(d) if the defendant is notified by or on behalf of the Director of Public Prosecutions that the witness has not been traced by the name or at the address given, he forthwith gives notice of any such information which is then in his possession or, on subsequently receiving any such information, forthwith gives notice of it.

(3) The court shall not refuse leave under this section if it appears to the court that the defendant was not informed, either in accordance with section 331B, or in writing by the Director of Public Prosecutions, of the requirements of this section.

(4) Any evidence tendered to disprove an alibi may, subject to any directions by the court as to the time it is to be given, be given before or after evidence is given in support of the alibi.

(5) Any notice purporting to be given under this section on behalf of the defendant by his Australian legal practitioner shall, unless the contrary is proved, be deemed to be given with the authority of the defendant.

(6) All notices under this section shall be given in writing to the Director of Public Prosecutions.

(7) A notice required by this section to be given to the Director of Public Prosecutions may be given by delivering it to him, or by leaving it at his office, or by sending it in a registered letter or by certified mail addressed to him at his office.

(8) In this section –

evidence in support of an alibi means evidence tending to show that by reason of the presence of the defendant at a particular place or in a particular area at a particular time he was not, or was unlikely to have been, at the place where the offence is alleged to have been committed at the time of its alleged commission;

the prescribed period means –

(a) in a case where the defendant has been informed in accordance with section 331B of the requirements of this section – the period of 7 days from the day on which the defendant was so informed of those requirements; or

(b) in a case where the defendant is being tried for an offence under section 125A(2) – the period commencing on the day on which the defendant was committed for trial and ending at the close of evidence for the prosecution; or

(c) in any other case – the period of 7 days from the day on which the defendant received notice in writing from the Director of Public Prosecutions of the requirements of this section.

(9) In computing a prescribed period for the purposes of this section any day that is an excluded day for the purposes of section 29 of the *Acts Interpretation Act 1931* shall be disregarded.

368B. Admissible opinion evidence

(1) A defendant who intends to adduce, in relevant proceedings, admissible opinion evidence of a witness must give to the Director of Public Prosecutions a notice of evidence in relation to the witness before the end of the prescribed period, if any, in relation to the relevant proceedings.

(2) A notice of evidence in relation to a witness is a notice in writing that –

(a) contains the name and business address of the witness; and

(b) describes the qualifications of the witness to give admissible opinion evidence; and

(c) sets out the substance of the admissible opinion evidence it is proposed to adduce from the witness and the acts, facts,

matters and circumstances on which the opinion is formed.

(3) For the purposes of this section, the prescribed period in relation to admissible opinion evidence that is to be adduced –

(a) in a trial on indictment (other than in circumstances to which paragraph (b), (c) or (d) applies) where the defendant has been warned in accordance with section 331B(2)(d) of the requirements of subsection (1), is –

(i) the period of 7 days from the day on which the defendant is warned of the requirements; or

(ii) if the admissible opinion evidence does not become available to the defendant until after the date on which the defendant is warned of the requirements, as soon as practicable after the admissible opinion evidence becomes available to the defendant; or

(b) in an investigation as to the defendant's fitness to stand trial, is as soon as practicable after the admissible opinion evidence becomes available to the defendant; or

(c) in a special hearing, is as soon as practicable after the admissible opinion

evidence becomes available to the defendant; or

(d) in submissions as to sentencing at a trial on indictment for an offence, is as soon as practicable after the admissible opinion evidence becomes available to the defendant.

(4) If the defendant does not comply with subsection (1) in relation to admissible opinion evidence that he or she intends to adduce in relevant proceedings, the admissible opinion evidence may not be adduced in the proceedings except in accordance with an order or direction of a court or a judge under subsection (5).

(5) A court or judge may do any or all of the following if a defendant does not comply with subsection (1) in relation to admissible opinion evidence:

(a) order or direct that the admissible opinion evidence may be adduced in relevant proceedings;

(b) order or direct that a notice of evidence in relation to the admissible opinion evidence is required to be given to the Director of Public Prosecutions within a period specified in the order or direction;

(c) make any other order or direction that the court or judge thinks appropriate in relation to the admissible opinion evidence.

(6) If the defendant intends to adduce, in relevant proceedings, admissible opinion evidence relevant to the defendant's mental state, or medical condition, at the time of an alleged offence to which the proceedings relate, the court or a judge may, on the application of the prosecutor, require the defendant to submit, at the prosecutor's expense, to an examination by a person qualified to give admissible opinion evidence on the defendant's mental state or medical condition.

(7) Subsection (8) applies in relation to admissible opinion evidence adduced, or to be adduced, in relevant proceedings, if –

(a) the defendant adduces the admissible opinion evidence, or intends to adduce the admissible opinion evidence, in the proceedings in accordance with an order or direction of a court or a judge under subsection (5); or

(b) a notice of evidence in relation to the admissible opinion evidence is given to the Director of Public Prosecutions less than 14 days before the proceedings begin.

(8) If this subsection applies in relation to admissible opinion evidence adduced, or intended to be adduced, in relevant proceedings, a court or a judge may –

(a) on the application of the prosecutor, adjourn the proceedings to allow the

prosecution a reasonable opportunity to do any or all of the following:

(i) to consider a notice of evidence, if any, in relation to the admissible opinion evidence;

(ii) to consider the admissible opinion evidence, if any;

(iii) to obtain evidence on the matter to which the admissible opinion evidence adduced, or intended to be adduced, relates; or

(b) if a jury has been empanelled and the adjournment would, in the opinion of the court, adversely affect the course of the relevant proceedings, discharge the jury and order that the relevant proceedings be re-commenced.

(9) The court is to grant an application for an adjournment under subsection (8)(a), unless there are good reasons, in the opinion of the court, not to do so.

(10) The prosecutor or the court (or both) may comment to the jury on the failure of a defendant to comply with a requirement of subsection (1) in relation to admissible opinion evidence adduced in relevant proceedings.

(11) A notice required by this section to be given to the Director of Public Prosecutions may be given –

(a) by delivering it to him or her; or

(b) by leaving it at his or her office; or

(c) by sending it in a registered letter, or by certified mail, addressed to him or her at his or her office.

(12) In computing a prescribed period for the purposes of this section, any day that is an excluded day for the purposes of section 29 of the *Acts Interpretation Act 1931* must be disregarded.

(13) This section applies despite section 11(1) of the *Criminal Justice (Mental Impairment) Act 1999*.

(14) In this section –

admissible opinion evidence means evidence of an opinion to which section 79 of the *Evidence Act 2001* applies;

investigation as to the defendant's fitness to stand trial means an investigation under the *Criminal Justice (Mental Impairment) Act 1999* into a defendant's fitness to stand trial for an indictable offence;

relevant proceedings, in relation to a defendant, means –

(a) a trial of the defendant on indictment; or

(b) an investigation as to the defendant's fitness to stand trial; or

(c) a special hearing in relation to the defendant; or

(d) proceedings in relation to the sentencing of the defendant in relation to an offence for which the defendant has been tried on indictment;

special hearing means a special hearing held in accordance with section 15 of the *Criminal Justice (Mental Impairment) Act 1999*.

369. Presence of accused

(1) The trial of an accused person shall take place in his presence, unless he so conducts himself as to render the continuance of the proceedings in his presence impracticable, in which case the judge may order him to be removed, and may direct the trial to proceed in his absence.

(2) The judge may, in any case, if he thinks fit, permit a person charged with a crime to be absent during the whole or any part of the trial on such conditions as the judge thinks fit, and may, if he thinks fit, grant him bail for that purpose.

370 - 370A. . . . . .

371. Speeches by counsel and summing up

The following rules shall apply to the proceedings upon the trial of an indictment:

(a) before any evidence is given the counsel for the Crown is entitled to address the jury for the purpose of opening the case for the prosecution;

(ab) immediately following an address by counsel for the Crown under paragraph (a) and before any evidence is given, the accused person or the counsel for the accused person, by way of reply, may address the jury for the purposes only of identifying –

(i) any matters of fact that are not in dispute or that the accused is prepared to admit; and

(ii) any issues that the accused contends are important to the defence case;

(b) at the close of the evidence for the prosecution an officer of the court shall ask the accused person whether he intends to adduce evidence in his defence;

(c) if the accused person calls no witnesses, he or she may give evidence on oath (but

by so doing is not taken to adduce evidence) and counsel for the Crown may, if he or she thinks it is a proper case in which to do so, make a second speech summing up the Crown's evidence and commenting on the evidence of the accused person, if any, and –

(i) if the accused person has no counsel, the accused person may address the jury in his or her own defence; or

(ii) if the accused person has counsel, his or her counsel may address the jury on the accused person's behalf;

(d) if the accused person adduces evidence –

(i) upon the close of the evidence for the Crown he or his counsel may address the jury for the purpose of opening the case for his defence, and call his evidence, giving his own evidence first if he desires to give evidence personally;

(ii) after the close of such evidence he, or his counsel, may address the jury, summing up his defence; and

(iii) counsel for the Crown may then reply;

(e) where there are more than one accused persons and any of them adduces evidence, counsel for the Crown shall have the right to reply as to the evidence adduced by him, but as to any of the accused persons who does not adduce evidence the provisions of paragraph (c) shall apply;

(f) . . . . . .

(g) if the only evidence adduced by an accused person is as to character, counsel for the Crown is entitled to reply if in his opinion there are any special circumstances which render it necessary for him to do so;

(h) . . . . . .

(i) evidence in rebuttal may be called by the Crown if the judge is of opinion that in the circumstances of the particular case it should be allowed;

(j) after all the evidence and all addresses to the jury have been concluded the judge shall instruct the jury as to the law applicable to the case, with such observations upon the evidence as the judge may think fit to make; and the jury may then, if they so desire, retire to some place set apart for that purpose, to consider their verdict.

371A. Recent complaint

Where, during the trial of a person accused of a crime under chapters XIV or XX, or a crime under section 170A or relating to family violence within the meaning of the *Family Violence Act 2004*, there is evidence which tends to suggest an absence of complaint by the person upon whom the crime is alleged to have been committed or which tends to suggest delay by that person in making a complaint, the judge shall –

(a) give a warning to the jury that absence of complaint or delay in complaining does not necessarily indicate that the allegation that the crime was committed is false; and

(b) inform the jury that there may be good reasons why such a person may hesitate in making, or may refrain from making, a complaint.

372. Powers of Associate Judge

(1) The Chief Justice may issue a direction that empowers the Associate Judge to exercise the powers of the Supreme Court other than –

(a) the conducting of a trial in relation to a crime; and

(b) the imposing of a sentence in respect of a crime; and

(c) the hearing of an appeal in relation to bail.

(2) For the avoidance of doubt, if the Associate Judge is empowered to exercise the powers of the Supreme Court by virtue of a direction issued under subsection (1) –

(a) the Associate Judge may exercise those powers in the same manner as they may be exercised by the Court and subject to the same provisions; and

(b) a reference in this Act, or any other Act, to the Court or a judge in relation to those powers includes a reference to the Associate Judge.

373 - 379. . . . . .

Chapter XLI – Verdict: Judgment

380. . . . . .

381. Defence of insanity

(1) If upon the trial of an indictment it is given in evidence, or appears from the evidence, that the accused person was insane at the time the crime was alleged to have been committed by him, and such person is acquitted, the jury shall be required to find specially whether such person was acquitted by them on the ground of insanity.

(2) . . . . . .

(3) The onus of proving the insanity of any such person shall be upon the defence, but the same may be established upon the evidence for the prosecution.

(4) If in any case it is shown that counsel for the accused person intends to allege that such person was so insane as aforesaid, and such counsel announces that he will not adduce evidence, the prosecutor may call evidence of sanity before closing the case for the prosecution; but in any other case such evidence may be called by him in rebuttal.

382. . . . . .

383. Verdict

(1) Upon the trial of an indictment the jury may in any case –

(a) subject to the provisions of subsection (1) of section 381, return a general verdict of "guilty", or "not guilty";

(b) find specially upon all the facts necessary to enable the judge to pass judgment; or

(c) if they return a general verdict, find specially upon any question submitted to them by the judge.

(2) If the jury acquit the accused person on the ground of insanity the verdict shall be that –

"The accused committed the act [*or* made the omission] charged, but is not guilty, on the ground that he was insane at the time so as not to be responsible according to law."

(3) If in any case it appears to the judge that it is desirable that the jury should find specially upon all the facts necessary to enable him to give judgment, or upon any particular question, the judge may ask the jury to so find.

(4) In any such case the judge shall inform the jury that it is their right to find a special verdict or to return a general verdict; and that they are not obliged to find specially upon any question (except as hereinbefore provided in the case of a person acquitted on the ground of insanity).

(5) The jury may at any time before they leave the box correct any verdict which they have given, and may reconsider their verdict at the request of the court, but they are not bound to do so.

(6) If an indictment is tried by a single judge in accordance with an order under section 361AA –

(a) the judge may return any verdict or make any finding under this section that a jury may have made if the indictment had been tried by a jury; and

(b) before returning a verdict or making a finding under this section, the judge is to –

(i) take into account any warning that would have been given to a jury before returning the verdict or making the finding; and

(ii) as far as is practicable, use the same principles of law and procedure as would be used by a jury in returning the verdict or making the finding; and

(c) if the judge returns a verdict or makes a finding under this section, the judge is to record in the judgement for the trial the principles of law applied, and the findings of fact relied on, by the judge when returning the verdict or making the finding.

384. Acquittal

When a person has been acquitted of a crime charged in an indictment he is entitled to be forthwith discharged, so far as regards that crime.

385. Convicted person to be called on to show cause

(1) . . . . . .

(2) When a person is convicted of a crime, whether on plea of guilty or otherwise, he or she may at any time before sentence move that judgment be arrested on the ground that the indictment does not disclose any crime, or that any other

substantial defect appears upon the face of the record.

(3) Upon the hearing of the motion the judge may allow any amendment of the indictment which he might have allowed before verdict.

(4) The judge may either hear and determine the motion forthwith or may state a case for the consideration of the Court of Criminal Appeal as hereinafter provided.

(5) If judgment is arrested the accused person shall be acquitted, but may be again indicted upon the same charge.

385A. Hearing by judge of complaint of simple offence

(1) In this section, ***simple offence*** has the same meaning as in the *Justices Act 1959*.

(2) Where, in proceedings before a judge, a person is convicted or acquitted of a crime, the judge may, on the application of that person, hear and determine any complaint of a simple offence arising out of facts that are closely related to the facts alleged in the indictment or which are, or form part of, a series of offences of the same or a similar character to that of which the applicant has been convicted or acquitted, as the case may be.

(3) For the purpose of enabling a judge to deal with a matter under subsection (2), the Registrar may require a clerk of petty sessions to transmit to the Registrar any summons, warrant, complaint, or

document of any sort, that is in the possession of that clerk and relates to that offence.

(4) Where, on an application under subsection (2), a judge decides to hear and determine any complaint of a simple offence, he may, after having heard and determined that complaint –

(a) acquit, convict and sentence, or otherwise deal with, the person who made the application, as if the offence were being dealt with in accordance with the *Justices Act 1959*; or

(b) make any order, or give any directions, that he considers appropriate in the circumstances, including remission of the matter to a court of petty sessions.

386 - 386A. . . . . .

Chapter XLII – Crown Cases Reserved

387. Questions of law may be reserved

If on the trial of any person convicted of any crime any question of difficulty in point of law shall have arisen it shall be lawful for the judge, in his discretion, to reserve such question of law for the consideration and determination of the Court of Criminal Appeal, and in any such case to respite the execution of the judgment on such conviction, or postpone the judgment until such question of law shall have been considered and determined; and in either case the judge, in his

discretion, shall commit the person convicted to gaol, or shall admit the convicted person to bail in order to secure that he shall appear at such time and place as the judge shall direct, and receive judgment, or render himself in execution, as the case may be.

388. Questions reserved to be stated in a case

(1) The judge by whom such question of law may have been so reserved shall thereupon state a case setting forth the question of law which shall have been so reserved, with the special circumstances upon which the same shall have arisen, and shall sign and transmit the same within a reasonable time to the Registrar of the Court of Criminal Appeal.

(2) Every question so reserved shall be dealt with in the same manner in every respect as is hereinafter provided with respect to appeals.

388AA. Power of Attorney-General to refer questions of law to Court of Criminal Appeal

(1) Subject to subsection (5), where a person has been acquitted after his trial on indictment, the Attorney-General may, within 28 days after the conclusion of the trial, refer any question of law that has arisen at the trial to the Court of Criminal Appeal for determination by that Court.

(2) The Attorney-General shall cause notice of a reference by him under subsection (1) to be

given to the acquitted person to whom the reference relates.

(3) The reference of a question under this section or the determination by the Court of Criminal Appeal of a question referred to it under this section shall not in any way affect the trial at which the question arose or affect or invalidate any verdict or decision given at that trial.

(4) The procedure in relation to the determination of a question referred under this section to the Court of Criminal Appeal shall, subject to any rules made pursuant to section 12 of this Act, be as determined by the Court.

(5) The time within which a question may be referred under this section to the Court of Criminal Appeal may be extended at any time by the Court.

(6) Where a question is referred under this section to the Court of Criminal Appeal –

(a) a person charged at the trial at which the question arose or affected by the verdict or the decision given at that trial is entitled to be heard before the Court of Criminal Appeal on the determination of that question;

(b) if it appears that that person does not intend to appear on his own behalf, and does not propose to be represented on the determination of that question, the Attorney-General may arrange for an Australian legal practitioner to argue that

question before the Court of Criminal Appeal on behalf of that person; and

(c) there shall be paid by the Crown the costs of the legal representation of any person heard before the Court of Criminal Appeal as provided in this subsection, being such costs as that Court, subject to subsection (7), considers to be reasonable.

(7) For the purposes of determining the amount of any costs of any legal representation that it should order to be paid pursuant to subsection (6)(c), the Court of Criminal Appeal may obtain the assistance of the Registrar of that Court who may require the person providing the legal representation to lodge a bill of costs for the consideration of the Court.

(8) Where the Court of Criminal Appeal makes an order with respect to the payment of any costs referred to in subsection (6)(c), that Court shall deliver or cause to be delivered a copy of the order to the Secretary of the Law Department and thereupon the amount in respect of which the order is made may be recovered as a debt due by the Crown.

