

CHAPTER 37

CRIMINAL CODE

(Note. In this revision of the Criminal Code, its sections have not been renumbered serially. They continue to have the numbers given to them when enacted. This will be convenient for those persons whose work makes it necessary for them to be familiar with the numbers of its many sections.)

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CHAPTER 37

An Act to establish a Code of Criminal Law.

[1ST OCTOBER, 1934.]

25 of 1933,
 7 of 1937,
 5 of 1938,
 14 of 1939,
 23 of 1939,
 31 of 1939,
 27 of 1940,
 33 of 1940,
 2 of 1947,
 11 of 1947,
 6 of 1952,
 17 of 1952,
 11 of 1961,
 10 of 1963
 Sec. 12,
 17 of 1964,
 8 of 1965.

Short title.

1. This Act may be cited as the Criminal Code and hereinafter is referred to as "this Code."

Saving of certain laws.

2. Except where otherwise expressly provided, nothing in this Code shall affect—

- (1) the liability, trial or punishment of a person for an offence against the Common Law or against any other law in force in The Gambia other than this Code; or
- (2) the liability of a person to be tried or punished for an offence under the provisions of any law in force in The Gambia relating to the jurisdiction of the courts in respect of acts done beyond the ordinary jurisdiction of such courts; or
- (3) the power of any court to punish a person for contempt of such court; or

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- (4) the liability or trial of a person, or the punishment of a person under any sentence passed or to be passed, in respect of any act done or commenced before the commencement of this Code; or
- (5) any power of Her Majesty, or of the Governor-General as the representative of Her Majesty, to grant any pardon or to remit or commute in whole or in part or to respite the execution of any sentence passed or to be passed; or
- (6) any of the Acts, or regulations for the time being in force for the government of the military or police forces of The Gambia:

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

3. (1) This Code shall be interpreted in accordance with the principles of legal interpretation which obtained in England immediately before the 18th day of February, 1965, and expressions used in it shall be presumed, so far as is consistent with their context, and except as may be otherwise expressly provided, to be used with the meaning attaching to them in English criminal law and shall be construed in accordance therewith.

General rule of interpretation of Code.

(2) In this Code, unless the context otherwise requires—

Definitions.

"Act" includes any orders or rules or regulations or by-laws made under the authority of any Act;

"bank note" includes any currency note issued under the authority of any Act, any currency note issued by or on behalf of the Government of any country outside The Gambia, any note (by whatever name called) which is legal tender in the country in which it is issued, and any note or bill of exchange of the Bank of England or of any other person, body corporate or company carrying on the business of banking in any part of the world, and includes "bank bill," "bank post bill," "blank bank note," "blank bank bill of exchange," and "blank post bill";

"court" means a court of competent jurisdiction;

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"dangerous harm" means harm endangering life;

"dwelling-house" includes any building or structure or part of a building or structure which is for the time being kept by the owner or occupier for the residence therein of himself, his family or servants or any of them, and it is immaterial that it is from time to time uninhabited; a building or structure adjacent to or occupied with a dwelling-house is deemed to be part of the dwelling-house if there is a communication between such building or structure and the dwelling-house, either immediate or by means of a covered and enclosed passage leading from the one to the other, but not otherwise;

"felony" means an offence which is declared by law to be a felony or, if not declared to be a misdemeanour, is punishable, without proof of previous conviction, with death, or with imprisonment with hard labour for three years or more;

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

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

"judicial proceeding" includes any proceeding had or taken in or before any court, tribunal, commission of inquiry, or person, in which evidence may be taken on oath, or in or before a District Tribunal, whether such tribunal takes evidence on oath or not;

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

"local authority" means a local authority established under any Act;

"maim" means the destruction or permanent disabling of any external or internal organ, member or sense;

"Minister" means the Minister responsible for the administration of this Act;

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"misdemeanour" means any offence which is not a felony;

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

"night" or "night-time" means the interval between seven o'clock in the evening and six o'clock in the morning;*

"oath" includes affirmation or declaration;

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

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

"person employed in the public service" means any person holding any of the following offices or performing the duties thereof, whether as a deputy or otherwise, namely—

- (i) any civil office including the office of Governor-General, the power of appointing a person to which or of removing from which is vested in Her Majesty or in the Governor-General or any public Commission or Board; or
- (ii) any office to which a person is appointed or nominated by Act; or
- (iii) any civil office, the power of appointing to which or removing from which is vested in any person or persons holding an office of any kind included in either of the two last preceding paragraphs of this section; or
- (iv) any office of arbitrator or umpire in any proceeding or matter submitted to arbitration by order or with the sanction of any court, or in pursuance of any Act;

and the said term further includes—

- (i) a justice of the peace;

*"Whenever in any law, deed or other legal instrument, Government or public notice, there occurs any expression of time, the time referred to shall, unless the contrary intention be expressly stated, be held to signify Greenwich Mean Time, which is hereby declared to be the standard time for all purposes in The Gambia:

Provided that the Governor-General may by order published in the Gazette change or vary such declaration of standard time." (Section 32 of the Interpretation Act, Cap. 97.)

- (ii) a member of a commission of inquiry appointed under or in pursuance of any Act;
- (iii) any person employed to execute any process of a court, including a District Tribunal;
- (iv) all persons belonging to the military forces of The Gambia;
- (v) all persons in the employment of any government department;
- (vi) a person acting as a minister of religion of whatsoever denomination, in so far as he performs functions in respect of the notification of intending marriage or in respect of the solemnization of marriage, or in respect of the making or keeping of any register or certificate of marriage, birth, baptism, death or burial, but not in any other respect;
- (vii) a person in the employ of a local authority;

"police officer" includes any member of The Gambia Police Force and any badge messenger;

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

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

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

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

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

"publicly" when applied to acts done, means either (a) that they are so done in any public place as to be seen by any person whether such person be or be not in a public place; or (b) that they are so done in any place not being a public place as to be likely to be seen by any person in a public place;

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

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

"vehicle" includes a bicycle;

"vessel" includes any ship, a boat and every other kind of vessel used in navigation either on the sea or in inland waters and includes aircraft;

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

CHAPTER II.—TERRITORIAL APPLICATION OF THIS CODE

4. (1) The jurisdiction of the courts of The Gambia for the purpose of this Code extends to every place within The Gambia or within three nautical miles of the coast thereof measured from low water mark.

Extent of jurisdiction of courts of The Gambia.

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

Offences committed partly within and partly beyond the jurisdiction.

CHAPTER III.—GENERAL RULES AS TO CRIMINAL
RESPONSIBILITY

Ignorance
of law.

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

Bona fide
claim of
right.

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

Intention:
motive.

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

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

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

Mistake of
fact.

8. A person who does or omits to do an act under an honest and reasonable, but mistaken, belief in the existence of any state of things is not criminally responsible for the act or omission to any greater extent than if the real state of things had been such as he believed to exist.

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

Presumption
of sanity.

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

Insanity.