Chapter XLIIA – Procedure on Continuing Nuisances

388A. Abatement or removal of nuisance

(1) Upon a conviction of creating and continuing a nuisance or of continuing a nuisance the court may –

(a) adjourn the cause for a specified period to give the person convicted an opportunity to abate or remove the nuisance; or

(b) refer to the Associate Judge the questions of how and at what cost the nuisance may best be abated or removed, and otherwise adjourn the cause until the Associate Judge's report is available.

(2) On a reference under this section, the Associate Judge –

(a) shall make such an inquiry as he thinks proper;

(b) may obtain the opinion of engineers and other persons with scientific or technical knowledge; and

(c) shall hear, if they so desire, the prosecutor and the defendant –

and report in writing to the court accordingly.

(3) On receiving the Associate Judge's report the court shall cause the parties to be given copies of the report and to be summoned to appear before it.

(4) The cause being again before the court, either party may move that the report be rejected and a further and better report ordered, which the court may do with all necessary consequences.

(5) If after an adjournment under paragraph (a) of subsection (1) it appears to the court that the nuisance has not been abated or removed, the court may proceed under paragraph (b) of that subsection.

(6) On accepting a report of the Associate Judge, the court may sentence the defendant to pay a fine equal to the amount that he has reported that the abatement or removal of the nuisance will cost, and order that the fine be paid over to the Treasurer of the State, the treasurer of a municipality, or to some other authority as payment for abating or removing the nuisance according to such arrangement or contract therefor as the court approves.

(7) Money received by the Treasurer under subsection (6) shall be paid into an account established in the Public Account and not applied otherwise than for the abatement or removal of nuisances.

(8) If it is not convenient that the Associate Judge should act under this section the court may appoint any Australian legal practitioner to perform the same duties.

388B. Punishment for creating nuisance

(1) When a person is convicted of creating and continuing a nuisance, the court may, in addition to any fine imposed under section 388A, impose a sentence in respect of the creating of the nuisance.

(2) Where under subsection (1) the judge of the court of trial is of opinion that both imprisonment and a fine should be imposed, he may sentence the person convicted at any time after the verdict and while the procedure of section 388A is going on and as part of the same sentence add the fine when it is clear what fine, if any, should be imposed under subsection (6) of that section.

Chapter XLIII – Punishments

389. Sentences

(1 - 2) . . . . . .

(3) Subject to the provisions of the *Sentencing Act 1997* or of any other statute, and except where otherwise expressly provided, the punishment for any crime shall be by imprisonment for 21 years, or by fine, or by both such punishments, and shall be such as the judge of the court of trial shall think fit in the circumstances of each particular case.

(4 - 7) . . . . . .

Chapter XLIV – Exceptions to Double Jeopardy Rules

390. Definitions

(1) In this Chapter –

acquittal –

(a) includes –

(i) an acquittal in appeal proceedings in relation to a crime; and

(ii) an acquittal at the direction of a court; but

(b) does not include a verdict of not guilty on the ground of insanity;

administration of justice crime means a crime under Chapter X;

Court means the Court of Criminal Appeal;

fresh and compelling evidence – see section 395;

interests of justice – see section 397;

serious crime means a crime punishable upon indictment listed in Appendix D;

tainted acquittal – see section 396;

very serious crime means a crime, or an attempt to commit a crime, under section 158, a crime under section 159, 185 or 240(4) or a crime under Part 2 of the *Misuse of Drugs Act 2001* being a crime that relates to a trafficable quantity of a controlled substance.

(2) For the purposes of this Chapter, the retrial of an acquitted person for a crime includes a trial if the crime is not the same as the crime of which the person was acquitted.

(3) In this Chapter, a reference to the proceedings in which a person was acquitted includes, if they were appeal proceedings, a reference to the earlier proceedings to which the appeal related.

391. Application of Chapter XLIV

(1) This Chapter applies if, before or after the commencement of this Chapter, a person is acquitted of a crime, whether the crime is committed before or after the commencement of this Chapter.

(2) This section extends to a person acquitted in proceedings outside this State of a crime under the law of the place where the proceedings were held.

(3) However, this section does not extend as mentioned in subsection (2) if the law of the place where the proceedings were held does not permit the person to be retried and the application of this Chapter to the retrial is inconsistent with the Constitution of the Commonwealth or a law of the Commonwealth.

392. Circumstances in which person may be charged with administration of justice crime relating to previous acquittal

(1) The Court may, on application by the Director of Public Prosecutions, order a person who has been acquitted of a crime to be tried for an administration of justice crime that is related to

the crime of which the person has been acquitted if the Court is satisfied that –

(a) there appears to be fresh evidence against the acquitted person in relation to the administration of justice crime; and

(b) in all the circumstances it is in the interests of justice for the order to be made.

(2) If the Court orders a person to be tried for an administration of justice crime that is related to a crime of which the person has been acquitted, the Court must quash the person's acquittal or remove the acquittal as a bar to the person being tried.

(3) On the trial of a person for an administration of justice crime, section 355(1)(b) does not apply in relation to the charge of the administration of justice crime.

(4) For the purposes of this section, evidence is "**fresh**" if –

(a) it was not adduced in the proceedings in which the person was acquitted; and

(b) it could not have been adduced in those proceedings with the exercise of reasonable diligence.

393. Court may order retrial for a very serious crime – fresh and compelling evidence

(1) The Court may, on the application of the Director of Public Prosecutions, order an acquitted person to be retried for a very serious crime if satisfied that –

(a) there is fresh and compelling evidence against the acquitted person in relation to the crime; and

(b) in all the circumstances it is in the interests of justice for the order to be made.

(2) The Court may order a person to be retried for a very serious crime under this section even if the person had been charged with and acquitted of a lesser crime.

(3) If the Court orders an acquitted person to be retried for a very serious crime, the Court must quash the person's acquittal or remove the acquittal as a bar to the person being retried.

(4) On the retrial, section 355(1)(b) does not apply in relation to the charge of the very serious crime.

394. Court may order retrial for a serious crime – tainted acquittal

(1) The Court may, on the application of the Director of Public Prosecutions, order an

acquitted person to be retried for a serious crime if satisfied that –

(a) the acquittal is a tainted acquittal; and

(b) in all the circumstances it is in the interests of justice for the order to be made.

(2) The Court may order a person to be retried for a serious crime under this section even if the person had been charged with and acquitted of a lesser crime.

(3) If the Court orders an acquitted person to be retried for a serious crime, the Court must quash the person's acquittal or remove the acquittal as a bar to the person being retried.

(4) On the retrial, section 355(1)(b) does not apply in relation to the charge of the serious crime.

395. Fresh and compelling evidence – meaning

(1) This section applies for the purpose of deciding under this Chapter whether there is fresh and compelling evidence against an acquitted person in relation to a very serious crime.

(2) Evidence is "**fresh**" if –

(a) it was not adduced in the proceedings in which the person was acquitted; and

(b) it could not have been adduced in those proceedings with the exercise of reasonable diligence.

(3) Evidence is "**compelling**" if –

(a) it is reliable; and

(b) it is substantial; and

(c) in the context of the issues in dispute in the proceedings in which the person was acquitted, it is highly probative of the case against the acquitted person.

(4) Evidence that would be admissible on a retrial under this Chapter is not precluded from being fresh and compelling evidence merely because it would have been inadmissible in the earlier proceedings against the acquitted person.

396. Tainted acquittal – meaning

(1) This section applies for the purpose of deciding under this Chapter whether the acquittal of an accused person is a tainted acquittal.

(2) An acquittal is "**tainted**" if –

(a) the accused person or another person has been convicted in this State or elsewhere of an administration of justice crime in relation to the proceedings in which the accused person was acquitted; and

(b) it is more likely than not that, but for the commission of the administration of justice crime, the accused person would have been convicted.

(3) An acquittal is not a tainted acquittal during any of the following periods:

(a) the period provided under section 407 for the person convicted of the administration of justice crime (the "**convicted person**") to appeal, or obtain leave to appeal, from the conviction;

(b) if, within the period mentioned in paragraph (a), the convicted person gives notice of appeal, the period ending when the appeal is decided;

(c) if, within the period mentioned in paragraph (a), the convicted person gives notice of an application for leave to appeal, the period ending –

(i) if the application is refused, when the decision refusing the application is made; or

(ii) if the application is granted, when the appeal is decided.

(4) If the conviction for the administration of justice crime is, on appeal, quashed after the Court has ordered the acquitted person to be retried under this Chapter because of the conviction, the person may apply to the Court to set aside the order and –

(a) restore the acquittal that was quashed; or

(b) restore the acquittal as a bar to the person being retried for the crime.

397. Interests of justice – matters for consideration

(1) This section applies for the purpose of deciding under this Chapter whether it is in the interests of justice for an order to be made for the retrial of, or prosecution of an administration of justice crime against, an acquitted person.

(2) It is not in the interests of justice to make an order for the retrial of, or prosecution of an administration of justice crime against, an acquitted person unless the Court is satisfied that a fair retrial or trial is likely in the circumstances.

(3) The Court must have regard in particular to –

(a) the length of time since the acquitted person allegedly committed the crime; and

(b) whether any police officer or prosecutor has failed to act with reasonable diligence or expedition in relation to –

(i) the investigation of the commission of the crime of which the person was acquitted and the prosecution of the proceedings in which the person was acquitted; and

(ii) the application for the retrial of, or prosecution of an administration of justice crime against, the acquitted person.

397A. Application for prosecution for administration of justice crime – procedure

(1) An application under section 392 may not be made unless –

(a) the person has been charged with the administration of justice crime; or

(b) a warrant has been issued for the person's arrest for the administration of justice crime.

(2) The application must be made not later than 28 days after the person is charged with the relevant crime or the warrant is issued for the person's arrest in relation to the relevant crime.

(3) The Court may extend the period mentioned in subsection (2) for good cause.

(4) The Court must consider the application at a hearing.

(5) The person to whom the application relates is entitled to be present and heard at the hearing, whether or not the person is in custody.

(6) However, if the person has been given a reasonable opportunity to be present, the application may be decided even if the person is not present.

(7) The powers of the Court mentioned in section 409(1) may be exercised in relation to the hearing of the application.

(8) The Court may at one hearing consider more than one application under section 392, but only if the administration of justice crimes concerned may be tried on the same indictment.

(9) If the Court decides in proceedings on an application under section 392 that the acquittal is not a bar to the person being tried for an administration of justice crime that is related to the crime of which the person has been acquitted, it must make a declaration to that effect.

397AB. Prosecution for administration of justice crime

(1) An indictment for the trial of a person in respect of whom the Court has made an order under section 392 may not, without leave of the Court, be presented after the end of the period of 2 months after the order was made.

(2) The Court may give leave only if satisfied that –

(a) the prosecutor has acted with reasonable expedition; and

(b) there is good and sufficient reason why the late presentation of the indictment should be allowed.

(3) If, after the end of the period of 2 months after an order for the trial of an accused person was made under section 392, an indictment for the trial of the person has not been presented or has been withdrawn or quashed, the person may

apply to the Court to set aside the order for the trial and –

(a) restore the acquittal that was quashed; or

(b) restore the acquittal as a bar to the person being tried for the crime.

(4) If the order is set aside, a further application may not be made under section 392 for the trial of the accused person in relation to the administration of justice crime.

(5) At the trial of a person for an administration of justice crime, the prosecution is not entitled to refer to the fact that the Court has found that there appears to be fresh evidence against that person.

397AC. Application for retrial – procedure

(1) If a person has been acquitted, not more than one application for the retrial of the person may be made under this Chapter in relation to the acquittal.

(2) If the acquittal results from a retrial under section 393 or 394 –

(a) an application may not be made for an order under section 393 in relation to the acquittal; but

(b) an application may be made for an order under section 394 in relation to the acquittal.

(3) An application for the retrial of an acquitted person may not be made under this Chapter unless –

(a) the person has been charged with the crime for which the retrial is sought (the "**relevant crime**"); or

(b) a warrant has been issued for the person's arrest in relation to the relevant crime.

(4) The application must be made not later than 28 days after the person is charged with the relevant crime or the warrant is issued for the person's arrest in relation to the relevant crime.

(5) The Court may extend the period mentioned in subsection (4) for good cause.

(6) The Court must consider the application at a hearing.

(7) The person to whom the application relates is entitled to be present and heard at the hearing, whether or not the person is in custody.

(8) However, if the person has been given a reasonable opportunity to be present, the application may be decided even if the person is not present.

(9) The powers of the Court mentioned in section 409(1) may be exercised in relation to the hearing of the application.

(10) The Court may at one hearing consider more than one application under this Chapter for a retrial (whether or not relating to the same person), but only if the crimes concerned may be tried on the same indictment.

(11) If the Court decides in proceedings on an application under this Chapter that the acquittal is not a bar to the person being retried for the crime concerned, it must make a declaration to that effect.

397AD. Retrial

(1) An indictment for the retrial of a person that has been ordered under this Chapter may not, without the leave of the Court, be presented after the end of the period of 2 months after the order was made.

(2) The Court may give leave only if it is satisfied that –

(a) the prosecutor has acted with reasonable expedition; and

(b) there is good and sufficient reason for the retrial despite the lapse of time since the order was made.

(3) If, after the end of the period of 2 months after an order for the retrial of an accused person was made under this Chapter, an indictment for the retrial of the person has not been presented or has been withdrawn or quashed, the person may

apply to the Court to set aside the order for the retrial and –

(a) restore the acquittal that was quashed; or

(b) restore the acquittal as a bar to the person being tried for the crime.

(4) If the order is set aside, a further application may not be made under this Chapter for the retrial of the accused person in relation to the crime concerned.

(5) At the retrial of an accused person, the prosecution is not entitled to refer to the fact that the Court has found that it appears that –

(a) there appears to be fresh and compelling evidence against the acquitted person; or

(b) more likely than not, but for the commission of the administration of justice crime, the accused person would have been convicted.

397AE. Authorisation of police investigations

(1) This section applies to any police investigation of the commission of a crime by an acquitted person in relation to the possible retrial of the person for the crime or prosecution of the person for an administration of justice crime under this Chapter.

(2) For the purposes of this section, a police investigation is an investigation that involves,

whether with or without the consent of the acquitted person –

(a) any arrest, questioning or search of the acquitted person, or the issue of a warrant for the arrest of the person; or

(b) any forensic procedure carried out on the person or any search or seizure of premises or property of or occupied by the person.

(3) A police officer may not carry out or authorise a police investigation to which this section applies unless the Director of Public Prosecutions –

(a) has advised that, in the opinion of the Director of Public Prosecutions, the acquittal would not be a bar to the retrial of the acquitted person in this State for the crime or the trial of an acquitted person for an administration of justice crime; and

(b) has given written consent to the police investigation on the application in writing of the Commissioner of Police.

(4) However, a commissioned police officer may authorise the carrying out of a police investigation to which this section applies, without the advice and written consent of the Director of Public Prosecutions under subsection (3)(a) or (b), if the commissioned police officer reasonably believes that –

(a) urgent action is required in order to prevent the investigation being substantially and irrevocably prejudiced; and

(b) it is not reasonably practicable in the circumstances to obtain the consent of the Director of Public Prosecutions before taking the action.

(5) The Director of Public Prosecutions must be informed, as soon as practicable, of any action taken under subsection (4) and the investigation must not proceed further without the advice and written consent of the Director of Public Prosecutions under subsection (3)(a) or (b).

(6) The Commissioner of Police may make an application for the police investigation only if satisfied that relevant evidence for the purposes of an application for a retrial under this Chapter –

(a) has been obtained; or

(b) is likely to be obtained as a result of the investigation.

(7) The Director of Public Prosecutions may give consent to the police investigation only if satisfied that –

(a) there is, or there is likely as a result of the investigation to be, sufficient new evidence to warrant the conduct of the investigation; and

(b) it is in the public interest for the investigation to proceed.

(8) Despite section 8 of the *Police Service Act 2003*, the Commissioner of Police may not delegate powers of the Commissioner under this section to a police officer or an employee or officer, within the meaning of the *State Service Act 2000*.

397AF. Restrictions on publication

(1) A person must not publish any matter for the purpose of identifying or having the effect of identifying an acquitted person who is being retried or tried for an administration of justice crime under this Chapter or who is the subject of –

(a) a police investigation, or an application for a police investigation, mentioned in section 397AE; or

(b) an application for a retrial or trial for an administration of justice crime, or an order for retrial or trial for an administration of justice crime, under this chapter.

(2) Subsection (1) does not apply if the publication is authorised by order of the Court or of the court before which the acquitted person is being retried or tried for the administration of justice crime.

(3) The relevant court may make an order authorising publication only if the court is satisfied that it is in the interests of justice to make the order.

(4) Before making an order under this section, the relevant court must give the acquitted person a reasonable opportunity to be heard on the application for the order.

(5) The relevant court may at any time vary or revoke an order under this section.

(6) The prohibition on publication under this section ceases to have effect, subject to any order under this section, when whichever of the following situations occurs first:

(a) there is no longer any step that could be taken which would lead to the acquitted person being retried or tried for the administration of justice crime under this Chapter;

(b) if the acquitted person is retried or tried for the administration of justice crime under this Chapter, the trial ends.

(7) Nothing in this section affects any prohibition of the publication of any matter under any other Act or law.

(8) A contravention of a prohibition on publication under this section is punishable as contempt of the Supreme Court.

391A. . . . . .

Chapter XLV – Execution of Sentence: Pardons

397B. Civil execution

Where by any judgment or order of the Supreme Court or a judge made under the Code a sum of money is payable to the Crown or any other person by way of forfeiture, damages, costs, or otherwise a memorandum in a summary form of so much of the plea as is necessary for the purposes of this section may be made on paper, sealed with the seal of the Supreme Court, and at the instance of the party entitled to the payment may be entered in the same manner as a judgment subject to the *Supreme Court Civil Procedure Act 1932* and enforced under that Act.

398. Pardons

(1) A free pardon extended by or on behalf of His Majesty shall have the effect of discharging the offender from all legal consequences of the offence for which such pardon is granted.

(2) In any case in which a pardon imposes any conditions upon the person to whom it is granted, all courts of justice and officers shall give effect thereto in the same manner as they would be bound to give effect to the lawful sentence of a court imposing like conditions.