10. A person is not criminally responsible for an act or omission if at the time of doing the act or making the omission he is through

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any disease affecting his mind incapable of understanding what he is doing, or of knowing that he ought not to do the act or make the omission.

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

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

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

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

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

(3) Where the defence under the last preceding subsection is established, then in a case falling under paragraph (a) thereof the accused person shall be discharged, and in a case falling under paragraph (b) the provisions of section 142 of the Criminal Procedure Code shall apply. Cap. 39.

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

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

12. A person under the age of seven years is not criminally responsible for any act or omission. Immature age.

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

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

Judicial
officers.

13. Except as expressly provided by this Code, a judicial officer is not criminally responsible for anything done or omitted to be done by him in the exercise of his judicial functions, although the act done is in excess of his judicial authority or although he is bound to do the act omitted to be done.

Compulsion.

14. A person is not criminally responsible for an offence if it is committed by two or more offenders and if the act is done or omitted only because during the whole of the time in which it is being done or omitted the person is compelled to do or omit to do the act by threats on the part of the other offender or offenders instantly to kill him or do him grievous bodily harm if he refuses; but threats of future injury do not excuse any offence.

Necessity.

15. An act or omission which would otherwise be an offence shall be excused if the person accused can show that it was done or omitted to be done only in order to avoid consequences which could not otherwise be avoided, and which if they had followed would have inflicted upon him or upon others whom he was bound to protect inevitable and irreparable evil, that no more was done than was reasonably necessary for that purpose, and that the evil inflicted by it was not disproportionate to the evil avoided.

Use of force
in effecting
arrest.

15A. Where any person is charged with a criminal offence arising out of the arrest, or attempted arrest, by him of a person who forcibly resists such arrest or attempts to evade being arrested, the court shall, in considering whether the means used were necessary, or the degree of force used was reasonable, for the apprehension of such person, have regard to the gravity of the offence which had been or was being committed by such person and the circumstances in which such offence had been or was being committed by such person.

Compulsion
by husband.

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

17. A person of this Code or omission, by means of which he may be convicted.

CHAPTER IV

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17. A person cannot be punished twice either under the provisions of this Code or under the provisions of any other law for the same act or omission, except in the case where the act or omission is such that by means thereof he causes the death of another person, in which case he may be convicted of the offence of which he is guilty by reason of causing such death, notwithstanding that he has already been convicted of some other offence constituted by the act or omission.

Person not to be punished twice for same offence.

CHAPTER IV.—DUTIES RELATING TO THE PRESERVATION OF LIFE AND HEALTH

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

Responsibility of person who has charge of another.

19. It is the duty of every person who, as head of a family, has charge of a child under the age of fourteen years, being a member of his household, to provide the necessaries of life for such child; and he shall be deemed to have caused any consequences which adversely affect the life or health of the child by reason of any omission to perform that duty, whether the child is helpless or not.

Duty of head of family.

20. It is the duty of every person who as master or mistress has contracted to provide necessary food, clothing, or lodging for any servant or apprentice under the age of sixteen years to provide the same; and he or she shall be deemed to have caused any consequences which adversely affect the life or health of the servant or apprentice by reason of any omission to perform that duty.

Duty of masters.

21. It is the duty of every person who, except in a case of necessity, undertakes to administer surgical or medical treatment to any other person, or to do any other lawful act which is or may be dangerous to human life or health, to have reasonable skill and to use reasonable

Duty of persons doing dangerous acts.

care in doing such act; and he shall be deemed to have caused any consequences which adversely affect the life or health of any person by reason of any omission to observe or perform that duty.

Duty of persons in charge of dangerous things.

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

CHAPTER V.—PARTIES TO OFFENCES

Principal offenders.

23. When an offence is committed, each of the following persons is deemed to have taken part in committing the offence and to be guilty of the offence, and may be charged with actually committing it, that is to say—

- (a) every person who actually does the act or makes the omission which constitutes the offence;
- (b) every person who does or omits to do any act for the purpose of enabling or aiding another person to commit the offence;
- (c) every person who aids or abets another person in committing the offence;
- (d) any person who counsels or procures any other person to commit the offence.

In the last-mentioned case he may be charged either with committing the offence or with counselling or procuring its commission.

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

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

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

Offences committed by joint offenders in prosecution of common purpose.

25. When a person counsels another to commit an offence, and an offence is actually committed after such counsel by the person to whom it is given, it is immaterial whether the offence actually committed is the same as that counselled or a different one, or whether the offence is committed in the way counselled or in a different way, provided in either case that the facts constituting the offence actually committed are a probable consequence of carrying out the counsel.

Counselling another to commit an offence.

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

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

Definition of accessories after the fact.

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

(2) Any person who becomes an accessory after the fact to a felony is guilty of a felony, and is liable, if no other punishment is provided, to imprisonment for two years.

Punishment of accessories after the fact to felonies.

Punishment
of accessories
after the
fact to mis-
demeanours.

(3) Any person who becomes an accessory after the fact to a misdemeanour is guilty of a misdemeanour and is liable to imprisonment for one year.

Incitement.

26A. For the purposes of this Chapter of this Code any person who incites the commission of any offence shall be deemed to counsel it.

CHAPTER VI.—PUNISHMENTS

Different
kinds of
punishments.

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

- (1) Death.
- (2) Imprisonment.
- (3) Corporal punishment.
- (4) Fine.
- (5) Payment of costs.
- (6) Payment of compensation.
- (7) Finding security to keep the peace and be of good behaviour; or to come up for judgment.
- (8) Forfeiture.

Sentence of
death.

28. The Minister may issue instructions as to the manner in which sentence of death by hanging shall be carried out:

Provided that it shall be the duty of the Minister to ensure, as far as he is able that such executions are carried out in the most expeditious and humane fashion possible.

Cap. 39.

(3) Where a woman convicted of an offence punishable with death is found to be pregnant in accordance with the provisions of section 268 of the Criminal Procedure Code, the sentence to be passed on her shall be a sentence of imprisonment for life.

Imprison-
ment.

29. (1) All imprisonment for an offence against this Code or against any other law shall be with or without hard labour, in the discretion of the court, unless the imposition of imprisonment only without hard labour is expressly prescribed by law.

(2) A person for an offence sentenced for

(3) A person for an offence sentenced for an offence in addition to

(4) Sentence of imprisonment for an offence in addition to

30. (1) A person sentenced to be whipped or to be approved by the Minister may be sentenced to strokes which

(2) No sentence of imprisonment for an offence shall exceed

(a) females

(b) males

(c) males

years

(3) Where a person convicted of an offence is sentenced to imprisonment, the court may, in not exceeding other punishment

(4) A sentence of imprisonment except in the case of such medical treatment the prisoner is entitled to a punishment a

(5) The maximum term of the sentence of imprisonment of the prisoner is permanent in

(2) A person liable to imprisonment for life or any other period for an offence against this Code or against any other law may be sentenced for any shorter term.

(3) A person liable to imprisonment for an offence against this Code or against any other law may be sentenced to pay a fine in addition to or instead of imprisonment.

(4) Sentences of imprisonment shall take effect and run in the manner provided by sections 10 and 269 of the Criminal Procedure Code. Cap. 39.

30. (1) A sentence of corporal punishment shall be to be privately whipped once only. Such whipping shall be with a rod or cane to be approved by the Minister or with such other instrument as the Minister may approve. The sentence shall specify the number of strokes which shall not exceed twenty four.

Corporal
punishment.

(2) No sentence of corporal punishment shall be passed upon any of the following persons—

(a) females;

(b) males sentenced to death;

(c) males whom the court considers to be more than forty-five years of age.

(3) Whenever a male person under the age of seventeen years is convicted of any offence for which he is liable to imprisonment, the court may, in its discretion, sentence him to corporal punishment not exceeding twelve strokes in addition to or in substitution for any other punishment to which he is liable.

(4) A sentence of corporal punishment shall not be carried out except in the presence of a Government medical officer, nor before such medical officer has after examination certified that in his opinion the prisoner is physically fit to undergo the sentence of corporal punishment about to be inflicted on him.

(5) The medical officer may at any time during the carrying out of the sentence of corporal punishment intervene and prohibit the remainder of the sentence from being carried out, if in his opinion the prisoner is unable to bear such sentence without risk of grave or permanent injury.

(6) In any case in which under the provisions of subsections (4) and (5) a sentence of whipping is, wholly or partially, prevented from being executed, the offender shall be kept in custody till the court which passed sentence can revise it; and the said court may, at its discretion, either remit such sentence, or sentence the offender in lieu of corporal punishment or in lieu of so much of the sentence of corporal punishment as was not executed, to imprisonment for any term not exceeding six months or to a fine not exceeding fifty pounds which may be in addition to any other punishment to which he may have been sentenced for the same offence.

(7) Nothing in subsection (6) shall be deemed to authorise any court to inflict imprisonment for a term or fine of an amount exceeding that to which the accused is liable by the law under which he has been convicted, or that which the said court is competent to inflict, or to sentence to imprisonment an offender who is in the opinion of the court under the age of sixteen years.

(8) A sentence of corporal punishment shall be carried out without unnecessary delay and shall in no case be carried out after the expiration of three months from the passing of the sentence or, if an appeal is presented, after the expiration of three months from the determination of such appeal.

(9) An offender sentenced to undergo corporal punishment may be detained in a prison or some other convenient place for such time as may be necessary for carrying the sentence into effect, or for ascertaining whether the same shall be carried into effect.

(10) No sentence of corporal punishment shall be carried out by instalments.

(11) No sentence of corporal punishment shall be imposed in default of payment of a fine.

(12) If an appeal is presented, a sentence of corporal punishment shall not be executed until after the determination of the appeal.

Fines, costs
and compen-
sation.

31. (1) Where a fine is imposed under any law, then in the absence of express provisions relating to such fine in such law the following provisions shall apply—

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

- (ii) In the imprisonment
(iii) A person may pay
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(ii) In the case of an offence punishable with a fine or a term of imprisonment the imposition of a fine or a term of imprisonment shall be a matter for the discretion of the court.

(iii) A person liable to a fine of any amount may be sentenced to pay a fine of any lesser amount.

(iv) In the case of an offence punishable with imprisonment as well as a fine in which the offender is sentenced to a fine with or without imprisonment and in every case of an offence punishable with fine only in which the offender is sentenced to a fine the court passing sentence may, in its discretion, direct by its sentence that in default of payment of the fine the offender shall suffer imprisonment for a certain term, which imprisonment shall be in addition to any other imprisonment to which he may have been sentenced or to which he may be liable under a commutation of sentence.

(2) In addition to or in substitution for any other punishment, a court may adjudge a person to pay costs or compensation in the manner provided by sections 143, 144 and 155 of the Criminal Procedure Code and in default of payment of such costs or compensation or of distress therefor as provided by law, may order that the person in default shall suffer imprisonment for a certain time.

Costs or compensation.

Cap. 39.

(3) It shall also be lawful for a court, subject to the provisions of the Criminal Procedure Code, to issue a warrant for the levy by distress and sale of any amount due for a fine, costs or compensation on the immovable and movable property of the person ordered to pay such fine, costs or compensation.

Distress.

Cap. 39.

(4) The term of imprisonment ordered by a court in respect of the non-payment of any sum of money adjudged to be paid by way of fine, costs or compensation or in respect of the default of a sufficient distress to satisfy any such sum shall be such term as in the opinion of the court will satisfy the justice of the case, but shall not exceed in any case the maximum fixed by the following scale—

Amount	Maximum period
Not exceeding £1	7 days
Exceeding £1 but not exceeding £5	14 days
Exceeding £5 but not exceeding £10	1 month
Exceeding £10 but not exceeding £20	2 months
Exceeding £20 but not exceeding £40	4 months
Exceeding £40 but not exceeding £100	9 months
Exceeding £100 but not exceeding £500	1 year
Exceeding £500	2 years

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

(6) If, before the expiration of a term of imprisonment imposed in default of payment of a fine, the person imprisoned, or some other person on his behalf, shall pay any sum in part satisfaction of the sum adjudged to be paid, the period of the imprisonment shall be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days of the term of imprisonment so imposed as the sum so paid bears to the sum so adjudged to be paid.

(7) The officer in charge of a prison in which a person is confined who is desirous of taking advantage of the provisions of the preceding subsection shall, on application being made to him by such person, at once take him before a court, and such court shall certify the amount by which the period of imprisonment originally imposed is reduced by such payment in part satisfaction, and shall make such order as is required in the circumstances.

Security to
keep the
peace and
be of good
behaviour or
to come up
for judgment

Cap. 39.

32. In the case of any offence not punishable with death, a person may, instead of or in addition to, any other punishment to which he is liable and subject to any provisions of the Criminal Procedure Code, be ordered to enter into a recognisance with or without a surety or sureties, in such amount as the court thinks fit, conditioned that he shall keep the peace and be of good behaviour for a time fixed by the court, or that he shall appear to receive judgment or sentence at some future sitting of the court or when called upon.

Forfeiture.

33. When any person is convicted of an offence under any of the following sections, namely, sections 86, 87, 88, 102, 103 and 104, the court may, in addition to or in lieu of any penalty which may be imposed, order the forfeiture to Her Majesty of any property which has passed in connection with the commission of the offence or, if such property cannot be forfeited or cannot be found, of such sum as the court shall assess as the value of the property; and any property or sum so forfeited shall be dealt with in such manner as the Minister may direct. Payment of any sum so ordered to be forfeited may be enforced in the same manner and subject to the same incidents as in the case of the payment of a fine.

34. When any misdeemeanor term not exceeding imprisonment

CHAPTER

35. Any person who intends any offence, or who is found inventing, or who is found in England in any express or implied writing or by any other means would be deemed to be guilty of the offence

36. Any person who is found in Gambia with any other person the punishment

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38. Any person following p

34. When in this Code no punishment is specially provided for any misdemeanour, it shall be punishable with imprisonment for a term not exceeding two years or with a fine or with both such imprisonment and such fine.