Chapter XLVI – Appeals

399. Interpretation

In this chapter, unless the contrary intention appears –

appellant means any person convicted, or any prosecutor, who wishes to appeal under this chapter;

Attorney-General includes an officer appointed to prosecute in any criminal proceeding;

Court means the Court of Criminal Appeal;

court of trial means the court before which an accused person has been tried upon an indictment, or the court which has passed sentence upon a plea of guilty;

person convicted includes an accused person who, not having set up insanity as a defence, has been acquitted on the ground of insanity;

Registrar means the Registrar of the Court appointed by this chapter;

sentence includes any order made by the court of trial –

(a) for the keeping in custody of any person convicted;

(b) with reference to any property; or

(c) with reference to any moneys to be paid by a person convicted.

400. Court of Criminal Appeal

(1) The Court of Criminal Appeal is duly constituted for the purpose of exercising any of its jurisdiction if it consists of 3 or more judges of the Supreme Court, but, in relation to any particular appeal, may be duly constituted by only 2 such judges if none of the parties to the appeal objects to the Court being so constituted for the purpose of hearing the appeal.

(2) The determination of any question before the Court shall be according to the opinion of the majority of the judges, or in case the judges are equally divided, according to the opinion of the Chief Justice, or in his absence, of the Senior Judge.

(3) The Court shall be a superior court of record, and shall, for the purposes of, and subject to the provisions of, this chapter, have full power to determine in accordance with this chapter any question necessary to be determined for the purpose of doing justice in any case before the Court.

(4) The Associate Judge of the Supreme Court is to be an Associate Judge of the Court.

(5) The Registrar, the Deputy Registrar, and the Assistant Deputy Registrar of the Supreme Court shall, respectively, be the Registrar, the Deputy

Registrar, and the Assistant Deputy Registrar of the Court.

(6) Subject to the Rules of Court, the Deputy Registrar or the Assistant Deputy Registrar of the Court may exercise any of the functions conferred by this Act or otherwise on the Registrar, and any act or thing done by or before the Deputy Registrar or the Assistant Deputy Registrar of the Court has the same force and effect as if it were done by or before the Registrar.

401. Right of appeal

(1) A person convicted before a court of trial may appeal to the Court –

(a) against his conviction on any ground which involves a question of law;

(b) with the leave of the Court, or upon the certificate of the judge of the court of trial that it is a fit case for appeal, against his conviction upon a ground of appeal –

(i) which involves a question of fact alone;

(ii) which involves a mixed question of fact and law;

(iii) which appears to the Court to be a sufficient ground of appeal; and

(c) against the sentence passed on his conviction, unless the sentence is one fixed by law.

(2) The Attorney-General may appeal to the Court –

(a) against an order arresting judgment;

(b) by leave of the Court or upon the certificate of the judge of the court of trial that it is a fit case for appeal, against an acquittal on a question of law;

(ba) by leave of the Court, against a stay of proceedings; or

(bb) in respect of an indictment tried by a single judge in accordance with an order under section 361AA –

(i) against a decision of a question of law or a question of fact; or

(ii) against a verdict, on the ground that it is unreasonable or cannot be supported having regard to the evidence; or

(c) against the sentence;

(d) by leave of the Court or the trial judge, against an order quashing an indictment; or

(e) by leave of the Court or the trial judge, against an order upholding a demurrer.

(3) For the purposes of subsection (2)(c), ***sentence***, in relation to –

(a) a person convicted on indictment, includes an order under the *Sentencing Act 1997*; or

(b) a person convicted under the provisions of section 331C, includes an order under the *Sentencing Act 1997*.

402. Determination of appeals

(1) On an appeal the Court shall allow the appeal if it is of opinion that the verdict of the jury should be set aside on the ground that it is unreasonable, or cannot be supported having regard to the evidence, or that the judgment or order of the court of trial should be set aside on the ground of the wrong decision of any question of law, or that on any ground whatsoever there was a miscarriage of justice, and in any other case shall dismiss the appeal.

(2) The Court may, notwithstanding that it is of the opinion that the point raised by the appeal might be decided in favour of the appellant, dismiss the appeal if it considers that no substantial miscarriage of justice has actually occurred.

(3) Subject to the special provisions of this chapter, the Court shall, if it allows an appeal against conviction, quash the conviction and direct a judgment and verdict of acquittal to be entered.

(4) On an appeal against a sentence, the Court, if it is of opinion that some other sentence, whether more or less severe, is warranted in law and should have been passed, shall quash the sentence and pass such other sentence in substitution therefor, and in any other case shall dismiss the appeal.

(4A) The Court, on hearing an appeal against a sentence passed on a person for an offence (whether the appeal was brought, made or lodged by the person or by the prosecutor), may take into account any matter relevant to the sentence that has occurred between when the court of trial dealt with the person and when the appeal is heard.

(4B) Despite subsection (4A), the Court, in passing another sentence under subsection (4), must not take into account the element of double jeopardy involved in the person being sentenced again, in order to pass a less severe sentence than the Court would otherwise consider appropriate.

(4C) Despite subsection (4), on an appeal against a sentence the Court may, if it thinks that it is appropriate and in the interests of justice to do so, quash the sentence passed at the trial and remit the matter to the court of trial.

(4D) If the Court quashes a sentence passed at a trial and remits the matter to the court of trial under subsection (4C) –

(a) it may give any directions that it thinks fit concerning the manner and scope of

the further hearing of the matter by the court of trial, including a direction as to whether that hearing is to be conducted by the same judge as, or a different judge to, the judge that passed the sentence; and

(b) the court of trial must hear and determine the matter in accordance with the law and any such directions; and

(c) the court of trial may take into account any matter relevant to sentencing that has occurred between when the court of trial passed the quashed sentence and when the court of trial decides the remitted matter; and

(d) despite paragraph (c), the court of trial must not take into account the element of double jeopardy involved in the person being sentenced again, so as to pass a less severe sentence than the court of trial would otherwise consider appropriate.

(5) If the Court allows an appeal against an order arresting judgment or against an acquittal, it may make any of the following orders which may be applicable:

(a) that judgment be pronounced upon the offender;

(b) that a conviction be entered against the offender;

(c) that a *venire de novo* or new trial shall be had in such manner as the Court may direct;

(d) that the offender shall appear at such time and place as the Court may direct to receive judgment –

and any justice may thereupon issue his warrant for the arrest of the offender.

(6) Any offender so arrested may be admitted to bail by order of the Court or a judge.

(7) The Court may dismiss an appeal at any time, either on its own motion or on the application of either party to the appeal, if it is satisfied that –

(a) the appellant has failed to take all reasonable steps to prosecute the appeal; and

(b) it is necessary or expedient in the interests of justice to do so.

402A. Second or subsequent appeal by convicted person on fresh and compelling evidence

(1) In this section –

convicted person means a person who, before a court of trial, has been –

(a) convicted of a serious crime; or

(b) acquitted of a serious crime on the ground of insanity –

whether that conviction or acquittal occurred before or after the commencement of this section;

fresh and compelling evidence has the meaning given by subsection (10);

serious crime means a crime punishable upon indictment listed in Appendix D.

(2) The Court may hear a second or subsequent appeal by a convicted person if the person has been granted leave to appeal under this section.

(3) A convicted person may apply to a single judge for leave to lodge a second or subsequent appeal against the conviction on the ground that there is fresh and compelling evidence.

(4) At any time after receiving an application for leave to appeal under this section, the single judge may refer the matter to the Court for determination.

(5) On hearing the application of a convicted person for leave to appeal, the single judge or Court –

(a) must grant leave to appeal if satisfied that –

(i) the convicted person has a reasonable case to present to the Court in support of the ground of the appeal; and

(ii) it is in the interests of justice for the leave to be granted; or

(b) must refuse to grant leave to appeal if not so satisfied.

(6) The Court may uphold the second or subsequent appeal of a convicted person if satisfied that –

(a) there is fresh and compelling evidence; and

(b) after taking into account the fresh and compelling evidence, there has been a substantial miscarriage of justice.

(7) The Court may dismiss the second or subsequent appeal of a convicted person if not satisfied as specified in subsection (6).

(8) If the Court upholds the second or subsequent appeal of a convicted person, the Court may quash the conviction and either –

(a) direct that a judgement and verdict of acquittal be entered; or

(b) under section 404, order that a new trial be held.

(9) If the Court orders under subsection (8)(b) that a new trial be held, the Court –

(a) may make such other orders as the Court thinks fit for the safe custody of the person who is to be retried or for admitting the person to bail; but

(b) may not make any other order directing the court that is to retry the person on the charge to convict or sentence the person.

(10) Evidence relating to the serious crime of which a convicted person was convicted –

(a) is fresh evidence if –

(i) it was not adduced at the trial of the convicted person; and

(ii) it could not, even with the exercise of reasonable diligence, have been adduced at that trial; and

(b) is compelling evidence if –

(i) it is reliable; and

(ii) it is substantial; and

(iii) in the context of the issues in dispute at the trial of the convicted person, it is highly probative of the case for the convicted person.

(11) Evidence that would be admissible on an appeal under this section is not precluded from being fresh and compelling evidence merely because it would have been inadmissible in the earlier trial of the convicted person for the serious crime of which he or she was convicted.

(12) Section 407 does not apply to an appeal, or an application for leave to appeal, under this section.

403. Powers of Court in special cases

(1) If it appears to the Court that an appellant, though not properly convicted on some count or part of the indictment has been properly convicted on some other count or part of the indictment, the Court may either affirm the sentence passed at the trial or pass such sentence, whether more or less severe, in substitution therefor, as it thinks proper, and as may be warranted in law by the conviction on the indictment or part thereof on which it considers the appellant has been properly convicted.

(2) Where an appellant has been convicted of a crime, and the jury could on the indictment have found him guilty of some other crime, and on the finding of the jury it appears to the Court that the jury must have been satisfied of facts which proved him guilty of that other crime, the Court may, instead of allowing or dismissing the appeal, substitute for the verdict found by the jury a verdict of guilty of that other crime, and pass such sentence, not being a sentence of greater severity, in substitution for the sentence passed at the trial, as may be warranted in law for that other crime.

(3) Where, on the conviction of the appellant, the jury have found a special verdict, and the Court considers that a wrong conclusion has been arrived at by the court of trial on the effect of that verdict, the Court may, instead of allowing the appeal, order such conclusion to be recorded as appears to the Court to be in law required by

the verdict, and pass such sentence, whether more or less severe, in substitution for the sentence passed at the trial, as may be warranted in law.

(3A) Where under the foregoing provisions of this section the Court has power to affirm, or to pass a sentence in substitution for, a sentence passed on a person at his trial it may, instead of exercising that power, refer the case to the trial judge, and, on the case being so referred to him, that judge may himself exercise that power as if he were the Court; and any power exercised by a judge under this section has the like effect as if it were exercised by the Court.

(4) If on any appeal it appears to the Court that, although the appellant committed the act or made the omission charged against him, he was not of sound mind at the time when the act or omission alleged to constitute the crime occurred, so as not to be responsible therefor according to law, the Court may quash the sentence passed at the trial and exercise the like powers as could have been exercised if the appellant had been acquitted on the ground of insanity.

404. Power to order new trial

(1) On any appeal the Court may, either of its own motion or on the application of the appellant, order a *venire de novo* or new trial at such time and place as it thinks fit, if the Court considers that a miscarriage of justice has occurred, and

that, having regard to all the circumstances, such miscarriage of justice can be more adequately remedied by an order for a *venire de novo* or new trial than by any other order which the Court is empowered to make.

(2) Where a *venire de novo* or new trial is directed, the Court may make such order as to it seems fit for the safe custody of the appellant or for admitting him to bail.

405. Suspension of order, &c.: Revesting property on conviction

(1) The operation of any order for the restitution of any property, or for the payment of compensation to an aggrieved person, made by the court of trial, and the operation of the provisions of section 29 (1) of the *Sale of Goods Act 1896*, as to the revesting of the property in stolen goods on conviction, shall (unless the court of trial directs to the contrary in any case in which in its opinion the title to the property is not in dispute) be suspended –

(a) until the expiration of the time provided for appealing to the Court; and

(b) where notice of appeal or of application for leave to appeal is given within the time provided, until the determination of the appeal or refusal of the application –

and in cases where the operation of any such order or the operation of the said provisions is suspended until the determination of the appeal,

the order or provisions, as the case may be, shall not take effect as to the property in question if the conviction is quashed on appeal, except by the special order of the Court.

(2) The Court may, by order, annul or vary any order made on a trial for the restitution of any property to any person, although the conviction is not quashed; and such order, if annulled, shall not take effect, and, if varied, shall take effect as so varied.

(3) The judge of the court of trial may give directions for the safe custody of any such property pending the suspension of any such order or of such provisions.

406. Jurisdiction in cases reserved

All questions reserved under section 387 shall be determined by the Court under the provisions of this chapter, and in any case in which an appellant appeals on any ground involving a question of law alone, the Court may direct that a case shall be stated and the appeal determined in the same manner as if a question of law had been reserved under the provisions of that section.

407. Time for appealing

(1) Any person convicted desiring to appeal to the Court, or to obtain leave to appeal, against any conviction or sentence, shall give notice of appeal or notice of application for leave to

appeal, within 14 days of the date of such conviction or sentence.

(1A) A notice under subsection (1) shall be signed by the person giving it or his attorney.

(2) . . . . . .

(3) An appeal by the Attorney-General under section 401(2)(a), (b), (d) and (e) is to be brought by the Attorney-General –

(a) notifying his or her intention to appeal at any time during the trial or immediately after the verdict in the presence of the accused or his or her counsel and, within 7 days after the conclusion of the trial, giving notice of appeal or of application for leave to appeal in the manner prescribed; or

(b) giving notice of appeal or of application for leave to appeal in the manner prescribed within 7 days after the conclusion of the trial.

(3A) An appeal by the Attorney-General under section 401(2)(c) is to be brought by the Attorney-General giving notice of appeal in the manner prescribed at any time within 14 days after sentence.

(4) Upon any such notification or notice as mentioned in subsection (3) or (3A) hereof, the judge of the court of trial may require the accused to enter into a recognizance, with or without sureties, to appear at such time and place

as the judge may direct, or when called upon, to abide the determination of the appeal.

(4A) If the Attorney-General has not notified his or her intention to appeal or given a notice of appeal or a notice of application for leave to appeal under subsection (3), then, if the relevant time has not expired, the Attorney-General may apply to the Court for an order requiring the accused to enter into a recognisance, with or without sureties, to appear before the Court at a specified time and place.

(4B) The Court must not make an order under subsection (4A) unless the Attorney-General gives an undertaking to give a notice of appeal or a notice of application for leave to appeal within the time specified in subsection (3).

(4C) An order under subsection (4A) is to lapse and the accused is to be discharged from the recognisance if the Attorney-General has not given the relevant notice under subsection (3) within the time specified in that subsection.

(5) The time within which notice of appeal, or notice of an application for leave to appeal, may be given, may be extended at any time by the Court.

407A. Withdrawal of appeals

An appeal or an application for leave to appeal may be withdrawn and discontinued by leave of the Court.

408. . . . . .

409. Supplemental powers

(1) For the purposes of this chapter the Court may, if it thinks it necessary or expedient in the interests of justice –

(a) order the production of any document, exhibit, or other thing connected with the proceedings;

(ab) order a person convicted, or a person who is a respondent to a prosecution appeal, to attend before the Court on the hearing of an appeal in relation to the person or to receive judgment in relation to the appeal;

(b) order any persons who would have been compellable witnesses at the trial to attend and be examined before the Court, whether they were or were not called at the trial, or order any such persons to be examined before any judge of the Court, or before any officer of the Court, or justice, or other person appointed by the Court for the purpose, and admit any depositions so taken as evidence;

(c) receive the evidence, if tendered, of any witness (including the appellant) who is a competent, but not compellable, witness; and if the appellant makes application for the purpose, of the husband or wife of the appellant, in cases where the

evidence of the husband or wife could not have been given at the trial except on such application.

(d) where any question arising on the appeal involves prolonged examination of documents or accounts, or any scientific or local investigation, which cannot, in the opinion of the Court, be conveniently conducted before the Court, refer the question for inquiry and report to a commissioner appointed by the Court, and act upon the report of such commissioner so far as the Court thinks fit; and

(e) appoint any person with special expert knowledge to act as assessor to the Court in any case in which it appears to the Court that such special knowledge is required for the determination of the case –

and exercise in relation to the proceedings of the Court any other powers which may be exercised by the Supreme Court on appeals or applications in civil matters, and issue any warrant or other process necessary for enforcing the orders or sentences of the Court.

(2) In no case shall any sentence be increased by reason of or in consideration of any evidence that was not given at the trial.

410. Legal assistance to appellant, &c.

If it appears to be in the interests of justice that a person should have legal aid in connection with any proceedings under Chapter XLII or this Chapter and that he has not sufficient means to enable him to obtain that aid, the Court or a judge or Associate Judge may make an order directing that he be given assistance under the approved scheme for the time being in force under the *Legal Aid Commission Act 1990*.

411. Right of appellant to be present

(1) An appellant, notwithstanding that he is in custody, shall be entitled to be present if he so desires, on the hearing of his appeal, except where the appeal is on some ground involving a question of law alone.

(2) On an appeal on such ground, and on an application for leave to appeal, and on any proceedings preliminary or incidental to an appeal, the appellant shall not be entitled to be present, except by leave of the Court or if ordered to attend before the Court under section 409(1)(ab).

(3) The power of the Court to pass any sentence may be exercised notwithstanding that the appellant is not present.

412. Case and argument in writing

An appellant shall be entitled to present his case and his argument to the Court in writing if he so desires, and any case or argument so presented shall be considered by the Court.

413. Duty of Attorney-General

(1) The Attorney-General, or counsel on his behalf, shall appear for the Crown on every appeal to the Court under this chapter.

(2) Provision shall be made by the rules under the Code for the transmission to the Attorney-General of all such documents, exhibits, and other things connected with the proceedings as he may require for the purpose of his duties under this section.

413A. Reserved judgments

(1) When any cause or matter, after being fully heard before the Court, is ordered to stand for judgment, it is not necessary that both or all judges before whom it was heard be present together in court to declare their opinions thereon, but the opinion of any of them may be reduced to writing and may be read by any other judge at any subsequent sitting of the Court at which judgment in the cause or matter is appointed to be delivered.

(2) In any such case the question shall be decided in the same manner, and the judgment of the Court

shall have the same force and effect as if the judge whose opinion is so read had been present in court and had declared his opinion in person.