General punishment for misdemeanours.

PART II.—CRIMES

Division I.—Offences Against Public Order

CHAPTER VII.—TREASON AND OTHER OFFENCES AGAINST THE SOVEREIGN'S AUTHORITY

35. Any person who compasses, imagines, invents, devises or intends any act, matter or theory, the compassing, imagining, inventing, devising or intending whereof is treason by the law of England in force immediately before the 18th day of February, 1965, and expresses, utters or declares such compassing, imagining, inventing, devising, or intending by publishing any printing or writing or by any overt act, or does any act which, if done in England, would be deemed to be treason according to such law, is guilty of the offence termed treason and shall be liable to suffer death.

Treason by the law of England.

36. Any person who instigates any foreigner to invade The Gambia with an armed force, is guilty of treason, and is liable to the punishment of death.

Instigating invasion.

37. Any person who—

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

(2) knowing that any person intends to commit treason, does not give information thereof with all reasonable despatch to a Minister, a magistrate or police officer, or use other reasonable endeavours to prevent the commission of the offence,

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

Concealment of treason.

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

Treasonable felonies.

- (a) to depose Her Majesty from the style, and title of Queen of The Gambia and All her other Realms and Territories, Head of the Commonwealth; or of any other countries of the Commonwealth;
- (b) to levy war against Her Majesty within any part of the Commonwealth, in order by force or constraint to compel her to change her measures or counsels, or in order to put any force or constraint upon, or in order to intimidate or overawe, the legislature or legislative authority of any part of the Commonwealth;
- (c) to instigate any foreigner to make an armed invasion of any part of the Commonwealth;

and manifests such intention by an overt act, or by publishing any printing or writing, is guilty of a felony, and is liable to imprisonment for life.

Promoting
local war.

39. Any person who, without lawful authority, carries on, or makes preparation for carrying on, or aids in or advises the carrying on of, or preparation for, any war or warlike undertaking with, for, by, or against any chief, or with, for, by, or against any band of inhabitants of The Gambia, is guilty of a felony, and is liable to imprisonment for life.

Limitations
as to trial for
treason, mis-
prison of
treason, or
treasonable
felonies.

Two
witnesses
necessary.

40. A person cannot be tried for treason, or for any of the felonies defined in the three last preceding sections, unless the prosecution is commenced within two years after the offence is committed.

Nor can a person charged with treason, or with any of such felonies, be convicted, except on his own plea of guilty, or on the evidence in open court of two witnesses at the least to one overt act of the kind of treason or felony alleged, or the evidence of one witness to one overt act, and one other witness to another overt act of the same kind of treason or felony.

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

Inciting to
mutiny.

41. Any person who advisedly attempts to effect any of the following purposes, that is to say—

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

is guilty of a felony, and is liable to imprisonment for life.

42. Any person who—

- (a) aids, abets, or is accessory to, any act of mutiny by, or
- (b) incites to sedition or to disobedience to any lawful order given by a superior officer,

any member of Her Majesty's military, naval or air forces or any member of the police force, is guilty of a misdemeanour.

Aiding
soldiers or
policemen
in acts of
mutiny.

43. Any person who, by any means whatever, directly or indirectly—

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

any member of Her Majesty's military, naval or air forces, or any member of the police force, is guilty of a misdemeanour, and is liable to imprisonment for six months.

Inducing
soldiers or
policemen to
desert.

44. Any person who—

- (1) knowingly and advisedly aids an alien enemy of Her Majesty, being a prisoner of war in The Gambia, whether such prisoner is confined in a prison or elsewhere, or is suffered to be at large on his parole, to escape from his prison or place of confinement, or, if he is at large on his parole, to escape from The Gambia, is guilty of a felony, and is liable to imprisonment for life;

Aiding
prisoners of
war to
escape.

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

Definition of
overt act.

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

Interpretation.

46. For the purposes of the next eight following sections of this Code—

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

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

“seditious publication” means a publication having a seditious intention;

“seditious words” means words having a seditious intention;

“import” includes—

- (a) to bring into The Gambia, and
- (b) to bring within the inland waters of The Gambia whether or not the publication is brought ashore, and whether or not there is an intention to bring the same ashore.

Power to
prohibit
importation
of publica-
tions.

47. (1) If the Minister is of opinion that the importation of any publication would be contrary to the public interest he may in his discretion by order published in the Gazette prohibit the importation of such publication, and in the case of a periodical publication

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may by the same or a subsequent order prohibit the importation of any past or future issue thereof.

(2) If the Governor-General is of opinion that the importation of publications published by any company, institution, firm or person of whatsoever kind or in or emanating from any country or place would be contrary to the public interest he may by order published in the Gazette prohibit the importation generally of any or all such publications:

Provided that the Governor-General may at any time by the same or a subsequent order provide generally or specially for the exclusion from the provisions of any such order of any particular publication or publications, on the application of any person resident in The Gambia, and for any conditions appropriate to any such exclusion and for any matters connected therewith or relating thereto.

48. (1) Any person who imports, publishes, sells, offers for sale, distributes or reproduces any publication, the importation of which has been prohibited under section 47 of this Code, or any extract therefrom, shall be guilty of an offence and liable for a first offence to imprisonment for a term not exceeding two years or to a fine not exceeding one hundred pounds or to both such imprisonment and fine, and for a subsequent offence to imprisonment for a term not exceeding three years; and such publication or extract therefrom shall be forfeited to Her Majesty.

Offences.

(2) Any person who without lawful excuse has in his possession any publication the importation of which has been prohibited under section 47 of this Code, or any extract therefrom, shall be guilty of an offence and liable for a first offence to imprisonment for a term not exceeding one year or to a fine not exceeding fifty pounds or to both such imprisonment and fine, and for a subsequent offence to imprisonment for a term not exceeding two years; and such publication or extract therefrom shall be forfeited to Her Majesty.

(3) In any proceedings taken under the provisions of this section a certificate signed under the hand of the Minister to the effect that any publication which is the subject of any charge or count in such proceedings was published by a company, institution, firm or person, or in or emanated from any country or place, shall on the bare production thereof by the prosecutor be final and conclusive as to

such facts certified, therein and such facts shall not be further enquired into by any court.

Delivery
of prohibited
publication
to police
station or
administra-
tive officer.

49. (1) Any person to whom any publication the importation of which has been prohibited under section 47 of this Code, or any extract therefrom, is sent without his knowledge or privity or in response to a request made before the prohibition of the importation of such publication came into effect, or who has such a publication or extract therefrom in his possession at the time when the prohibition of its importation comes into effect, shall forthwith if or as soon as the nature of its contents have become known to him, or in the case of a publication or extract therefrom coming into possession of such person before an order prohibiting its importation has been made, forthwith upon the coming into effect of the order prohibiting the importation of such publication deliver such publication or extract therefrom to the officer in charge of the nearest police station or an administrative officer, and in default thereof shall be guilty of an offence and liable to imprisonment for a term not exceeding one year or to a fine not exceeding fifty pounds or to both such imprisonment and fine; and such publication or extract therefrom shall be forfeited to Her Majesty.

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

Power to
examine
packages.

50. (1) Any of the following officers—

- (a) the Director of Posts and Telecommunications;
- (b) the Assistant-Director of Post and Telecommunications;
- (c) any other officer of the Post and Telecommunications Department nominated in writing by the Commissioner of Police for the purpose; and

Cap. 144.

(d) any superior police officer, as defined in the Police Act; may detain, open and examine any package or article which he suspects to contain any publication or extract therefrom which it is an offence under the provisions of section 48 to import, publish, sell, offer for sale, distribute, reproduce or possess, and during such examination may detain any person importing, distributing or,

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posting such package or article or in whose possession such package or article is found.

(2) If any such publication or extract therefrom is found in such package or article, the whole package or article may be impounded and retained by the officer and the person importing, distributing, or posting it, or in whose possession it is found, may be arrested and proceeded against for the commission of an offence under section 48 or 49 of this Code as the case may be.

51. (1) A "seditious intention" is an intention—

Seditious
intention.

- (a) to bring into hatred or contempt or to excite disaffection against the person of Her Majesty, Her heirs or successors, or the Government of The Gambia as by law established; or
- (b) to excite Her Majesty's subjects or inhabitants of The Gambia to attempt to procure the alteration, otherwise than by lawful means, of any matter in The Gambia as by law established; or
- (c) to bring into hatred or contempt or to excite disaffection against the administration of justice in The Gambia; or
- (d) to raise discontent or disaffection amongst Her Majesty's subjects or inhabitants of The Gambia; or
- (e) to promote feelings of ill-will and hostility between different classes of the population of The Gambia.

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

- (i) to show that Her Majesty has been misled or mistaken in any of Her measures; or
- (ii) to point out errors or defects in the Government or constitution of The Gambia as by law established or in legislation or in the administration of justice with a view to the remedying of such errors or defects; or
- (iii) to persuade Her Majesty's subjects or inhabitants of The Gambia to attempt to procure by lawful means the alteration of any matter in The Gambia as by law established; or
- (iv) to point out, with a view to their removal, any matters which are producing or have a tendency to produce feelings of

ill-will and enmity between different classes of the population of The Gambia.

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

Offences.

52. (1) Any person who—

- (a) does or attempts to do, or makes any preparation to do, or conspires with any person to do, any act with a seditious intention;
- (b) utters any seditious words;
- (c) prints, publishes, sells, offers for sale, distributes or reproduces any seditious publication;
- (d) imports any seditious publication, unless he has no reason to believe that it is seditious;

shall be guilty of an offence and liable for a first offence to imprisonment for a term not exceeding two years or to a fine not exceeding two hundred pounds or to both such imprisonment and fine, and for a subsequent offence to imprisonment for a term not exceeding three years; and any seditious publication shall be forfeited to Her Majesty.

(2) Any person who without lawful excuse has in his possession any seditious publication shall be guilty of an offence and liable for a first offence to imprisonment for a term not exceeding one year or to a fine not exceeding fifty pounds or to both such imprisonment and fine, and for a subsequent offence to imprisonment for a term not exceeding two years; and such publication shall be forfeited to Her Majesty.

Power to
confiscate
printing
machines.

52A. (1) When any person is convicted of printing a seditious publication the court may, in addition to any other penalty it may impose, order the printing machine on which the publication was printed to be confiscated for a period not exceeding one year, whether or not the person convicted is the owner of the machine.

(2) A court under subsection (1) may order the printing machine to be confiscated as to the printed.

(3) For the purpose of subsection (2) the court may include all the seditious

(4) In an order made under subsection (1) the court may order the printing machine to be confiscated in his discretion.

(a) the machine

(b) any person

Provided that the person entitled to the machine is not working on the machine.

And provided that the person is not liable for the machine or otherwise damaged the machine.

(5) Any person who is convicted of an offence under subsection (1) shall be liable to a fine not exceeding

53. (1) No person shall be liable to be imprisoned except

Provided that

(a) the person

(b) the person leaves the machine

the prosecution from the date of the case may

(2) A court before ordering the confiscation of a printing machine under subsection (1) of this section shall satisfy itself by evidence on oath as to the machine on which the seditious publication was printed.

(3) For the purposes of this section a "printing machine" shall include all the machines and type used in producing or reproducing the seditious publication.

(4) In any case where the printing machine has been ordered to be confiscated under this section the Commissioner of Police may in his discretion cause—

(a) the machine or any part of it to be removed; or

(b) any part of the machine to be sealed so as to prevent its use:

Provided that the owner of the machine or his agents shall be entitled to reasonable access to the machine to maintain it in proper working order:

And provided further that the Commissioner of Police shall not be liable for any damage caused to the machine either by neglect or otherwise save where the Commissioner or his agents have wilfully damaged the machine.

(5) Any person who uses or attempts to use a printing machine confiscated under subsection (1) of this section shall be guilty of an offence and shall on conviction be liable to imprisonment for a period not exceeding three years.

53. (1) No prosecution for an offence under section 52 shall be begun except within six months after the offence is committed:

Legal
proceedings.

Provided that where a person—

(a) commits such an offence from outside The Gambia; or

(b) leaves The Gambia within a period of six months of committing such an offence,

the prosecution for such an offence may be begun within six months from the date when such person first arrives in or returns to The Gambia after committing the offence or leaving The Gambia, as the case may be.

(2) A person shall not be prosecuted for an offence under section 52 without the written consent of the Attorney-General.

Evidence
necessary for
conviction.

54. No person shall be convicted of an offence under section 52 on the uncorroborated testimony of one witness.

Unlawful
oaths to
commit
capital
offences.

55. Any person who—

- (1) administers, or is present at and consents to the administering of, any oath, or engagement in the nature of an oath, purporting to bind the person who takes it to commit any offence punishable with death; or
- (2) takes any such oath or engagement, not being compelled to do so;

is guilty of a felony, and is liable to imprisonment for life.

Other
unlawful
oaths to
commit
offences.

56. Any person who—

- (1) administers, or is present at and consents to the administering of, any oath or engagement in the nature of an oath, purporting to bind the person who takes it to act in any of the ways following, that is to say—
 - (a) to engage in any mutinous or seditious enterprise;
 - (b) to commit any offence not punishable with death;
 - (c) to disturb the public peace;
 - (d) to be of any association, society or confederacy, formed for the purpose of doing any such act as aforesaid;
 - (e) to obey the orders or commands of any committee or body of men not lawfully constituted, or of any leader or commander or other person not having authority by law for that purpose;
 - (f) not to inform or give evidence against any associate, confederate or other person;
 - (g) 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 admini-

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or the import of any such oath or engagement; or

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

is guilty of a felony, and is liable to imprisonment for seven years.