(3) Nothing in this section affects the practice of publishing in writing a judge's reasons for his opinion.

414. Costs of appeal, &c.

(1) In any proceedings under Chapter XLII or this Chapter the Court may make such order as to costs as it thinks fit.

(2) No order shall be made under this section in respect of any proceedings in favour of a person who has received assistance under the *Legal Aid Commission Act 1990* in those proceedings.

(3) Where the Crown is ordered under this section to pay costs, those costs shall be defrayed out of moneys provided by Parliament for the purpose.

415. Admission of appellant to bail and custody when attending court

(1 - 1B) . . . . . .

(2) The Court may, if it thinks fit, on the application of an appellant who has been sentenced to a term of imprisonment by the court of trial, admit him to bail pending the determination of the appeal.

(3) The Court may, if it thinks fit, stay proceedings on any order under the *Sentencing Act 1997* or

suspend the operation of any such order *ab initio* pending the determination of an appeal.

(4) . . . . . .

(5) The Sheriff shall, subject to the rules to be made hereunder, give all necessary directions for bringing an appellant who is in custody to any place where he is entitled to be present or ordered to be taken for the purposes of this chapter, and for the manner in which he is to be kept in custody whilst absent from prison for the purpose, and an appellant whilst in custody in accordance with such directions shall be deemed to be in legal custody.

(6) This section shall apply to a person in respect of whose conviction a case has been stated under the provisions of section 387.

416. Duties of Registrar

(1) The Registrar shall take all necessary steps for obtaining a hearing of every appeal or application, notice of which is given to him, and shall obtain and lay before the Court in proper form all documents, exhibits, and other things relating to the proceedings in the court of trial which appear necessary for the proper determination of the appeal or application.

(2) If it appears to the Registrar that any notice of appeal against a conviction does not show any substantial ground of appeal, he may refer the appeal to the Court for summary determination; and the Court may thereupon, if it considers that

the appeal is frivolous or vexatious, dismiss the appeal summarily without calling upon any person to attend the hearing.

(3) The Registrar shall furnish the necessary forms and instructions in relation to notices of appeal or notices of application to any person who demands the same, and to officers of courts, governors of gaols, and to such other officers or persons as he thinks fit, and the governor of every gaol shall cause such forms and instructions to be placed at the disposal of prisoners desiring to appeal or to make any application, and shall cause any such notice given by a prisoner in his custody to be forwarded on behalf of the prisoner to the Registrar.

417. Documents, exhibits, &c.

Any documents, exhibits, or other things connected with any proceedings before a court of trial, in respect of which any person is entitled, or may be authorized, to appeal, shall be kept in the custody of the court of trial in accordance with the rules to be made for that purpose, for such time as may be provided by the rules, and subject to such powers as may be given by the rules for the conditional release of any such documents, exhibits, or things from that custody.

418. Powers of single judge

(1) The following powers of the Court, namely:

(a) The power to extend the time in which notice of appeal or of an application for leave to appeal may be given;

(b) The power to allow a person to be present at any proceedings where he is not entitled to be present without leave;

(c) The power to admit any person to bail;

(ca) the power to, pending the determination of an appeal, stay proceedings on any order under the *Sentencing Act 1997* or suspend the operation of any such order *ab initio*;

(d) The power to give leave for the withdrawal or discontinuance of an appeal;

(e) The power to dismiss an appeal under section 402(7);

(ea) The power to make an order under section 409(1)(a) or (b);

(f) The power to give directions –

may be exercised by a judge of the Court in the same manner as they may be exercised by the Court, and subject to the same provisions.

(2) If an appellant makes application to a judge under this section, section 401 or section 402A(5), and the judge refuses such application, the appellant shall be entitled to have such application determined by the Court.

418A. Powers of Associate Judge

(1) The following powers of the Court may be exercised by an Associate Judge of the Court in the same manner as they may be exercised by the Court, and subject to the same provisions:

(a) the power to extend the time in which notice of appeal or of an application for leave to appeal may be given;

(b) the power to allow a person to be present at any proceedings where he or she is not entitled to be present without leave;

(c) the power to give leave for the withdrawal or discontinuance of an appeal;

(d) the power to dismiss an appeal under section 402(7);

(da) the power to make an order under section 409(1)(a) or (b);

(e) the power to give directions.

(2) If an appellant applies to an Associate Judge under this section, and the Associate Judge refuses the application, the appellant is entitled to have the application determined by the Court.

419. Prerogative of mercy

The Attorney-General, on the consideration of any petition for the exercise of His Majesty's mercy, having reference to the conviction of any

person or to any sentence passed on a convicted person, may –

(a) refer the whole case to the Court, and the case shall be heard and determined by the Court as in the case of an appeal by a person convicted; or

(b) if he desires the assistance of the Court on any point arising in the case with a view to the determination of the petition, refer that point to the Court for its opinion thereon, and the Court shall consider the point so referred and furnish the Attorney-General with its opinion thereon accordingly.

Chapter XLVII – Private Prosecutions: Ex Officio Indictments: Trial at Bar

420. Private prosecutions

(1) Any person may, by leave of the Supreme Court, file an indictment against any other person for any crime alleged to have been committed by such other person.

(2) Leave to file any such indictment shall be granted upon such terms and conditions as the said Court in any case for the purpose of securing the substantial ends of justice thinks fit to direct.

(3) Every such indictment shall be endorsed with the words "Filed by leave of the Supreme Court of

Tasmania", and with the name of the person prosecuting the same.

421. *Ex officio* indictments

Where an indictment is filed by a Crown Law Officer against a person who has not been committed for trial for the offence charged in the indictment, the Crown may, without any leave, by filing an indictment described as an *ex officio* indictment, proceed thereon in the manner prescribed in this chapter.

421A. Notice to attend or arrest warrant against person indicted in Supreme Court

(1) In this section –

at large means not detained in prison as specified in subsection (2)(c).

(2) On the application of a person who has filed an indictment in the Supreme Court under section 420 or 421 in respect of an offence, the Supreme Court –

(a) if the defendant is at large and the applicant requests it, must issue a notice to attend to the defendant ordering him or her to attend before the Supreme Court at the time and place specified in the notice; or

(b) if the defendant is at large but no such request is made, may issue an arrest

warrant against the defendant to bring him or her before the Supreme Court; or

(c) if there is proof, on oath, that the defendant is a person at that time detained in a prison in relation to an offence other than that charged in the indictment, must direct the person in charge of the prison to detain the defendant in his or her custody until –

(i) the defendant is lawfully removed from that custody for the purpose of being tried on the indictment; or

(ii) the defendant is otherwise removed or discharged out of that custody by due course of law.

(3) Subsection (2)(a) and (b) applies in respect of a defendant regardless of whether or not the defendant is bound by a recognizance to appear to answer the indictment.

(4) A person may not make an application, and the Supreme Court may not proceed, under subsection (2) if the defendant has already attended before the Supreme Court and pleaded to the indictment.

421B. Committal for trial in certain circumstances

If a person is arrested under a warrant issued under section 421A in respect of an indictment and brought before the Supreme Court and it is

proved upon oath before the Court that the person arrested is the person indicted –

(a) the person must be committed for trial without further inquiry or examination; and

(b) if the person has not appeared before the Supreme Court under section 331B in respect of the charge which is the subject of the indictment –

(i) section 331B applies; and

(ii) for the purpose of the application of section 331B, the person is taken to be appearing for the first time after being committed to the Supreme Court.

422. Trial at bar

In any case in which it thinks fit, the Supreme Court may, in its discretion, make an order for a trial to be at bar, subject to such terms and conditions as the Court may think fit.

423. Forms and proceedings

Except as herein modified, the provisions of the Code relating to the form and contents of pleadings shall apply to all proceedings under this chapter, and in all other respects the proceedings therein shall, until prescribed by the rules to be made under the Code, be in

conformity as nearly as may be with the Crown Office Rules in England.

Chapter XLVIII – Consequences of Conviction

424. . . . . .

425. Costs against convicts

(1) The court by which judgment is given on conviction of a person for a crime may, in addition to any other sentence, condemn that person to pay the whole or part of the costs or expenses incurred in or about the prosecution and conviction for the crime of which he is convicted.

(2) The payment of costs and expenses adjudged under this section may –

(a) be ordered by the court to be made out of moneys taken from the convicted person on his apprehension; or

(b) be enforced in the same manner as a fine under section 53 of the *Sentencing Act 1997*.

425A - 426. . . . . .

Chapter XLIX – Miscellaneous Provisions

427. Proceedings against partners, &c.

A person who is a member of a co-partnership or company, or one of several co-owners, shall be liable on indictment in respect of any fraudulent act or omission done or made by him with respect to the property of such co-partnership, company, or co-owners in the same manner as if he were not such member or co-owner.

428. . . . . .

429. Prosecutions for perjury

(1) In any case in which a judge or person presiding in a court of record or a petty sessional court, or any person before whom a writ of inquiry is executed, is of opinion that any person has in any proceeding before him been guilty of perjury, he may order the prosecution of that person if there appears to be reasonable cause for such prosecution, and may commit him, or admit him to bail, to take his trial at the proper court; and may require any person to enter into a recognizance to prosecute or give evidence against the person so ordered to be prosecuted.

(2) No such order as aforesaid shall be given in evidence upon any trial resulting from such order.

430. Effect of failure to submit evidence relating to certain offences

(1) In this section –

coincidence evidence has the same meaning as in the *Evidence Act 2001*;

family violence offence means a family violence offence within the meaning of the *Family Violence Act 2004*;

first charge evidence means evidence that could have been offered by the prosecution in a hearing of an offence that is a first charge within the meaning of this section;

sexual offence means an offence of a sexual or indecent nature;

tendency evidence has the same meaning as in the *Evidence Act 2001*.

(2) If –

(a) a person is charged with a family violence offence or a sexual offence (the ***first charge***) in a court of summary jurisdiction but is acquitted because the prosecution has informed the court that it will not be offering any evidence in support of the first charge; and

(b) the person is charged with another family violence offence or sexual offence (the ***second charge***), regardless of which

court the second charge is to be determined by –

the acquittal of the first charge does not prevent the admission, in a hearing on the second charge, of first charge evidence as evidence of the relationship between the person and another person, tendency evidence or coincidence evidence.

429A - 432. . . . . .

433. Recognizance to keep the peace, &c., may be forfeited on proof of conviction

(1) Where any recognizance to keep the peace or to be of good behaviour is entered into by any person, as principal or surety, before the Supreme Court, or before any justice, it shall be lawful for a judge, upon –

(a) application made to him;

(b) production of such recognizance; and

(c) proof of a conviction of the party bound by such recognizance of any offence which is in law a breach of the condition of the same; and that a notice in writing, signed by the person seeking to put such recognizance in force, has, 7 clear days before such application is made, been personally served upon or left at the usual place of abode of the party or each of the parties, if more than one, who

entered into such recognizance, that an application will be made to the said judge that the said recognizance shall be declared forfeited –

to declare such recognizance to be forfeited.

(2) If such recognizance is declared forfeited the same shall be enforced as a forfeited recognizance as provided by section 431.

434. Procedure generally upon forfeited recognizance

Where no mode for enforcing the condition of any recognizance is provided in any Act, all such proceedings shall be had and taken in the manner hereinbefore directed for enforcing the condition of any recognizance to keep the peace or be of good behaviour.

435 - 452. . . . . .

Chapter L – Savings and Transitional Provisions

453. Abolition of capital punishment

After the commencement of the *Criminal Code Act 1968*, the sentence of punishment by death is no longer to be pronounced or recorded, and the punishment of death is no longer to be inflicted, in respect of crimes committed against the laws of the State.

454. Term of sentence of imprisonment

Except as is otherwise expressly provided, references in any enactment to a sentence of imprisonment passed on any person for a term not less than or exceeding a specified term are to be construed as including references to a sentence of imprisonment passed on that person for the term of his or her natural life.

455. Self-defence provisions

The amendments effected by the *Criminal Code Amendment (Self-defence) Act 1987* do not apply to any act done before the day on which that Act commenced.

456. Non-application of amendments to section 338 (1)

Section 338(1), as amended by the *Criminal Code Amendment Act 1987*, does not apply to an indictment for the crime of dishonestly obtaining a financial advantage committed before the day on which that Act received the Royal Assent.

457. Repeal of section 155

(1) In this section, ***common law defence*** means a rule or principle of the common law that renders any circumstances a justification or excuse for any act or omission or a defence to a charge upon indictment.

(2) For the avoidance of doubt, the repeal effected by section 4 of the *Criminal Code Amendment*

(Year and a Day Rule Repeal) Act 1993 is not to be taken as reviving any common law defence that might, but for this section, be revived by the repeal.

458. Application of *Bail Act 1994*

Where, immediately before the commencement of the *Bail (Miscellaneous Amendments) Act 1994*, a person was bound by recognizance under section 431 to surrender and to plead to any indictment that may be filed against that person, the application of the *Bail Act 1994* extends to that person as if he or she were bound by a document signed under section 7 (2) (a) of the *Bail Act 1994* to that effect.

459. Savings

If, before the commencement of the *Justice (Miscellaneous Amendments) Act 1993* –

(a) a copy of a summons was served on the Crown Solicitor or the Solicitor-General under section 304, that copy is to be taken as having been served on the Director of Public Prosecutions; or

(b) any act or thing was done by or in respect of the Crown Solicitor under section 368A in relation to a notice of alibi, that act or thing is to be taken as having been done by or in respect of the Director or Public Prosecutions.

460. Application of *Criminal Code Amendment (Sexual Offences against Young People) Act 2013*

The amendments to this Act made by the *Criminal Code Amendment (Sexual Offences against Young People) Act 2013* do not apply in relation to an offence committed before the amendments commence.

461. Application of *Criminal Code Amendment (Sexual Assault) Act 2017*

(1) In this section –

amending Act means the *Criminal Code Amendment (Sexual Assault) Act 2017*.

(2) . . . . . .

(3) The omission of section 18(3) to this Act by the amending Act is to be taken to have effect from 4 April 1924.

462. Application of *Criminal Code and Related Legislation Amendment (Child Abuse) Act 2019*

Section 105A, as inserted by the *Criminal Code and Related Legislation Amendment (Child Abuse) Act 2019*, applies in respect of information obtained on or after the commencement of that Act, including if that information relates to a child abuse offence that occurred or may have occurred before the commencement of that Act.

462A. . . . . .

463. Application of *Criminal Code Amendment (Bullying) Act 2019*

(1) The amendments to this Act made by the *Criminal Code Amendment (Bullying) Act 2019* do not apply in relation to an offence committed before the day on which the amendments commence.

(2) For the purposes of subsection (1), if an offence is alleged to have been committed between two dates, one before and one after the commencement of the *Criminal Code Amendment (Bullying) Act 2019*, the offence is alleged to have been committed before that commencement.

464. Transitional provisions on the commencement of the *Criminal Code Amendment (Sexual Abuse Terminology) Act 2020*

(1) In this section –

commencement day means the day on which the *Criminal Code Amendment (Sexual Abuse Terminology) Act 2020* commences;

relevant crime means a crime where the charge for the crime is amended by the *Criminal Code Amendment (Sexual Abuse Terminology) Act 2020*.

(2) For the avoidance of doubt, the amendments to this Act made by the *Criminal Code Amendment (Sexual Abuse Terminology) Act 2020* –

(a) are not intended to affect, or amend, the elements of a relevant crime as they exist on the commencement day; and

(b) apply in relation to an offence, whether or not the offence was committed before, on or after the commencement day.

(3) A charge for a relevant crime is to be amended, to refer to the charge as amended by the *Criminal Code Amendment (Sexual Abuse Terminology) Act 2020*, at the next appearance of a person charged with the crime if –

(a) the person was charged in respect of the crime by reference to the charge as in force for that crime before the commencement day; and

(b) on, and after, the commencement day, proceedings in respect of the crime so charged have not been finally determined.

(4) A reference in any Act to a charge in respect of a relevant crime is taken, on and after the commencement day, to include a reference to the charge –

(a) as in force immediately before the commencement day; and

(b) as in force on and after the commencement day.

464A. Application of *Criminal Code Amendment (Judge Alone Trials) Act 2022*

For the avoidance of doubt, the amendments to this Act made by the *Criminal Code Amendment (Judge Alone Trials) Act 2022* apply in relation to an offence committed before the day on which that Act commences if a jury has not been empanelled in respect of a trial by jury for the offence.

465. Application of *Justice Legislation Amendments (Criminal Responsibility) Act 2020*

(1) In this section –

amending Act means the *Justice Legislation Amendments (Criminal Responsibility) Act 2020*;

commencement day means the day on which the amending Act commences.

(2) The amendment, to section 13(1) of this Act, made by section 4 of the amending Act is not intended to alter the effect of section 13(1) as in force immediately before the commencement day.

(3) The amendment, to section 13(1) of this Act, made by section 4 of the amending Act does not apply in relation to an offence committed before the commencement day.

(4) Subsection (1A) of section 13, as that subsection is inserted by section 4 of the amending Act, does not apply in relation to an offence committed before the commencement day.

466. Application of *Justice and Related Legislation (Miscellaneous Amendments) Act 2026*

The amendment, to section 2B of this Act, made by section 5 of the *Justice and Related Legislation (Miscellaneous Amendments) Act 2026* does not apply in respect of proceedings determined before the commencement of that Act.

APPENDIX A – CRIMES FOR WHICH OFFENDER MAY BE ARRESTED WITHOUT WARRANT

Assault.

Aggravated assault.

Any crime under Chapter V.

Piracy and offences deemed to be piracy.

Rioting.

Opposing the making of a riot proclamation.

Escape.

Bestiality.

Murder.

Manslaughter.

Threatening to murder.

Instigating [*or* aiding] suicide.

Disabling with intent to facilitate the commission of an offence [*or* flight of an offender].

Administering a drug with intent to facilitate the commission of an offence [*or* flight of an offender].

Committing an unlawful act intended to cause bodily harm.

Preventing escape from a wreck.

Wounding or causing grievous bodily harm.

Persistent family violence.

Strangulation.

Intentionally endangering persons on a railway.

Wantonly endangering persons on a railway.

Causing injury by poison.

Rape.

Indecent assault.

Forcible abduction.

Stalking and bullying.