57. A person who takes any such oath or engagement as is
mentioned in the two last preceding sections cannot set up as a
defence that he was compelled to do so, unless within fourteen days
after taking it, or, if he is prevented by actual force or sickness,
within fourteen days after the termination of such prevention, he
declares by information on oath before a magistrate, or, if he is on
actual service in the military forces of The Gambia or in the police
force, either by such information or by information to his command-
ing 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.

Compulsion,
how far a
defence.

58. (1) Any person who—

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

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

is guilty of a felony, and is liable to imprisonment for seven years.

(2) Any person who, at any meeting or assembly held without
the permission of the Minister, is trained or drilled to the use of arms,
or the practice of military exercises, movements or evolutions, or
who is present at any such meeting or assembly for the purpose of
being so trained or drilled, is guilty of a misdemeanour.

Unlawful
drilling.

59. (1) Any person who publishes or reproduces any statement,
rumour or report which is likely to cause fear and alarm to the public
or to disturb the public peace, knowing or having reason to believe
that such statement, rumour or report is false, is guilty of a mis-
demeanour and is liable to imprisonment for two years.

Publication
of false news
with intent
to cause
fear and
alarm to the
public.

(2) It shall be no defence to a charge under the last preceding subsection that he did not know or did not have reason to believe that the statement, rumour or report was false unless he proves that, prior to publication, he took reasonable measures to verify the accuracy of such statement, rumour or report.

Wrongfully inducing a designated boycott.

59A. (1) Whenever the Governor-General is satisfied that any boycott is being conducted or is threatened or is likely to be conducted in The Gambia with the intention or effect of—

- (a) bringing into hatred or contempt, exciting disaffection against or undermining the lawful authority of Her Majesty's Government, the Government of The Gambia, or a local authority; or of persuading any such government or authority to alter any law or by-law or to appoint any commission or committee or to take any action which it is not by law required to take; or
- (b) bringing the economic life of The Gambia into jeopardy; or
- (c) raising discontent or disaffection amongst the people of The Gambia or engendering feelings of ill-will or hostility between persons of different classes or religions or of different races or tribes in The Gambia;

and he is satisfied that such boycott is resulting, or will be likely to result, in acts leading to violence or intimidation or the destruction of or damage to property or trade, he may, by notification published in the Gazette, designate that boycott for the purposes of this section.

(2) Upon the publication of any notification under the provisions of subsection (1) of this section the following actions or any of them done in relation to a designated boycott shall be deemed to be done in furtherance of such boycott—

- (a) abstaining from buying goods from or selling goods to any person or class of person; or
- (b) abstaining from buying or selling any goods or class of goods; or
- (c) abstaining from entering or approaching or dealing at any premises at which any person or class of person carries on trade or business; or

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(d) abstaining from dealing with any person or class of person in the course of his trade or business; or

(e) abstaining from using or providing any service or class of service; or

(f) abstaining from working for or employing any person or class of person; or

(g) abstaining from doing any other act which may lawfully be done.

(3) The Governor-General may in designating any boycott by the same or any subsequent notification specify in relation to such boycott any action additional to those specified in subsection (2) of this section which he is satisfied is likely to further that boycott.

(4) Any person who with intent to further any designated boycott—

(a) by word of mouth; or

(b) by making a publication;

advises, induces, or persuades or attempts to persuade any person or class of person to take any action deemed or specified to be in furtherance of that boycott shall be guilty of an offence for which he may be arrested by a police officer without warrant and shall be liable on conviction to imprisonment for a period not exceeding six months.

(5) For the purposes of this section in determining whether any words were spoken or any publication was made with intent to further a designated boycott, every person shall, unless the contrary be proved, be deemed to intend the consequences which would naturally follow from his conduct at the time and in the circumstances in which he so conducted himself.

(6) Nothing in this section shall be construed so as to make unlawful any action lawfully taken by a party to a trade dispute (as defined in the Trade Unions Act) in contemplation or in furtherance of that dispute.

(7) Where any person is charged before any court with an offence under this section, no further proceedings in respect thereof shall be taken against him without the consent of the Attorney-General, except such as the court may think necessary by remand (whether in

custody or on bail) or otherwise to secure the due appearance of the person charged so, however, that if that person is remanded in custody, he shall, after the expiration of a period of fourteen days from the date on which he was so remanded, be entitled to be discharged from custody on entering into a recognisance without sureties unless within that period the Attorney-General has consented to such further proceedings as aforesaid.

(8) For the purposes of this section—

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

Cap. 151.

“local authority” includes Bathurst City Council, a District Authority, a Chief appointed pursuant to the provisions of the Provinces Act, and any other body specified as such in the Gazette for the purposes of this section by the Governor-General.

(9) For the purpose of this section a person shall be deemed to make a publication if he prints it, publishes it, sells it, offers it for sale, distributes it or reproduces it.

Incitement
to violence.

59B. (1) Any person, who, without lawful excuse, prints, publishes or to any assembly makes any statement indicating or implying that it would be incumbent or desirable—

- (a) to do any acts calculated to bring death or physical injury to any person or to any class or community of persons; or
- (b) to do any acts calculated to lead to destruction or damage to any property;

shall be guilty of an offence for which he may be arrested by a police officer without warrant and shall be liable to imprisonment for three years.

(2) When offence under this section shall be taken against any person, whether or not he is in custody, he shall be liable to be detained in custody for a period of fourteen days from the date on which he was so remanded, without sureties, unless the Attorney-General has consented to such further proceedings as aforesaid.

(3) For the purposes of this section, a person shall be deemed to be in custody if he is in custody for a period of three or more days.

59C. (1)

(a) any person who, without lawful excuse, publishes or to any assembly makes any statement indicating or implying that it would be incumbent or desirable—

(b) the person shall be liable to be detained in custody for a period of three or more days from the date on which he was so remanded, without sureties, unless the Attorney-General has consented to such further proceedings as aforesaid.

shall be liable to be detained in custody for a period of three or more days from the date on which he was so remanded, without sureties, unless the Attorney-General has consented to such further proceedings as aforesaid.

Provided that any person who, without lawful excuse, publishes or to any assembly makes any statement indicating or implying that it would be incumbent or desirable—

(2) When offence under this section shall be taken against any person, whether or not he is in custody, he shall be liable to be detained in custody for a period of three or more days from the date on which he was so remanded, without sureties, unless the Attorney-General has consented to such further proceedings as aforesaid.

(2) Where any person is charged before any court with an offence under this section, no further proceedings in respect thereof shall be taken against him without the consent of the Attorney-General, except such as the court may think necessary by remand (whether in custody or on bail) or otherwise to secure the due appearance of the person charged so, however, that if that person is remanded in custody, he shall, after the expiration of a period of fourteen days from the date on which he was so remanded, be entitled to be discharged from custody on entering into a recognisance without sureties unless within that period the Attorney-General has consented to such further proceedings as aforesaid.

(3) For the purpose of this section an assembly means a gathering of three or more persons.