Stealing, other than stealing under sections 228 to 231 or under section 233.

Killing an animal with intent to steal.

Severing with intent to steal.

Robbery.

Aggravated Robbery.

Armed Robbery.

Aggravated Armed Robbery.

Carjacking.

Aggravated carjacking.

Demanding property with menaces with intent to steal.

Using, possessing or supplying explosive device.

Taking steps in the manufacture of explosive device.

Possessing or supplying information for manufacture of explosive device.

Using, possessing or supplying explosive substance.

Possessing or supplying equipment or information for explosive substance.

Placing or sending article or substance to induce belief of explosion, ignition or discharge.

Any crime under Chapter XXVII.

Receiving stolen property.

Arson or any other crime under Chapter XXXI, except under sections 272 to 276.

Attempting to commit any of such crimes as aforesaid.

APPENDIX B – CRIMES REFERRED TO IN SECTIONS 27 (5) AND 30 (3)

Form

Treason.

Piracy and offences deemed to be piracy.

Murder.

Burglary and aggravated burglary.

Rape.

Unlawfully setting fire to vegetation, in any case in which serious danger shall have been caused to the life of any person.

Arson, in any case in which serious danger shall have been caused to the life of any person.

Intentionally endangering persons on a railway.

Any crime in the commission whereof serious danger shall have been caused to the life of any person.

Attempting to commit any of such crimes as aforesaid.

APPENDIX C – FORMS OF INDICTMENT

Form

In the Supreme Court of Tasmania.

STATE OF TASMANIA *against* [JOHN JONES]. (a)

The day of 20 (b)

TASMANIA

(c) [HOBART] TO WIT.

A. B., Crown Law Officer, on behalf of the State of Tasmania, charges (a) [John Jones] with —

Statement of Crime

(d) Stealing contrary to section 234 of the Criminal Code.

Particulars

(a) *John Jones*, at (e) Deloraine, in the State of Tasmania, (f) on the first day of June 1923, stole a cow the property of (g) *William Smith*.

(Signed) A.B.,

Attorney-General [*or, as the case may be*].

Or,

[Heading and introductory part as above; and]

Statement of Crime

Being accessory after the fact to a crime contrary to section 300 of the Criminal Code.

Particulars

John Jones, at Devonport, in the State of Tasmania, on the fourth day of January 1924, and on other days thereafter, knowing that *John Smith* had committed the crime of disabling with intent to facilitate the commission of an offence, received [*or* assisted] the said *John Smith* in order to enable him to escape punishment.

(Signed) [*as above*].

Or,

STATE OF TASMANIA *against* JOHN SMITH *and* JOHN JONES.

The day of 20 .

TASMANIA

[DEVONPORT] TO WIT.

A.B., &c., [*as above*] charges *John Smith* and *John Jones* with —

Statement of Crimes

John Smith, with disabling with intent to facilitate the commission of an offence contrary to section 168 of the Criminal Code.

John Jones, with being accessory after the fact to the same crime, contrary to section 300 of the Criminal Code.

Particulars

John Smith, at Latrobe, in the State of Tasmania, on the fourth day of January 1924, disabled *Mary Brown*, by violently taking her by the throat and rendering her incapable of resistance, with intent thereby to facilitate the commission of an offence.

John Jones, at Devonport, on the same day and other days thereafter, knowing that the said *John Smith* had committed the said crime, received [*or* assisted] him in order to enable him to escape punishment.

(Signed) [*as above*].

Or,

STATE OF TASMANIA *against* JOHN SMITH.

The day of 20 .

TASMANIA

[HOBART] TO WIT.

A.B., &c., [*as above*] charges *John Smith* with —

Statement of Crime

Burglary contrary to section 244 of the Criminal Code.

Particulars of Crime

John Smith at Hobart in the State of Tasmania entered the shop situated at No. 66, Harold Street as a trespasser with intent to commit the crime of stealing therein.

(a) Name of accused. (b) Date of filing indictment. (c) Place of trial. (d) Description of crime charged. (e) Place where crime committed. (f) Date when crime committed. (g) Name of owner of property (if any).

APPENDIX D – SERIOUS CRIMES

1. *Criminal Code Act 1924*

Section 124	Penetrative sexual abuse of a child [*or* young person]
Section 124A	Penetrative sexual abuse of a child [*or* young person] by a person in a position of authority
Section 125A	Persistent sexual abuse of a child [*or* young person]
Section 125C(2)	Procuring a child [*or* young person] for penetrative sexual abuse
Section 126	Penetrative sexual abuse of a person with a mental impairment
Section 130	Involving person under age of 18 years in production of child exploitation material
Section 130A	Producing child exploitation material
Section 130B	Distributing child exploitation material
Section 133	Incest
Section 158	Murder
Section 159	Manslaughter

Section 161	Being accessory after the fact to murder
Section 165	Causing death of child before birth
Section 170	Committing an unlawful act intended to cause grievous bodily harm
Section 170A	Persistent family violence
Section 172	Wounding or causing grievous bodily harm
Section 178A	Performing female genital mutilation
Section 179	Setting man-traps &c., or allowing man-traps &c. to remain set
Section 185	Rape
Section 191A	Kidnapping
Section 240(3)	Armed robbery
Section 240(4)	Aggravated armed robbery
Section 245	Aggravated burglary
Section 268	Arson
Section 268A	Unlawfully setting fire to vegetation

2.	*Sex Industry Offences Act 2005*	
	Section 9(1)	Procuring or otherwise causing or permitting a child to provide sexual services in a sexual services business
	Section 9(2)	Receiving a fee or reward that a person knows &c. is derived, directly or indirectly, from sexual services provided by a child in a sexual services business
3.	*Misuse of Drugs Act 2001*	
		A crime under Part 2 of the *Misuse of Drugs Act 2001* being a crime that relates to a trafficable quantity of a controlled substance

APPENDIX E – FORM OF LIST OF OTHER OFFENCES CHARGED

Form

Police Department,

Criminal Investigation Branch,

Hobart (or .....

..... Police Station)

TO .....

indicted on a charge of .....

for trial at the sittings of the Supreme Court at .....
commencing on ..... 19 .

Memorandum for Accused's Information.

(1) The list on the back hereof gives particulars of ..... other offences which you are believed to have committed.

(2) If your are convicted on the charge of ..... first mentioned above, you may before sentence is passed, if the Judge so decides and counsel for the Crown consents, admit all or any of the other offences set out on the back hereof and ask that any of those offences that you have admitted be taken into account by the Judge in passing sentence upon you.

(3) No further proceedings may be taken against you in respect of the other offences taken into account unless your conviction on the charge for the offence of ..... first mentioned above is set aside or quashed.

(4) If proceedings are taken in the circumstances mentioned in (3) or if the Judge does not for any reason take one or more of the other offences that you have admitted into account, your admission cannot be used as evidence against you in any proceedings taken in the circumstances mentioned or taken in respect of the offences not taken into account.

Signature of police officer .....

Date .....

Signature of accused acknowledging receipt of copy of this document

.....

Date .....

CERTIFICATE

In sentencing ..... for the offence of ..... this day, I have taken into account the following offences alleged against and admitted by him, that is to say, the offences numbered ..... in the list on the back hereof.

Dated this day of 19 .

.....

Judge of the Supreme Court.

[BACK OF FORM]

Number	Place where offence was committed	Date of offence	Brief description of offence

APPENDIX F

Form

EDWARD THE EIGHTH, by the Grace of God, of Great Britain, Ireland, and the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India.

To the Sheriff of Tasmania.

You are hereby required and commanded, as you regard yourself and all yours, that of all the goods and chattels, lands, and tenements of all and singular the persons in the several extracts to this writ annexed, you cause to be levied all and singular the debts and sums of money upon them in the same extracts severally imposed and charged, so that the money may be ready for payment at the next Session of Oyer and Terminer and General Gaol Delivery of the Supreme Court of Tasmania at to be paid over in such manner as is or may be lawfully appointed; and if any of the said several debts cannot be levied by reason of no goods or chattels, lands or tenements being to be found belonging to the parties, then in all cases that you take the bodies of the parties refusing to pay the aforesaid debts and lodge them in the proper gaol, there to remain until such debts or sums of money are paid or satisfied, or such persons are lawfully discharged therefrom.

Witness the Honourable , Our Chief Justice of Our said Court, the day of , in the year of Our reign.

By the Court, (Clerk of the Court.)

or

(Clerk of the Peace.)

SCHEDULE 2 – STATUTES OF TASMANIA

Section 3

Regnal Year and Number of Act	Title of Act	Extent of Repeal
2 Vict. No. 18	An Act for extending to this Colony sundry Statutes passed for the amendment of the Criminal Law in Cases of Forging and Piracy	The whole Act
12 Vict. No. 1	An Act to encourage the Establishment of Banks for Savings in Van Diemen's Land	Section 13
18 Vict. (Private)	*Hobart Town Gas Company's Act*	Section 21

Regnal Year and Number of Act	Title of Act	Extent of Repeal
22 Vict. No. 23	*Mental Hospitals Act 1858*	Section 15 from the word "and" in the twelfth line thereof to the word "misdemeanour" in the fifteenth line thereof; and from the word "and" in the twenty-eighth line thereof to the end of the section Section 34 from the word "and" in the twelfth line thereof to the end of the section Section 43 from the word "and" in the third line thereof to the end of the section
22 Vict. (Private)	*Launceston Gas Company's Act*	Section 27

Regnal Year and Number of Act	Title of Act	Extent of Repeal
25 Vict. No. 16	*Real Property Act 1862*	Section 139 from the word "such" in the thirteenth line thereof to the word "and" in the sixteenth line thereof Sections 140 and 141
27 Vict. No. 6	An Act to consolidate and amend the Legislative Enactments relating to Accessories to and Abettors of Offences	The whole Act
27 Vict. No. 9	An Act to consolidate and amend the Legislative Enactments relating to Forgery	The whole Act
27 Vict. No. 10	An Act to consolidate and amend the Legislative Enactments concerning Offences relating to Coin	The whole Act
32 Vict. No. 11	*Prison Act 1868*	Sections 21 to 23 Section 32
32 Vict. No. 10	*Treason Felony Act*	The whole Act

Regnal Year and Number of Act	Title of Act	Extent of Repeal
34 Vict. No. 33	*Debtors Act 1870*	Sections 9 to 12 Sections 16 and 17 Section 20
37 Vict. No. 6	*Criminal Law Procedure Act 1873*	The whole Act
38 Vict. No. 6	*Life Assurance Companies Act 1874*	Section 31
39 Vict. No. 17	*Foreign Recruiting Act 1875*	The whole Act
40 Vict. No. 8	*Falsification of Accounts Act 1876*	The whole Act
45 Vict. No. 1	*Quarantine Act 1881*	Sections 21 and 24
45 Vict. No. 14	*Criminal Law Procedure Act 1881*	The whole Act
46 Vict. No. 16	*Public Trusts Act 1882*	Sections 44 and 45
48 Vict. No. 15	*Mining Companies Act 1884*	Section 150 Sections 152 and 153

Regnal Year and Number of Act	Title of Act	Extent of Repeal
48 Vict. No. 16	*Mining Companies (Foreign) Act 1884*	Section 6 from the word "every" in the ninth line thereof to the end of the section Subsection (2) of section 9
49 Vict. No. 35	*Mental Hospitals Act 1885*	Section 8 from the word "and" in the ninth line thereof to the end of the section
49 Vict. No. 6	*Married Women's Property Act 1885*	The whole Act
49 Vict. No. 23	*Offences Against the Person Act 1885*	The whole Act
51 Vict. No. 16	*Friendly Societies Act 1888*	Paragraph VII of section 13
52 Vict. No. 8	*Charitable Institutions Act 1888*	Sections 16 and 17
53 Vict. No. 27	*Trades Unions Act 1889*	Section 24
53 Vict. No. 32	*Formby Water Act 1889*	Section 55
54 Vict. No. 51	*Glenorchy Water Act 1890*	Section 126

Regnal Year and Number of Act	Title of Act	Extent of Repeal
54 Vict. No. 52	*Latrobe Water Act 1890*	Section 125
55 Vict. No. 2	*Treasury Bills Act 1891*	Section 6
56 Vict. No. 8	*Arbitration Act 1892*	Section 26
56 Vict. No. 31	*St Helens Water Act 1892*	Section 102
58 Vict. No. 8	An Act to further amend the Law relating to Offences against the Person	The whole Act
58 Vict. No. 31	*Launceston Water and Light Act 1895*	Section 93
59 Vict. No. 34	*Cressy Water Act 1894*	Section 95
59 Vict. No. 6	*Local Inscribed Stock Act 1895*	Section 17
59 Vict. No. 9	*Registration of Births and Deaths Act 1895*	Sections 44 and 48
59 Vict. No. 11	*Defamation Act 1895*	Sections 25 to 31
		Section 35
		Sections 37 to 39, so far as they relate to criminal proceedings
		Section 40

Regnal Year and Number of Act	Title of Act	Extent of Repeal
59 Vict. No. 23	*Marriage Act 1895*	Section 25 from the word "and" where it secondly occurs in the fifth line thereof to the end of the section Sections 45 to 53 Section 55 The words "or prosecution" in the first line of Section 60
59 Vict. No. 54	*Ross Water Act 1895*	Section 81
59 Vict. No. 55	*Scottsdale Water Act 1895*	Section 36
60 Vict. No. 48	*Local Courts Act 1896*	Section 61
62 Vict. No. 64	*Westbury and Hagley Water Act 1898*	Section 93
62 Vict. No. 65	*Perth Water Act 1898*	Section 97
62 Vict. No. 66	*Longford Water Act 1898*	Section 123
62 Vict. (Private)	*Zeehan Electric Light and Power Act 1898*	Section 56

Regnal Year and Number of Act	Title of Act	Extent of Repeal
63 Vict. No. 5	*Offences Against the Person Act 1899*	The whole Act
63 Vict. No. 32	*Jury Act 1899*	Section 67
63 Vict. No. 34	*Registration of Firms Act 1899*	Section 14
64 Vict. No. 65	*Gormanston Water Act 1900*	Section 67
64 Vict. No. 66	*Beaconsfield Water Act 1900*	Section 54
1 Edw. VII No. 45	*Burnie Water Act 1901*	Section 69
2 Edw. VII No. 51	*Deloraine Water Act 1902*	Section 71
2 Edw. VII (Private)	*Hobart Tramway Company's Amendment Act 1902*	Section 26
3 Edw. VII No. 43	*Swansea Water Act 1903*	Section 62
4 Edw. VII No. 19	*Fingal Water Act 1904*	Section 71
5 Edw. VII No. 47	*Ulverstone Water Act 1905*	Section 71
6 Edw. VII No. 21	*Secret Commissions Prohibition Act 1906*	The whole Act
6 Edw. VII No. 28	*Bracknell Water Act 1906*	Section 62

Regnal Year and Number of Act	Title of Act	Extent of Repeal
6 Edw. VII No. 31	*Local Government Act 1906*	Subsections (2) and (3) of Section 240 Section 241
7 Edw. VII No. 8	*Larceny Act 1907*	The whole Act
8 Edw. VII No. 6	*Limited Partnerships Act 1908*	Section 12
1 Geo. V No. 4	*Offences Against the Person Act 1910*	The whole Act
1 Geo. V No. 17	*Malicious Injuries to Property Act 1910*	The whole Act
1 Geo. V No. 47	*Land and Income Taxation Act 1910*	Section 124
3 Geo. V No. 4	*Wynyard Water Act 1912*	Paragraph I of Section 23
3 Geo. V No. 17	*Offences Against the Person Act 1912*	The whole Act
5 Geo. V No. 32	*Public Works Committee Act 1914*	Section 24
6 Geo. V No. 32	*Branxholm Water Act 1915*	Section 54
7 Geo. V No. 31	*Amusements Duties Act 1916*	Sections 21 to 23

Regnal Year and Number of Act	Title of Act	Extent of Repeal
9 Geo. V No. 3	*Audit Act 1918*	Section 36 Sections 38 and 39
10 Geo. V No. 63	*Tasmanian Government Insurance Act 1919*	Section 10 from the word "and" where it first occurs in the ninth line thereof to the end of the section
11 Geo. V No. 50	*Mental Deficiency Act 1920*	Section 101
11 Geo. V No. 66	*Companies Act 1920*	Section 45 Sections 215 and 217
12 Geo. V No. 44	*Indeterminate Sentences Act 1921*	Sections 4 and 5 Subsection (3) of Section 6
12 Geo. V No. 51	*Lilydale Water Act 1921*	Section 53
12 Geo. V No. 60	*Marine Act 1921*	Section 123
13 Geo. V No. 18	*Larceny Act 1923*	The whole Act

NOTES

The foregoing text of the *Criminal Code Act 1924* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 20 November 2026 are not specifically referred to in the following table of amendments.

Act	Number and year	Date of commencement
Criminal Code Act 1924	No. 69 of 1924	4.4.1924
Criminal Code Act (No. 2) 1924	No. 34 of 1924	8.12.1924
Criminal Code Act 1963	No. 38 of 1963	18.1.1932 (s. 2)
Criminal Code Act 1934	No. 43 of 1934	13.12.1934
Statute Law Revision Act 1934 and proclamations thereunder	No. 78 of 1934	13.12.1934
Criminal Code Act 1943	No. 44 of 1943	16.11.1943
Criminal Code Act 1946	No. 14 of 1946	15.10.1946
Legal Assistance Act 1954	No. 51 of 1954	10.12.1954
Criminal Code Act 1957	No. 13 of 1957	11.4.1957
Traffic Act 1961	No. 31 of 1961	4.12.1961
Criminal Code Act 1963	No. 38 of 1963	18.9.1963 (remaining provisions)
Mental Health Act 1963	No. 63 of 1963	1.12.1964
Traffic Act (No. 3) 1963	No. 93 of 1963	16.1.1965
Criminal Code Act 1965	No. 33 of 1965	10.11.1965
Supreme Court Act 1965	No. 44 of 1965	3.12.1965
Decimal Currency Act 1965	No. 55 of 1965	14.2.1966
Criminal Code Act 1966	No. 24 of 1966	20.7.1966
Criminal Code Act 1968	No. 77 of 1968	24.12.1968
Criminal Code Act 1973	No. 30 of 1973	1.8.1973
Criminal Code Act (No. 2) 1973	No. 62 of 1973	20.11.1973
Criminal Code Act (No. 4) 1973	No. 88 of 1973	19.12.1973
Statute Law Revision (Environment Protection) Act 1973	No. 35 of 1973	1.1.1974
Criminal Code Act 1974	No. 6 of 1974	1.5.1974
Restricted Publications Act 1974	No. 103 of 1974	1.9.1975
Criminal Code Act 1975	No. 74 of 1975	11.12.1975
Parole Act 1975	No. 73 of 1975	31.3.1976
Criminal Process (Identification and Search Procedures) Act 1976	No. 30 of 1976	21.6.1976
Criminal Code Act 1976	No. 67 of 1976	11.11.1976

Act	Number and year	Date of commencement
Criminal Code Act (No. 2) 1976	No. 104 of 1976	15.12.1976
Traffic Act (No. 2) 1976	No. 96 of 1976	22.12.1976
Supreme Court Act 1977	No. 50 of 1977	31.8.1977
Traffic Act 1977	No. 58 of 1977	21.9.1977
Statute Law Revision Order (No. 4) 1977	No. 255 of 1977	5.10.1977
Mental Health Act 1977	No. 124 of 1977	4.4.1979
Criminal Code Amendment Act 1979	No. 44 of 1979	28.11.1979
Land Titles Act 1980	No. 19 of 1980	1.10.1981
Evidence Amendment Act 1981	No. 52 of 1981	21.10.1981
Criminal Code Amendment Act 1982	No. 33 of 1982	28.10.1982
Statute Law Revision Act 1982	No. 99 of 1982	1.2.1983
Criminal Code Amendment Act 1983	No. 77 of 1983	25.1.1984
Criminal Code Amendment Act 1984	No. 3 of 1984	2.5.1984
Criminal Code Amendment Act 1985	No. 17 of 1985	1.5.1985
Criminal Code Amendment (Bail) Act 1986	No. 77 of 1986	11.11.1986
Criminal Code Amendment Act 1986	No. 86 of 1986	12.12.1986
Criminal Proceedings (Civil Remedies) Act 1986	No. 93 of 1986	1.1.1987
Criminal Code Amendment (Self-defence) Act 1987	No. 26 of 1987	10.6.1987
Criminal Code Amendment (Sexual Offences) Act 1987	No. 71 of 1987	26.11.1987
Criminal Code Amendment (Addresses on Sentences) Act 1987	No. 81 of 1987	27.11.1987
Criminal Code Amendment Act 1987	No. 83 of 1987	22.12.1987 (ss. 1-3, 5, 7-9) 1.4.1988 (ss. 4 and 6)
Criminal Code Amendment Act 1988	No. 14 of 1988	16.9.1988
Criminal Code Amendment (Robbery) Act 1988	No. 29 of 1988	29.9.1988
Criminal Code Amendment Act 1989	No. 7 of 1989	18.4.1989
Criminal Code Amendment Act (No. 2) 1989	No. 9 of 1989	17.5.1989
Criminal Code Amendment (Financial Advantage) Act 1989	No. 33 of 1989	4.10.1989
Criminal Law Amendment Act 1990	No. 13 of 1990	11.7.1990
Prisoners (Removal of Civil Disabilities) Act 1991	No. 3 of 1991	30.5.1991
Penalty Units and Other Penalties Amendment Act 1991	No. 43 of 1991	18.12.1991
Statute Law Revision Act 1991	No. 46 of 1991	18.12.1991
Justice Legislation Amendment (Domestic Violence) Act 1992	No. 21 of 1992	6.8.1992
Criminal Code Amendment (Year and a	No. 9 of 1993	20.4.1993

Act	Number and year	Date of commencement
Day Rule Repeal) Act 1993		
Evidence Amendment (Unsworn Statements) Act 1993	No. 89 of 1993	2.12.1993
Prison Amendment Act 1994	No. 4 of 1994	17.3.1994
Criminal Code (Miscellaneous) Amendment Act 1994	No. 7 of 1994	17.3.1994
Criminal Code Amendment Act 1994	No. 21 of 1994	17.3.1994
Criminal Code Amendment (Sexual Assault) Act 1994	No. 61 of 1994	25.11.1994
Statute Law Revision Act 1994	No. 68 of 1994	25.11.1994
Criminal Code Amendment (Sexual Offences) Act 1994	No. 72 of 1994	25.11.1994
Bail (Miscellaneous Amendments) Act 1994	No. 10 of 1994	9.1.1995
Justice (Miscellaneous Amendments) Act 1993	No. 72 of 1993	1.6.1995
Criminal Code Amendment (Life Prisoners and Dangerous Criminals) Act 1994	No. 96 of 1994	5.7.1995
Criminal Law (Territorial Application) Act 1995	No. 43 of 1995	22.9.1995
Criminal Code Amendment (Stalking) Act 1995	No. 65 of 1995	14.11.1995
Environmental Management and Pollution Control (Consequential Amendments) Act 1996	No. 37 of 1996	25.1.1996
Criminal Code Amendment (Indictments) Act 1996	No. 5 of 1996	27.6.1996
Animal Health (Consequential Amendments) Act 1995	No. 75 of 1995	1.9.1996
Criminal Law (Detention and Interrogation) Act 1995	No. 72 of 1995	2.12.1996
Criminal Code Amendment (Appeals) Act 1996	No. 41 of 1996	16.12.1996
Criminal Code Amendment (Aggravated Burglary) Act 1997	No. 3 of 1997	9.5.1997
Criminal Code Amendment Act 1997	No. 12 of 1997	14.5.1997
Criminal Code Amendment (Alternative Verdicts) Act 1997	No. 32 of 1997	6.11.1997
Legislation Publication Act 1996	No. 17 of 1996	20.5.1998
Sentencing Act 1997	No. 59 of 1997	1.8.1998
Jury Amendment Act 1998	No. 39 of 1998	18.12.1998
Criminal Code Amendment (Contamination of Goods) Act 1999	No. 3 of 1999	7.4.1999
Criminal Code Amendment (Right of Reply) Act 1999	No. 2 of 1999	7.4.1999
Criminal Justice (Mental Impairment) Act 1999	No. 21 of 1999	1.11.1999
Mental Health (Consequential	No. 32 of 1996	1.11.1999

Act	Number and year	Date of commencement
Amendments) Act 1996		
Criminal Code Amendment (Discipline) Act 1999	No. 55 of 1999	3.11.1999
Criminal Code Amendment (Stalking) Act 1999	No. 59 of 1999	24.11.1999
Criminal Code Amendment Act 1995	No. 96 of 1995	1.12.1999
Youth Justice (Consequential Amendments) Act 1999	No. 49 of 1999	1.2.2000
Driving Offences (Miscellaneous Amendments) Act 2000	No. 15 of 2000	28.4.2000
Criminal Law (Aggravated Burglary and Repeat Offenders) Act 2000	No. 12 of 2000	28.4.2000
Justice Legislation (Miscellaneous Amendments) Act 2000	No. 62 of 2000	14.11.2000
Criminal Procedure (Attendance of Witnesses) Act 1996	No. 13 of 1996	1.7.2001
Criminal Code Amendment (Interfering with Witnesses) Act 2001	No. 63 of 2001	19.9.2001
Criminal Code Amendment Act 2001	No. 83 of 2001	17.12.2001
Criminal Code Amendment Act (No. 2) 2001	No. 123 of 2001	24.12.2001
Births, Deaths and Marriages Registration Amendment Act 2001	No. 59 of 2001	1.1.2002
Criminal Code Amendment (Evidence) Act 2001	No. 81 of 2001	1.7.2002
Evidence (Consequential Amendments) Act 2001	No. 80 of 2001	1.7.2002
Justice (Amendment of Custody Legislation) Act 2002	No. 35 of 2002	14.11.2002
Statute Law Revision Act 2003	No. 9 of 2003	16.4.2003
Criminal Code Amendment (Abolition of Defence of Provocation) Act 2003	No. 15 of 2003	9.5.2003
Criminal Code (Miscellaneous Amendments) Act 2003	No. 70 of 2003	15.12.2003
Relationships (Consequential Amendments) Act 2003	No. 45 of 2003	1.1.2004
Police Service (Consequential Amendments) Act 2003	No. 76 of 2003	1.1.2004
Animal Health Amendment Act 2004	No. 10 of 2004	9.6.2004
Criminal Code Amendment (Appeals) Act 2004	No. 31 of 2004	27.10.2004
Criminal Code Amendment (Stalking) Act 2004	No. 43 of 2004	16.11.2004
Criminal Code Amendment (Consent) Act 2004	No. 61 of 2004	17.12.2004
Family Violence Act 2004	No. 67 of 2004	30.3.2005 30.3.2005

Act	Number and year	Date of commencement
Justice and Related Legislation (Miscellaneous Amendments) Act 2005	No. 6 of 2005	6.5.2005
Criminal Code Amendment (Child Exploitation) Act 2005	No. 29 of 2005	1.8.2005
Juries Act 2003	No. 48 of 2003	1.1.2006
Sex Industry Offences Act 2005	No. 42 of 2005	1.1.2006
Defamation Act 2005	No. 73 of 2005	1.1.2006
Mental Health Amendment (Secure Mental Health Unit) Act 2005	No. 72 of 2005	20.2.2006
Justice and Related Legislation (Miscellaneous Amendments) Act 2006	No. 16 of 2006	1.11.2006
Justice and Related Legislation (Further Miscellaneous Amendments) Act 2006	No. 43 of 2006	18.12.2006
Justices Amendment Act 2007	No. 22 of 2007	1.2.2008
Supreme Court Amendment Act 2007	No. 55 of 2007	1.3.2008
Justice and Related Legislation (Miscellaneous Amendments) Act 2008	No. 18 of 2008	26.6.2008
Criminal Code Amendment Act 2008	No. 33 of 2008	22.10.2008
Legal Profession (Miscellaneous and Consequential Amendments) Act 2007	No. 66 of 2007	31.12.2008
Justice and Related Legislation (Further Miscellaneous Amendments) Act 2009	No. 76 of 2009	11.12.2009
Health Practitioner Regulation National Law (Tasmania) (Consequential Amendments) Act 2010	No. 3 of 2010	1.7.2010
Crimes (Miscellaneous Amendments) Act 2013	No. 23 of 2013	1.9.2013
Criminal Code Amendment (Sexual Offences against Young People) Act 2013	No. 34 of 2013	8.10.2013
Criminal Code Amendment (Dangerous Dogs) Act 2013	No. 43 of 2013	21.10.2013
Criminal Code Amendment (Firearms) Act 2013	No. 66 of 2013	13.12.2013
Reproductive Health (Access to Terminations) Act 2013	No. 72 of 2013	12.2.2014
Mental Health (Transitional and Consequential Provisions) Act 2013	No. 69 of 2013	17.2.2014
Evidence (Children and Special Witnesses) Amendment Act 2013	No. 63 of 2013	1.3.2014
Criminal Code Amendment (Interference with War Memorials)	No. 9 of 2014	11.9.2014

Act	Number and year	Date of commencement
Act 2014		
Succession to the Crown (Request) Act 2013	No. 33 of 2013	26.3.2015
Criminal Code Amendment (Second or Subsequent Appeal for Fresh and Compelling Evidence) Act 2015	No. 41 of 2015	2.11.2015
Crimes (Miscellaneous Amendments) Act 2016	No. 21 of 2016	11.7.2016
Criminal Code Amendment (Sexual Assault) Act 2017	No. 26 of 2017	14.7.2017
Criminal Code Amendment (Dangerous Driving) Act 2017	No. 35 of 2017	19.9.2017
Evidence and Related Legislation Amendment Act 2017	No. 49 of 2017	12.12.2017
Justice and Related Legislation (Miscellaneous Amendments) Act 2018	No. 29 of 2018	10.12.2018
Family Violence Reforms Act 2018	No. 26 of 2018	10.12.2018
Justice and Related Legislation (Marriage and Gender Amendments) Act 2019	No. 7 of 2019	8.5.2019
Financial Management (Consequential and Transitional Provisions) Act 2017	No. 4 of 2017	1.7.2019
Criminal Code and Related Legislation Amendment (Child Abuse) Act 2019	No. 29 of 2019	2.10.2019
Criminal Code Amendment (Bullying) Act 2019	No. 34 of 2019	8.10.2019
Legislation Publication Act 1996	No. 17 of 1996	8.10.2019
Criminal Code Amendment (Sexual Abuse Terminology) Act 2020	No. 8 of 2020	6.4.2020
Justice Legislation Amendments (Criminal Responsibility) Act 2020	No. 10 of 2020	1.7.2020
Evidence (Children and Special Witnesses) Amendment Act 2020	No. 26 of 2020	1.3.2021
Justice Miscellaneous (Court Backlog and Related Matters) Act 2020	No. 27 of 2020	1.7.2021
Justice and Related Legislation (Miscellaneous Amendments) Act 2022	No. 2 of 2022	18.3.2022
Criminal Code Amendment (Judge Alone Trials) Act 2022	No. 4 of 2022	8.6.2022
Criminal Code Amendment Act 2022	No. 13 of 2022	22.8.2022
Family Violence Reforms Act 2022	No. 21 of 2022	22.12.2022
Justice Miscellaneous (Royal Commission Amendments) Act 2023	No. 2 of 2023	20.4.2023
Biosecurity (Consequential and	No. 18 of 2020	17.5.2023

Act	Number and year	Date of commencement
Transitional Provisions) Act 2020		
Justice and Related Legislation Miscellaneous Amendments Act 2023	No. 5 of 2023	13.6.2023
Mental Health Amendment Act 2023	No. 4 of 2023	25.9.2023
Criminal Code Amendment (Criminal Jurisdiction of the Associate Judge) Act 2023	No. 27 of 2023	7.11.2023
Justice and Related Legislation (Further Miscellaneous Amendments) Act 2023	No. 33 of 2023	27.11.2023
Justice Miscellaneous (Commission of Inquiry) Act 2024	No. 17 of 2024	1.11.2024
Justice and Related Legislation (Miscellaneous Amendments) Act 2024	No. 27 of 2024	13.12.2024
Justice Miscellaneous (Explosives Offences) Act 2025	No. 32 of 2025	23.12.2025
Justice and Related Legislation (Miscellaneous Amendments) Act 2026	No. 25 of 2026	20.11.2026
Justice Legislation Miscellaneous Amendments Act 2020	No. 19 of 2020	not commenced Part 2 - will not commence

TABLE OF AMENDMENTS

Provision affected	How affected
Section 4	Amended by No. 38 of 1963, s. 2
Section 4A	Inserted by No. 27 of 2024, s. 12
Section 5	Amended by 25 Geo. V No. 43, s. 2
Section 7	Amended by No. 22 of 2007, s. 23
Section 12	Amended by 25 Geo. V No. 78, No. 50 of 1977, s. 10, No. 83 of 1987, s. 4 and No. 18 of 2008, s. 17
Section 12A	Inserted by No. 50 of 1977, s. 10 Amended by No. 33 of 1982, s. 3 Substituted by No. 43 of 2006, s. 16
Section 1	Amended by No. 33 of 1965, s. 2, No. 30 of 1973, s. 2, No. 71 of 1987, s. 3, No. 61 of 1994, s. 4, No. 3 of 1999, s. 4, No. 96 of 1995, s. 4, No. 59 of 2001, s. 7, No. 70 of 2003, s. 4, No. 76 of 2003, Sched. 1, No. 18 of 2008, s. 18, No. 33 of 2008, s. 4, No. 23 of 2013, s. 4, No. 72 of 2013, s. 14, No. 26 of 2017, s. 4, No. 5 of 2023, s. 12 and No. 32 of 2025, s. 4
Section 1A	Amended by No. 29 of 2005, s. 4
Section 2	Amended by 25 Geo. V No. 43, s. 3
Section 2A	Inserted by No. 71 of 1987, s. 4

Provision affected	How affected
	Amended by No. 61 of 2004, s. 4 and No. 13 of 2022, s. 4
Section 2B	Amended by No. 26 of 2017, s. 4 and No. 25 of 2026, s. 5
Section 8	Repealed by No. 43 of 1995, s. 10
Section 13	Amended by No. 10 of 2020, s. 4
Section 14A	Amended by No. 61 of 2004, s. 4, No. 26 of 2017, s. 4 and No. 25 of 2026, s. 5
Section 14B	Amended by No. 34 of 2013, s. 4 and No. 26 of 2017, s. 4
Section 17	Amended by 10 Geo. VI No. 14, s. 2
Section 18	Amended by No. 71 of 1987, s. 5, No. 49 of 1999, Sched. 1 and No. 26 of 2017, s. 4
Section 20	Amended by No. 7 of 1994, s. 4
Section 21	Amended by No. 16 of 2006, s. 17
Section 26A	Amended by No. 16 of 2006, s. 17 and No. 18 of 2008, s. 18
Section 27	Amended by No. 33 of 1965, s. 3 and No. 49 of 1999, Sched. 1
Section 29	Amended by 25 Geo. V No. 78
Section 33	Repealed by No. 30 of 1976, s. 9
Section 39A	Inserted by No. 33 of 1965, s. 4
Section 39B	Inserted by No. 33 of 1965, s. 4
Section 46	Substituted by No. 26 of 1987, s. 4
Section 47	Repealed by No. 26 of 1987, s. 5
Section 48	Repealed by No. 26 of 1987, s. 6
Section 49	Repealed by No. 26 of 1987, s. 7
Section 50	Amended by No. 55 of 1999, s. 4
Section 51	Amended by No. 72 of 2013, s. 14
Section 54	Amended by No. 52 of 1981, s. 7 and No. 21 of 2022, s. 20
Section 56	Amended by No. 77 of 1968, s. 3, No. 96 of 1994, s. 3, No. 17 of 1996 and No. 33 of 2013, s. 6
Section 88	Amended by No. 80 of 2001, Sched. 1
Section 92	Amended by 25 Geo. V No. 78 and No. 23 of 2013, s. 4
Section 93	Amended by No. 48 of 2003, Sched. 9
Section 94	Amended by 15 Geo. V No. 34, s. 2
Section 95	Amended by 15 Geo. V No. 34, s. 2
Section 100	Amended by No. 63 of 2001, s. 4
Section 101	Amended by No. 80 of 2001, Sched. 1
Section 105A	Amended by No. 29 of 2019, s. 7
Chapter XI of Part III	Substituted by No. 77 of 1983, s. 3
Section 106	Substituted by No. 77 of 1983, s. 3
	Amended by No. 59 of 1997, Sched. 1, No. 32 of 1996, Sched. 1, No. 35 of 2002, s. 4, No. 72 of 2005, s. 88 and No. 69 of 2013, Sched. 1
Section 107	Substituted by No. 77 of 1983, s. 3
Section 108	Substituted by No. 77 of 1983, s. 3
Section 109	Repealed by No. 77 of 1983, s. 3
Section 112	Repealed by No. 9 of 1989, s. 4
Section 113	Amended by 25 Geo. V No. 78