59c. (1) Any person who watches or besets—

Watching
and
besetting.

(a) any premises or the approaches to such premises with a view to preventing any other person from doing any act which such other person has a legal right to do thereat; or

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

shall be guilty of an offence and liable to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding six months or to both such fine and imprisonment:

Provided that the provisions of this section shall not apply to any watching or besetting which is lawful under the provisions of any law relating to trade unions or trade disputes.

(2) Where any person is charged before any court with an offence under this section, no further proceedings in respect thereof shall be taken against him without the consent of the Attorney-General, except such as the court may think necessary by remand (whether in custody or on bail) or otherwise to secure the due appearance of the person charged so, however, that if that person is remanded in custody, he shall, after the expiration of a period of fourteen days

from the date on which he was so remanded, be entitled to be discharged from custody on entering into a recognisance without sureties unless within that period the Attorney-General has consented to such further proceedings as aforesaid.

CHAPTER VIII.—OFFENCES AFFECTING RELATIONS WITH FOREIGN STATES AND EXTERNAL TRANQUILITY

Defamation
of foreign
princes.

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

Foreign
enlistment.

61. Any person commits a misdemeanour who does any of the following acts without the licence of Her Majesty, signified by proclamation, that is to say—

- (a) who prepares or fits out any naval or military expedition to proceed against the dominions of any friendly state, or is engaged in such preparation or fitting-out, or assists therein, or is employed in any capacity in such expedition; or
- (b) who, being a citizen of The Gambia, accepts or agrees to accept any commission or engagement in the military or naval service of any foreign state at war with any friendly state, or, whether a citizen of The Gambia or not, induces any other person to accept or agree to accept any commission or engagement in the military or naval service of any such foreign state as aforesaid; or
- (c) who, being a citizen of The Gambia, quits or goes on board any vessel with a view of quitting The Gambia, with intent to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state, or, whether a citizen of The Gambia or not, induces any

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RELATIONS WITH TRANQUILLITY

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other person to quit or to go on board any vessel with a view
of quitting The Gambia with the like intent; or

- (d) who, being the master or owner of any vessel, knowingly
either takes on board, or engages to take on board, or has on
board such vessel, any illegally enlisted person; or
- (e) who, with intent or knowledge, or having reasonable cause
to believe that the same will be employed in the military or
naval service of any foreign state at war with any friendly
state, builds, agrees to build, causes to be built, equips,
despatches, or causes or allows to be despatched, any vessel,
or issues or delivers any commission for any vessel:

Provided that a person building, causing to be built, or equip-
ping a vessel in any of the cases aforesaid, in pursuance of a contract
made before the commencement of such war as aforesaid, is not
liable to any of the penalties specified in this section in respect of such
building or equipping if—

- (i) upon a proclamation of neutrality being issued by Her
Majesty he forthwith gives notice to the Governor-General
that he is so building, causing to be built, or equipping such
vessel, and furnishes such particulars of the contract and of
any matters relating to, or done, or to be done under the
contract as may be required by the Governor-General; and
- (ii) he gives such security, and takes and permits to be taken such
other measures, if any, as the Governor-General may
prescribe for ensuring that such vessel shall not be despatched,
delivered, or removed without the licence of Her Majesty
until the termination of such war as aforesaid.

62. Any person who is guilty of piracy or any crime connected
with or relating or akin to piracy which would have been, immedi-
ately before the 18th day of February, 1965, an offence against the
law of England shall be punished according to the law in force at
that time. Piracy.

CHAPTER IX.—UNLAWFUL ASSEMBLIES, RIOTS AND OTHER OFFENCES AGAINST PUBLIC TRANQUILLITY

63. (1) A society includes any combination of ten or more persons
whether the society be known by any name or not. Unlawful
society.

(2) A society is an unlawful society if formed for any of the following purposes—

- (a) levying war or encouraging or assisting any person to levy war on the Government or the inhabitants of any part of The Gambia; or
- (b) killing or injuring or inciting to the killing or injuring of any person; or
- (c) destroying or injuring or inciting to the destruction or injuring of any property; or
- (d) subverting or promoting the subversion of the Government or of its officials; or
- (e) committing or inciting to acts of violence or intimidation; or
- (f) interfering with, or resisting, or inciting to interference with or resistance to the administration of the law; or
- (g) disturbing or inciting to the disturbance of peace and order in any part of The Gambia.

Managing
unlawful
society.

64. Any person who manages or assists in the management of an unlawful society is guilty of a felony and is liable to imprisonment for seven years.

Being
member of
unlawful
society.

65. Any person who—

- (a) is a member of an unlawful society; or
- (b) knowingly allows a meeting of an unlawful society, or of members of an unlawful society, to be held in any house, building or place belonging to or occupied by him, or over which he has control,

is guilty of a felony, and is liable to imprisonment for three years.

Prosecutions
under
sections 64
and 65.

66. (1) A prosecution for an offence under the two last preceding sections shall not be instituted except with the consent of the Attorney-General:

Provided that a person charged with such an offence may be arrested, or a warrant for his arrest may be issued and executed,

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and any such person may be remanded in custody or on bail, notwithstanding that the consent of the Attorney-General to the institution of a prosecution for the offence has not been obtained, but no further or other proceedings shall be taken until that consent has been obtained.

(2) In any prosecution for an offence under the two last preceding sections it shall not be necessary to prove that the society consisted of ten or more members; but it shall be sufficient to prove the existence of a combination of persons, and the onus shall then rest with the accused to prove that the number of members of such combination did not amount to ten.

(3) Any person who attends a meeting of an unlawful society shall be presumed, until and unless the contrary is proved, to be a member of the society.

(4) Any person who has in his possession or custody or under his control any of the insignia, banner, arms, books, papers, documents or other property belonging to an unlawful society, or wears any of the insignia, or is marked with any mark of the society, shall be presumed, unless and until the contrary is proved, to be a member of the society.

67. Any magistrate or any police officer authorised by warrant of a magistrate may enter with or without assistance any house or building or into any place in which he has reason to believe that a meeting of an unlawful society, or of persons who are members of an unlawful society, is being held, and to arrest or cause to be arrested all persons found therein, and to search such house, building or place, and seize or cause to be seized all insignia, banners, arms, books, papers, documents and other property which he may have reasonable cause to believe to belong to any unlawful society or to be in any way connected with the purpose of the meeting.

Power of entry, arrest, search, etc.

For the purposes of this section the expression "police officer" means any police officer not below the rank of sub-inspector.

68. The insignia, banners, arms, books, papers, documents and other property belonging to an unlawful society shall be forfeited to Her Majesty, and shall be dealt with in such manner as the Minister may direct.

Forfeiture of insignia, etc.

Definitions.

69. When three or more persons assemble with intent to commit an offence, or, being assembled with intent to carry out some common purpose, conduct themselves in such a manner as to cause persons in the neighbourhood reasonably to fear that the persons so assembled will commit a breach of the peace, or will by such assembly needlessly and without any reasonable occasion provoke other persons to commit a breach of the peace, they are an unlawful assembly.