Provision affected	How affected
Section 119	Amended by No. 27 of 2024, s. 13
Chapter XIV of Part IV	Heading amended by No. 8 of 2020, s. 5
Section 122	Amended by No. 71 of 1987, s. 6, No. 12 of 1997, s. 4, No. 26 of 2017, s. 4 and No. 5 of 2023, s. 12
Section 123	Amended by No. 12 of 1997, s. 5
Section 124	Substituted by No. 71 of 1987, s. 7 Amended by No. 12 of 1997, s. 6, No. 34 of 2013, s. 4 and No. 8 of 2020, s. 5
Section 124A	Amended by No. 2 of 2023, s. 13 and No. 17 of 2024, s. 18
Section 124B	Amended by No. 17 of 2024, s. 18
Section 124C	Amended by No. 17 of 2024, s. 18
Section 125	Substituted by No. 71 of 1987, s. 8 Amended by No. 8 of 2020, s. 5
Section 125A	Inserted by No. 72 of 1994, s. 4 Amended by No. 59 of 1997, Sched. 1, No. 83 of 2001, s. 4, No. 6 of 2005, s. 34, No. 34 of 2013, s. 4, No. 26 of 2017, s. 4, No. 26 of 2018, s. 4, No. 8 of 2020, s. 5 and No. 17 of 2024, s. 18
Section 125B	Amended by No. 83 of 2001, s. 4, No. 34 of 2013, s. 4 and No. 8 of 2020, s. 5
Section 125C	Amended by No. 29 of 2005, s. 4, No. 34 of 2013, s. 4 and No. 8 of 2020, s. 5
Section 125D	Amended by No. 29 of 2005, s. 4, No. 34 of 2013, s. 4, No. 26 of 2017, s. 4, No. 29 of 2019, s. 7 and No. 8 of 2020, s. 5
Section 125E	Amended by No. 2 of 2023, s. 13 and No. 17 of 2024, s. 18
Section 126	Substituted by No. 71 of 1987, s. 9 Amended by No. 32 of 1996, Sched. 1, No. 83 of 2001, s. 4, No. 45 of 2003, Sched. 1, No. 69 of 2013, Sched. 1 and No. 8 of 2020, s. 5
Section 127	Amended by No. 6 of 1974, s. 4, No. 71 of 1987, s. 10 and No. 12 of 1997, s. 7
Section 127A	Inserted by No. 71 of 1987, s. 11 Amended by No. 61 of 1994, s. 5 and No. 26 of 2017, s. 4
Section 128	Amended by No. 6 of 1974, s. 5, No. 71 of 1987, s. 12 and No. 42 of 2005, s. 24
Section 129	Amended by No. 71 of 1987, s. 13, No. 29 of 2005, s. 4 and No. 8 of 2020, s. 5
Section 130	Repealed by No. 71 of 1987, s. 14 Amended by No. 29 of 2005, s. 4
Section 130A	Amended by No. 29 of 2005, s. 4
Section 130B	Amended by No. 29 of 2005, s. 4
Section 130C	Amended by No. 29 of 2005, s. 4
Section 130D	Amended by No. 29 of 2005, s. 4
Section 130E	Amended by No. 29 of 2005, s. 4 and No. 26 of 2017, s. 4
Section 130F	Amended by No. 29 of 2005, s. 4 and No. 29 of 2018, s. 21
Section 130G	Amended by No. 29 of 2005, s. 4
Section 131	Amended by No. 83 of 2001, s. 4 and No. 27 of 2024, s. 13
Section 132	Repealed by No. 71 of 1987, s. 15

Provision affected	How affected
Section 133	Substituted by No. 71 of 1987, s. 16
Section 134	Amended by No. 123 of 2001, s. 4 and No. 72 of 2013, s. 14
Section 135	Amended by No. 123 of 2001, s. 4 and No. 72 of 2013, s. 14
Section 136	Substituted by No. 71 of 1987, s. 17 Amended by No. 8 of 2020, s. 5
Section 137	Amended by 15 Geo. V No. 34, s. 2
Section 138	Amended by No. 103 of 1974, s. 2
Chapter XIVA of Part IV	Heading inserted by No. 8 of 2020, s. 5
Section 140	Amended by No. 35 of 1973, s. 2 and No. 37 of 1996, s. 3 and Sched. 1
Section 141	Amended by No. 35 of 1973, s. 3
Section 142	Repealed by No. 35 of 1973, s. 4
Section 143	Amended by No. 42 of 2005, s. 24
Section 150	Amended by No. 23 of 2013, s. 4
Section 152	Amended by 25 Geo. V No. 43, s. 3
Section 153	Amended by No. 9 of 1989, s. 5
Section 155	Repealed by No. 9 of 1993, s. 4
Section 157	Amended by 25 Geo. V No. 78 and No. 15 of 2003, s. 4
Section 158	Amended by No. 77 of 1968, s. 4 and No. 96 of 1994, s. 4
Section 160	Amended by 25 Geo. V No. 43, s. 3 and No. 15 of 2003, s. 4
Section 162A	Amended by No. 70 of 2003, s. 4
Section 164	Repealed by No. 13 of 1957, s. 3 Amended by No. 123 of 2001, s. 4, No. 3 of 2010, Sched. 1 and No. 72 of 2013, s. 14
Section 165	Amended by No. 72 of 2013, s. 14
Section 165A	Substituted by No. 30 of 1973, s. 6
Section 167A	Inserted by No. 74 of 1975, s. 2
Section 167B	Amended by No. 15 of 2000, s. 3
Section 167C	Amended by No. 43 of 2013, s. 5
Section 169	Amended by No. 29 of 2005, s. 4
Section 170	Amended by No. 74 of 1975, s. 3
Section 170A	Amended by No. 26 of 2018, s. 4
Section 170B	Amended by No. 13 of 2022, s. 4
Section 172A	Amended by No. 35 of 2017, s. 6
Section 178	Amended by No. 74 of 1975, s. 4 and No. 63 of 2013, s. 17
Section 178A	Amended by No. 96 of 1995, s. 5
Section 178B	Amended by No. 96 of 1995, s. 5
Section 178C	Amended by No. 96 of 1995, s. 5
Section 178D	Amended by No. 72 of 2013, s. 14
Section 178E	Amended by No. 72 of 2013, s. 14
Section 181A	Amended by No. 32 of 2025, s. 4
Section 181B	Amended by No. 32 of 2025, s. 4
Section 181C	Amended by No. 32 of 2025, s. 4
Section 184A	Amended by No. 67 of 2004, Sched. 1

Provision affected	How affected
Chapter XX of Part V	Heading amended by No. 65 of 1995, s. 4 and No. 34 of 2019, s. 4
Section 185	Amended by No. 104 of 1976, s. 2, No. 71 of 1987, s. 18 and No. 21 of 2016, s. 4
Section 186	Substituted by No. 71 of 1987, s. 19
Section 187	Repealed by No. 71 of 1987, s. 20
Section 188	Repealed by No. 71 of 1987, s. 21
Section 189	Substituted by No. 71 of 1987, s. 22
Section 190	Substituted by No. 71 of 1987, s. 23
Section 191A	Inserted by No. 30 of 1973, s. 7
Section 192	Inserted by No. 65 of 1995, s. 5 Amended by No. 59 of 1999, s. 3, No. 43 of 2004, s. 4 and No. 34 of 2019, s. 4
Section 192A	Amended by No. 43 of 2004, s. 4
Chapter XXI of Part V	Repealed by No. 7 of 1989, s. 4
Section 193	Repealed by No. 7 of 1989, s. 4
Section 194	Repealed by No. 7 of 1989, s. 4
Chapter XXII of Part V	Substituted by No. 63 of 1963, s. 2 and Sched. 2
Section 195	Substituted by No. 63 of 1963, s. 2 and Sched. 2 Amended by No. 9 of 2003, Sched. 1
Chapter XXIII of Part V	Substituted by No. 73 of 2005, Sched. 4
Section 196	Amended by No. 73 of 2005, Sched. 4
Section 197	Amended by No. 73 of 2005, Sched. 4
Section 198	Amended by No. 73 of 2005, Sched. 4
Section 199	Amended by No. 73 of 2005, Sched. 4
Section 200	Amended by No. 73 of 2005, Sched. 4
Section 201	Amended by No. 73 of 2005, Sched. 4
Section 202	Amended by No. 73 of 2005, Sched. 4
Section 203	Amended by No. 73 of 2005, Sched. 4
Section 204	Amended by No. 73 of 2005, Sched. 4
Section 205	Amended by No. 76 of 2003, Sched. 1 and No. 73 of 2005, Sched. 4
Section 206	Amended by No. 73 of 2005, Sched. 4
Section 207	Amended by No. 73 of 2005, Sched. 4
Section 208	Amended by No. 73 of 2005, Sched. 4
Section 209	Amended by No. 73 of 2005, Sched. 4
Section 210	Amended by No. 73 of 2005, Sched. 4
Section 211	Amended by No. 73 of 2005, Sched. 4
Section 212	Amended by No. 73 of 2005, Sched. 4
Section 213	Amended by No. 73 of 2005, Sched. 4
Section 214	Amended by No. 52 of 1981, s. 7 and No. 73 of 2005, Sched. 4
Section 215	Amended by No. 73 of 2005, Sched. 4
Section 216	Amended by No. 73 of 2005, Sched. 4
Section 217	Amended by No. 73 of 2005, Sched. 4
Section 218	Amended by No. 73 of 2005, Sched. 4
Section 219	Amended by No. 73 of 2005, Sched. 4

Provision affected	How affected
Section 220	Amended by No. 73 of 2005, Sched. 4
Section 221	Amended by 25 Geo. V No. 78 and No. 73 of 2005, Sched. 4
Section 222	Amended by No. 73 of 2005, Sched. 4
Section 223	Amended by 25 Geo. V No. 78 and No. 73 of 2005, Sched. 4
Section 224	Amended by No. 73 of 2005, Sched. 4
Section 225	Amended by No. 73 of 2005, Sched. 4
Section 226	Amended by 25 Geo. V No. 43, s. 3 and No. 74 of 1975, s. 5
Section 228	Amended by No. 74 of 1975, s. 13
Section 229	Amended by 25 Geo. V No. 43, s. 3 and No. 74 of 1975, s. 13
Section 230	Amended by No. 74 of 1975, s. 13
Section 231	Amended by 25 Geo. V No. 43, s. 3 and No. 74 of 1975, s. 13
Section 232	Amended by No. 7 of 2019, s. 31
Section 233	Amended by No. 74 of 1975, s. 13
Section 234A	Amended by No. 66 of 2013, s. 4
Chapter XXVA of Part VI	Inserted by No. 66 of 2013, s. 4
Section 239A of Part VI	Inserted by No. 66 of 2013, s. 4
Section 239B of Part VI	Inserted by No. 66 of 2013, s. 4
Section 239C of Part VI	Inserted by No. 66 of 2013, s. 4
Section 239D of Part VI	Inserted by No. 66 of 2013, s. 4
Section 239E of Part VI	Inserted by No. 66 of 2013, s. 4
Section 240	Substituted by No. 29 of 1988, s. 4
Section 240A	Amended by No. 23 of 2013, s. 4
Section 241	Substituted by No. 74 of 1975, s. 7
Chapter XXVII of Part VI	Heading amended by No. 30 of 1973, s. 8
Section 243	Substituted by No. 30 of 1973, s. 9
Section 244	Substituted by No. 30 of 1973, s. 9
Section 245	Substituted by No. 30 of 1973, s. 9 Amended by No. 99 of 1982, s. 3 and Sched. 2, Pt.II, No. 3 of 1997, s. 4 and No. 12 of 2000, s. 3
Section 246	Repealed by No. 30 of 1973, s. 9
Section 247	Repealed by No. 30 of 1973, s. 9
Section 248	Amended by No. 30 of 1973, s. 10, No. 62 of 2000, Sched. 1 and No. 21 of 2016, s. 4
Section 252A	Inserted by No. 74 of 1975, s. 8 Amended by No. 33 of 1989, s. 4
Section 253A	Amended by No. 23 of 2013, s. 4

Provision affected	How affected
Section 254	Amended by 25 Geo. V No. 78 and No. 66 of 2007, Sched. 1
Section 255	Amended by No. 19 of 1980, s. 171 and Sched. 1
Section 255A	Amended by No. 81 of 2001, s. 4
Chapter XXVIIIA of Part VI	Inserted by No. 13 of 1990, s. 3
Section 257A	Inserted by No. 13 of 1990, s. 3
Section 257B	Inserted by No. 13 of 1990, s. 3
Section 257C	Inserted by No. 13 of 1990, s. 3
Section 257D	Inserted by No. 13 of 1990, s. 3
Section 257E	Inserted by No. 13 of 1990, s. 3
Section 257F	Inserted by No. 13 of 1990, s. 3
Section 258	Amended by 25 Geo V No. 43, s. 3
Section 266A	Amended by No. 81 of 2001, s. 4
Section 266B	Amended by No. 81 of 2001, s. 4
Section 268	Amended by No. 17 of 1985, s. 4 and No. 7 of 1989, s. 5
Section 268A	Inserted by No. 17 of 1985, s. 5
Section 269	Amended by No. 17 of 1985, s. 6
Section 269A	Inserted by No. 44 of 1979, s. 3
Section 273A	Amended by No. 9 of 2014, s. 4
Section 276AA	Inserted by No. 30 of 1973, s. 11
Chapter XXXIA of Part VI	Inserted by No. 33 of 1965, s. 5
Section 276A	Inserted by No. 33 of 1965, s. 5
Section 276B	Inserted by No. 33 of 1965, s. 5
Section 276C	Inserted by No. 33 of 1965, s. 5
Section 276D	Inserted by No. 33 of 1965, s. 5
Section 276E	Inserted by No. 33 of 1965, s. 5
Section 276F	Inserted by No. 33 of 1965, s. 5
Section 276G	Inserted by No. 33 of 1965, s. 5
Section 277	Amended by 25 Geo. V No. 43, s. 3 and No. 30 of 1973, s. 12
Section 280	Amended by No. 30 of 1973, s. 13
Chapter XXXIIA of Part VI	Inserted by No. 75 of 1995, s. 3 and Sched. 1 Heading amended by No. 18 of 2020, Sched. 4
Section 287A	Inserted by No. 75 of 1995, s. 3 and Sched. 1 Amended by No. 18 of 2020, Sched. 4
Section 287B	Inserted by No. 75 of 1995, s. 3 and Sched. 1 Amended by No. 10 of 2004, Sched. 1 and No. 18 of 2020, Sched. 4
Chapter XXXIIB of Part VI	Inserted by No. 3 of 1999, s. 5
Section 287C of Part VI	Inserted by No. 3 of 1999, s. 5
Section 287D of Part VI	Inserted by No. 3 of 1999, s. 5
Section 287E of Part VI	Inserted by No. 3 of 1999, s. 5
Section 287F of Part VI	Inserted by No. 3 of 1999, s. 5

Provision affected	How affected
Section 287G of Part VI	Inserted by No. 3 of 1999, s. 5
Section 293	Amended by No. 55 of 1965, s. 5
Section 294	Amended by No. 55 of 1965, s. 5
Section 297	Amended by No. 68 of 1994, s. 3 and Sched. 1, No. 23 of 2013, s. 4 and No. 7 of 2019, s. 31
Section 301	Amended by No. 16 of 2006, s. 17 and No. 29 of 2018, s. 21
Section 303	Amended by No. 72 of 1995, s. 18
Section 304	Amended by No. 77 of 1986, s. 4, No. 72 of 1993, s. 3, No. 10 of 1994, s. 6 and Sched. 1 and No. 27 of 2020, s. 9
Section 305	Substituted by No. 10 of 1994, s. 6 and Sched. 1 Amended by No. 43 of 2006, s. 17 and No. 27 of 2020, s. 9
Section 306	Repealed by No. 10 of 1994, s. 6 and Sched. 1
Section 307A	Inserted by No. 71 of 1987, s. 24
Section 308	Amended by 25 Geo. V No. 78, No. 55 of 1965, s. 5, No. 30 of 1973, s. 14 and No. 43 of 1991, s. 5 and Sched. 1
Section 310	Substituted by No. 38 of 1963, s. 3
Section 311	Amended by No. 74 of 1975, s. 9, No. 72 of 1994, s. 5 and No. 5 of 1996, s. 4
Section 318A	Inserted by No. 30 of 1973, s. 15
Section 322	Amended by 25 Geo. V No. 43, s. 3
Section 326A	Amended by No. 49 of 2017, s. 4, No. 2 of 2023, s. 13 and No. 17 of 2024, s. 18
Section 328	Amended by No. 18 of 2008, s. 18
Section 330	Substituted by No. 13 of 1957, s. 4
Section 331A	Amended by No. 22 of 2007, s. 24
Section 331B	Amended by No. 22 of 2007, s. 24, No. 23 of 2013, s. 4, No. 26 of 2020, s. 19 and No. 27 of 2020, s. 9
Section 331C	Amended by No. 22 of 2007, s. 24
Section 332	Substituted by No. 30 of 1973, s. 16
Section 333	Amended by 25 Geo. V No. 43, s. 3
Section 333A	Amended by No. 13 of 2022, s. 4
Section 334	Amended by No. 13 of 1957, s. 5, No. 67 of 1976, s. 3 and No. 35 of 2017, s. 6
Section 334AA	Amended by No. 13 of 2022, s. 4
Section 334A	Inserted by No. 30 of 1973, s. 17 Amended by No. 13 of 2022, s. 4
Section 334B	Amended by No. 15 of 2000, s. 3, No. 16 of 2006, s. 17 and No. 35 of 2017, s. 6
Section 334C	Amended by No. 23 of 2013, s. 4 and No. 35 of 2017, s. 6
Section 335	Amended by No. 30 of 1973, s. 18, No. 6 of 1974, s. 11, No. 71 of 1987, s. 25, No. 29 of 2005, s. 4, No. 26 of 2017, s. 4, No. 8 of 2020, s. 5, No. 2 of 2023, s. 13 and No. 17 of 2024, s. 18
Section 335A	Inserted by No. 30 of 1973, s. 19
Section 336	Amended by No. 6 of 1974, s. 12 Substituted by No. 71 of 1987, s. 26

Provision affected	How affected
	Amended by No. 29 of 2005, s. 4, No. 26 of 2017, s. 4, No. 8 of 2020, s. 5, No. 2 of 2023, s. 13 and No. 17 of 2024, s. 18
Section 336A	Inserted by No. 30 of 1973, s. 20
	Amended by No. 71 of 1987, s. 27
Section 336B	Amended by No. 2 of 2023, s. 13 and No. 17 of 2024, s. 18
Section 337	Amended by No. 6 of 1974, s. 13, No. 71 of 1987, s. 28, No. 29 of 2005, s. 4, No. 26 of 2017, s. 4, No. 8 of 2020, s. 5, No. 2 of 2023, s. 13 and No. 17 of 2024, s. 18
Section 337A	Inserted by No. 71 of 1987, s. 29
	Amended by No. 26 of 2017, s. 4, No. 26 of 2018, s. 4, No. 8 of 2020, s. 5, No. 13 of 2022, s. 4 and No. 21 of 2022, s. 20
Section 337B	Inserted by No. 72 of 1994, s. 6
	Amended by No. 59 of 1997, Sched. 1, No. 29 of 2005, s. 4, No. 23 of 2013, s. 4, No. 26 of 2017, s. 4, No. 8 of 2020, s. 5, No. 2 of 2023, s. 13 and No. 17 of 2024, s. 18
Section 337C	Amended by No. 29 of 2005, s. 4
Section 338	Amended by No. 83 of 1987, s. 5, No. 46 of 1991, s. 4 and Sched. 2 and No. 23 of 2013, s. 4
Section 339A	Inserted by No. 30 of 1973, s. 22
	Substituted by No. 29 of 1988, s. 5
	Amended by No. 18 of 2008, s. 18
Section 340	Substituted by No. 30 of 1973, s. 23
Section 341	Substituted by No. 30 of 1973, s. 23
Section 342	Substituted by No. 30 of 1973, s. 23
Section 342AA	Amended by No. 32 of 1997, s. 4 and No. 17 of 1996
Section 342A	Inserted by No. 30 of 1973, s. 23
Section 345	Amended by 25 Geo. V No. 78
Section 348	Amended by No. 10 of 1994, s. 6 and Sched. 1, No. 72 of 2005, s. 88, No. 66 of 2007, Sched. 1, No. 69 of 2013, Sched. 1 and No. 4 of 2023, s. 10
Section 350	Substituted by 7 Geo. VI No. 44, s. 2
	Amended by No. 99 of 1982, s. 3 and Sched. 2, Pt. II, No. 21 of 1994, s. 4 and No. 23 of 2013, s. 4
Section 355	Amended by 25 Geo. V No. 43, s. 3
Section 357	Amended by No. 30 of 1973, s. 24, No. 21 of 1999, s. 45 and No. 6 of 2005, s. 34
Section 360	Amended by 25 Geo. V No. 78
Section 361	Amended by 25 Geo. V No. 78 and No. 74 of 1975, s. 10
Section 361AA	Amended by No. 4 of 2022, s. 4 and No. 33 of 2023, s. 11
Section 361AB	Amended by No. 4 of 2022, s. 4
Section 361A	Inserted by No. 21 of 1994, s. 5
	Amended by No. 80 of 2001, Sched. 1, No. 70 of 2003, s. 4 and No. 17 of 2024, s. 18
Section 364	Amended by No. 48 of 2003, Sched. 9
Section 365	Amended by 25 Geo. V No. 43, s. 3, No. 39 of 1998, s. 13 and No. 48 of 2003, Sched. 9
Section 366	Amended by No. 48 of 2003, Sched. 9

Provision affected	How affected
Section 367	Amended by No. 48 of 2003, Sched. 9
Section 368A	Inserted by No. 30 of 1973, s. 25
	Amended by No. 72 of 1993, s. 4, No. 72 of 1994, s. 7, No. 22 of 2007, s. 24, No. 18 of 2008, s. 18 and No. 66 of 2007, Sched. 1
Section 368B	Amended by No. 23 of 2013, s. 4
Section 370	Amended by 25 Geo. V No. 43, s. 3 and No. 48 of 2003, Sched. 9
Section 370A	Inserted by No. 13 of 1957, s. 6
	Amended by No. 59 of 1997, Sched. 1 and No. 48 of 2003, Sched. 9
Section 371	Amended by No. 89 of 1993, s. 5, No. 2 of 1999, s. 4 and No. 21 of 2016, s. 4
Section 371A	Inserted by No. 71 of 1987, s. 30
	Amended by No. 17 of 2024, s. 18
Section 372	Amended by 25 Geo. V No. 43, s. 3, No. 59 of 1997, Sched. 1, No. 39 of 1998, s. 13, No. 48 of 2003, Sched. 9 and No. 27 of 2023, s. 4
Section 373	Amended by No. 59 of 1997, Sched. 1
Section 374	Amended by No. 48 of 2003, Sched. 9
Section 375	Amended by 25 Geo. V No. 78, No. 59 of 1997, Sched. 1 and No. 48 of 2003, Sched. 9
Section 376	Amended by 25 Geo. V No. 43, s. 3 and No. 48 of 2003, Sched. 9
Section 377	Amended by 25 Geo. V No. 43, s. 3, No. 80 of 2001, Sched. 1 and No. 48 of 2003, Sched. 9
Section 378	Amended by 25 Geo. V No. 43, s. 3, No. 74 of 1975, s. 11 and No. 48 of 2003, Sched. 9
Section 379	Amended by No. 48 of 2003, Sched. 9
Section 380	Amended by No. 30 of 1973, s. 26 and No. 21 of 1999, s. 45
Section 381	Amended by No. 30 of 1973, s. 27
Section 382	Substituted by No. 30 of 1973, s. 28
	Amended by No. 67 of 1976, s. 4, No. 124 of 1977, s. 16 and Sched. 2, No. 9 of 1989, s. 6 and No. 21 of 1999, s. 45
Section 383	Amended by No. 4 of 2022, s. 4
Section 385	Amended by No. 21 of 2016, s. 4
Section 385A	Inserted by No. 86 of 1986, s. 3
Section 386	Amended by 25 Geo. V No. 43, s. 3, 25 Geo. V No. 78, No. 38 of 1963, s. 4, No. 88 of 1973, s. 2, No. 73 of 1975, s. 34 and Sched. 1, No. 81 of 1987, s. 4, No. 14 of 1988, s. 3 and No. 59 of 1997, Sched. 1
Section 386A	Inserted by No. 30 of 1973, s. 29
	Amended by No. 14 of 1988, s. 4 and No. 59 of 1997, Sched. 1
Section 387	Amended by 25 Geo. V No. 78 and No. 10 of 1994, s. 6 and Sched. 1

Provision affected	How affected
Section 388	Amended by 25 Geo. V No. 78
Section 388AA	Inserted by No. 83 of 1987, s. 6 Amended by No. 66 of 2007, Sched. 1
Chapter XLIIA of Part IX	Inserted by No. 35 of 1973, s. 5
Section 388A	Inserted by No. 35 of 1973, s. 5 Amended by No. 9 of 2003, Sched. 1, No. 55 of 2007, Sched. 1, No. 66 of 2007, Sched. 1 and No. 4 of 2017, Sched. 1
Section 388B	Inserted by No. 35 of 1973, s. 5
Section 389	Amended by 25 Geo. V No. 43, s. 3, No. 77 of 1968, s. 5, No. 62 of 1973, s. 2, No. 9 of 1989, s. 7, No. 4 of 1994, s. 9 and No. 59 of 1997, Sched. 1
Chapter XLIV of Part IX	Substituted by No. 73 of 1975, s. 34 and Sched. 1 Repealed by No. 59 of 1997, Sched. 1 Inserted by No. 33 of 2008, s. 4
Section 390	Inserted by No. 30 of 1973, s. 30 Amended by No. 67 of 1976, s. 5, No. 59 of 1997, Sched. 1 and No. 33 of 2008, s. 4
Section 391	Amended by No. 30 of 1973, s. 31, No. 67 of 1976, s. 6, No. 59 of 1997, Sched. 1 and No. 33 of 2008, s. 4
Section 392	Substituted by No. 73 of 1975, s. 34 and Sched. 1 Amended by No. 13 of 1990, s. 4, No. 96 of 1994, s. 5, No. 17 of 1996, No. 59 of 1997, Sched. 1 and No. 33 of 2008, s. 4
Section 393	Inserted by No. 96 of 1994, s. 6 Amended by No. 59 of 1997, Sched. 1, No. 33 of 2008, s. 4 and No. 41 of 2015, s. 4
Section 394	Inserted by No. 96 of 1994, s. 6 Amended by No. 59 of 1997, Sched. 1 and No. 33 of 2008, s. 4
Section 395	Inserted by No. 96 of 1994, s. 6 Amended by No. 59 of 1997, Sched. 1 and No. 33 of 2008, s. 4
Section 396	Inserted by No. 96 of 1994, s. 6 Amended by No. 59 of 1997, Sched. 1 and No. 33 of 2008, s. 4
Section 397	Repealed by No. 77 of 1968, s. 7 Amended by No. 33 of 2008, s. 4
Section 397A	Inserted by No. 38 of 1963, s. 5 Amended by No. 30 of 1973, s. 34, No. 59 of 1997, Sched. 1 and No. 33 of 2008, s. 4
Section 397AB	Amended by No. 33 of 2008, s. 4
Section 397AC	Amended by No. 33 of 2008, s. 4
Section 397AD	Amended by No. 33 of 2008, s. 4
Section 397AE	Amended by No. 33 of 2008, s. 4
Section 397AF	Amended by No. 33 of 2008, s. 4
Section 391A	Substituted by No. 24 of 1966, s. 2 Amended by No. 96 of 1976, s. 15 and Sched. II, No. 58 of 1977, s. 5 and No. 59 of 1997, Sched. 1

Provision affected	How affected
Section 397B	Inserted by No. 38 of 1963, s. 5 Amended by No. 93 of 1986, s. 7
Section 399	Amended by No. 38 of 1963, s. 6, No. 44 of 1965, s. 5 and Sched. 1 and No. 33 of 1982, s. 4
Section 400	Amended by No. 44 of 1965, s. 5 and Sched. 1, No. 50 of 1977, s. 10, No. 33 of 1982, s. 5 and No. 76 of 2009, s. 9
Section 401	Amended by 25 Geo. V No. 78, No. 74 of 1975, s. 12, No. 83 of 1987, s. 7, No. 41 of 1996, s. 4, No. 9 of 2003, Sched. 1, No. 22 of 2007, s. 24, No. 76 of 2009, s. 9, No. 2 of 2022, Sched. 1 and No. 4 of 2022, s. 4
Section 402	Amended by 25 Geo. V No. 78, No. 83 of 1987, s. 8, No. 31 of 2004, s. 4, No. 33 of 2008, s. 4 and No. 23 of 2013, s. 4
Section 402A	Amended by No. 41 of 2015, s. 4
Section 403	Amended by No. 30 of 1973, s. 35
Section 407	Amended by 25 Geo. V No. 78, No. 38 of 1963, s. 8, No. 30 of 1973, s. 36, No. 67 of 1976, s. 7, No. 41 of 1996, s. 5, No. 59 of 1997, Sched. 1 and No. 31 of 2004, s. 4
Section 407A	Inserted by No. 30 of 1973, s. 37
Section 408	Substituted by No. 38 of 1963, s. 9 Amended by No. 30 of 1973, s. 38, No. 13 of 1990, s. 5 and No. 29 of 2018, s. 21
Section 409	Amended by 25 Geo. V No. 78 and No. 23 of 2013, s. 4
Section 410	Substituted by No. 30 of 1973, s. 39 Amended by No. 7 of 1994, s. 5 and No. 76 of 2009, s. 9
Section 411	Amended by No. 23 of 2013, s. 4
Section 413A	Inserted by No. 38 of 1963, s. 10
Section 414	Substituted by No. 30 of 1973, s. 40 Amended by No. 7 of 1994, s. 6
Section 415	Amended by No. 77 of 1983, s. 4, No. 10 of 1994, s. 6 and Sched. 1, No. 59 of 1997, Sched. 1, No. 31 of 2004, s. 4 and No. 2 of 2022, Sched. 1
Section 418	Amended by No. 30 of 1973, s. 41, No. 31 of 2004, s. 4, No. 41 of 2015, s. 4, No. 29 of 2018, s. 21 and No. 2 of 2022, Sched. 1
Section 418A	Amended by No. 76 of 2009, s. 9 and No. 29 of 2018, s. 21
Section 419	Amended by No. 77 of 1968, s. 8
Section 421	Substituted by No. 38 of 1963, s. 11
Section 421A	Amended by No. 22 of 2007, s. 24
Section 421B	Amended by No. 22 of 2007, s. 24
Section 424	Amended by 25 Geo. V No. 78, No. 93 of 1986, s. 8 and No. 59 of 1997, Sched. 1
Section 425	Substituted by No. 38 of 1963, s. 12 Amended by No. 59 of 1997, Sched. 1
Section 425A	Inserted by No. 38 of 1963, s. 12 Amended by No. 30 of 1973, s. 42, No. 93 of 1986, s. 9, No. 13 of 1990, s. 6 and No. 59 of 1997, Sched. 1

Provision affected	How affected
Section 426	Amended by No. 9 of 1989, s. 8 and No. 59 of 1997, Sched. 1
Section 428	Repealed by No. 71 of 1987, s. 31
Section 429	Amended by No. 99 of 1982, s. 3 and Sched. 2
Section 430	Inserted by 25 Geo. V No. 43, s. 3 Amended by No. 30 of 1973, s. 44, No. 13 of 1996, s. 21 and No. 17 of 2024, s. 18
Section 429A	Inserted by No. 30 of 1973, s. 43 Amended by No. 13 of 1996, s. 21
Section 431	Inserted by 25 Geo. V No. 43, s. 3 Amended by 25 Geo. V No. 78, No. 10 of 1994, s. 6 and Sched. 1 and No. 13 of 1996, s. 21
Section 432	Inserted by 25 Geo. V No. 43, s. 3 Amended by No. 13 of 1996, s. 21
Section 433	Inserted by 25 Geo. V No. 43, s. 3
Section 434	Inserted by 25 Geo. V No. 43, s. 3
Section 435	Repealed by No. 3 of 1991, s. 7 and Sched. 1
Section 436	Repealed by No. 3 of 1991, s. 7 and Sched. 1
Section 437	Repealed by No. 3 of 1991, s. 7 and Sched. 1
Section 438	Repealed by No. 3 of 1991, s. 7 and Sched. 1
Section 439	Repealed by No. 3 of 1991, s. 7 and Sched. 1
Section 440	Repealed by No. 3 of 1991, s. 7 and Sched. 1
Section 441	Repealed by No. 3 of 1991, s. 7 and Sched. 1
Section 442	Repealed by No. 3 of 1991, s. 7 and Sched. 1
Section 443	Repealed by No. 3 of 1991, s. 7 and Sched. 1
Section 444	Repealed by No. 3 of 1991, s. 7 and Sched. 1
Section 445	Repealed by No. 3 of 1991, s. 7 and Sched. 1
Section 446	Repealed by No. 3 of 1991, s. 7 and Sched. 1
Section 447	Repealed by No. 3 of 1991, s. 7 and Sched. 1
Section 448	Repealed by No. 3 of 1991, s. 7 and Sched. 1
Section 449	Repealed by No. 3 of 1991, s. 7 and Sched. 1
Section 450	Repealed by No. 3 of 1991, s. 7 and Sched. 1
Section 451	Repealed by No. 3 of 1991, s. 7 and Sched. 1
Section 452	Repealed by No. 3 of 1991, s. 7 and Sched. 1
Section 460	Amended by No. 34 of 2013, s. 4
Section 461	Amended by No. 26 of 2017, s. 4, No. 29 of 2019, s. 7 and No. 25 of 2026, s. 5
Section 462	Amended by No. 29 of 2019, s. 7
Section 462A	Amended by No. 17 of 1996 and No. 34 of 2019, s. 4
Section 463	Amended by No. 17 of 1996
Section 464	Amended by No. 8 of 2020, s. 5
Section 464A	Amended by No. 4 of 2022, s. 4
Section 465	Amended by No. 10 of 2020, s. 4
Section 466	Amended by No. 25 of 2026, s. 5
Appendix A	Amended by 25 Geo. V No. 78, No. 30 of 1973, s. 45, No. 21 of 1992, s. 3, No. 59 of 1997, Sched. 1, No. 70 of 2003, s. 4, No. 67 of 2004, Sched. 1, No. 23 of 2013, s. 4, No. 21 of 2016, s. 4, No. 26 of 2017, s. 4, No. 26 of 2018, s. 4, No. 34 of 2019, s. 4, No. 13 of 2022, s. 4 and No. 32 of 2025, s. 4

Provision affected	How affected
Appendix B	Amended by 25 Geo. V No. 78, No. 30 of 1973, s. 46 and No. 17 of 1985, s. 7
Appendix C	Amended by No. 30 of 1973, s. 47, No. 46 of 1991, s. 4 and No. 70 of 2003, s. 4
Appendix D	Inserted by 25 Geo. V No. 43, s.3 Amended by No. 46 of 1991, Sched. 2, No. 39 of 1998, s. 13, No. 80 of 2001, Sched. 1, No. 48 of 2003, Sched. 9, No. 33 of 2008, s. 4, No. 26 of 2017, s. 4, No. 26 of 2018, s. 4, No. 8 of 2020, s. 5 and No. 2 of 2023, s. 13
Appendix E	Inserted by No. 30 of 1973, s. 48 and Sched. 1
Appendix F	Inserted by 25 Geo. V No. 43, s. 3
Schedule 2	Amended by 15 Geo. V No. 34, s. 3, 25 Geo. V No. 43, s. 3 and 25 Geo. V No. 78