Unlawful assembly.

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

Riot.

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

Punishment of unlawful assembly.

70. Any person who takes part in an unlawful assembly is guilty of a misdemeanour, and is liable to imprisonment without hard labour for one year.

Punishment of riot.

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

Making proclamation for rioters to disperse.

72. Any magistrate or, in his absence, any commissioned officer of police, or any commissioned officer in the military forces of The Gambia, in whose view twelve or more persons are riotously assembled, or who apprehends that a riot is about to be committed by twelve or more persons assembled within his view, may make or cause to be made a proclamation in the Queen's name, in such form as he thinks fit, commanding the rioters or persons so assembled to disperse peaceably.

Dispersion of rioters after proclamation made.

73. If upon the expiration of a reasonable time after such proclamation made, or after the making of such proclamation has been prevented by force, twelve or more persons continue riotously assembled together, any person authorised to make proclamation, or any police officer, or any other person acting in aid of such person or police officer, may do all things necessary for dispersing the persons so continuing assembled, or for apprehending them or any of them,

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and, if any person makes resistance, may use all such force as is reasonably necessary for overcoming such resistance, and shall not be liable in any criminal or civil proceeding for having, by the use of such force, caused harm or death to any person.

74. If proclamation is made, commanding the persons engaged in a riot, or assembled with the purpose of committing a riot, to disperse, every person who, at or after the expiration of a reasonable time from the making of such proclamation, takes or continues to take part in the riot or assembly, is guilty of a felony, and is liable to imprisonment for five years.

Rioting after proclamation.

75. Any person who forcibly prevents or obstructs the making of such proclamation as is in section 72 mentioned, is guilty of a felony, and is liable to imprisonment for ten years; and if the making of the proclamation is so prevented, every person who, knowing that it has been so prevented, takes or continues to take part in the riot or assembly, is liable to imprisonment for five years.

Preventing or obstructing the making of proclamation.

76. Any persons who, being riotously assembled together, unlawfully pull down or destroy, or begin to pull down or destroy any building, machinery or structures are guilty of a felony, and each of them is liable to imprisonment for life.

Rioters demolishing buildings, etc.

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

Rioters injuring buildings, machinery, etc.

78. All persons are guilty of a misdemeanour who, being riotously assembled, unlawfully and with force prevent, hinder or obstruct the loading or unloading of any vehicle or vessel, or the starting or transit of any vehicle, or the sailing or navigation of any vessel, or unlawfully and with force board any vehicle or vessel with intent to do so.

Riotously interfering with vehicle or vessel.

79. Any person who goes armed in public without lawful occasion in such a manner as to cause terror to any person is guilty of a misdemeanour, and his arms may be forfeited.

Going armed in public.

Forcible
entry.

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

It is immaterial whether he is entitled to enter on the land or not, provided that a person who enters upon lands or tenements of his own, but which are in the custody of his servant or bailiff, does not commit the offence of forcible entry.

Forcible
detainer.

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

Affray.

82. Any person who takes part in a fight in a public place, is guilty of a misdemeanour, and is liable to imprisonment for one year.

Challenge to
fight a duel.

83. Any person who challenges another to fight a duel, or attempts to provoke another to fight a duel, or attempts to provoke any person to challenge another to fight a duel, is guilty of a misdemeanour.

Threatening
violence.

84. Any person who—

- (a) with intent to intimidate or annoy any person, threatens to injure, assault, shoot or kill any person, or to burn, break or injure any property; or
- (b) with intent to alarm any person discharges a firearm or commits any other breach of the peace,

shall be guilty of an offence and shall be liable on conviction to imprisonment for a period not exceeding three years.

Assembling
for the
purpose of
smuggling.

85. Any persons who assemble together, to the number of two or more, for the purpose of unshipping, carrying or concealing any goods subject to customs duty and liable to forfeiture under any la

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Division II.—Offences against the Administration of Lawful Authority

CHAPTER X.—CORRUPTION AND THE ABUSE OF OFFICE

86. Any person who—

Official corruption.

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

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

is guilty of a felony, and is liable to imprisonment for seven years.

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

Extortion by public officers.

88. Any person who, being employed in the public service, receives any property or benefit of any kind for himself, on the understanding, express or implied, that he shall favour the person giving the property or conferring the benefit, or any one in whom that person is interested, in any transaction then pending, or likely to take place, between the person giving the property or conferring

Public officers receiving property to show favour.

the benefit, or any one in whom he is interested, and any person employed in the public service, is guilty of a misdemeanour, and is liable to imprisonment for six months.

False claims
by officials.

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

Abuse of
office.

90. Any person who, being employed in the public service, does or directs to be done, in abuse of the authority of his office, any arbitrary act prejudicial to the rights of another, is guilty of a misdemeanour.

If the act is done or directed to be done for purposes of gain, he is guilty of a felony, and is liable to imprisonment for three years.

A prosecution for any offence under this or either of the two last preceding sections shall not be instituted except by or with the sanction of the Attorney-General.

False
certificates
by public
officers.

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

False
assumption
of
authority.

92. Any person who—

- (1) not being a judicial officer, assumes to act as a judicial officer; or
- (2) without authority assumes to act as a person having authority by law to administer an oath or take a solemn declaration or affirmation or affidavit or to do any other act of a public nature which can only be done by persons authorised by law to do so; or

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

93. Any person who—

- (1) personates any person employed in the public service on an occasion when the latter is required to do any act or attend in any place by virtue of his employment; or
- (2) falsely represents himself to be a person employed in the public service, and assumes to do any act or to attend in any place for the purpose of doing any act by virtue of such employment,

Personating public officers.

is guilty of a misdemeanour, and is liable to imprisonment for three years.

94. Whoever holds out any threat of injury to any person employed in the public service, or to any person in whom he believes the person employed in the public service to be interested, for the purpose of inducing the last named person to do any act, or to forbear or delay to do any act, connected with the exercise of his public functions, is guilty of a misdemeanour.

Threat of injury to public servant.

CHAPTER XI.—OFFENCES RELATING TO THE ADMINISTRATION OF JUSTICE

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

Perjury and subornation of perjury.

It is immaterial whether the testimony is given on oath or under any other sanction authorised by law.

The forms and ceremonies used in administering the oath or in otherwise binding the person giving the testimony to speak the truth

are immaterial, if he assent to the forms and ceremonies actually used.

It is immaterial whether the false testimony is given orally or in writing.

It is immaterial whether the person who gives the testimony is a competent witness or not, or whether the testimony is admissible in the proceeding or not.

The question whether a statement on which perjury is assigned was material to any question then depending in a proceeding or intended to be raised in a proceeding is a question of law to be determined by the court of trial.

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

Punishment of perjury. (3) Any person who commits perjury or suborns perjury is liable to imprisonment for seven years.

(4) Notwithstanding anything in this or any other law contained, where perjury is committed by any person in open court any court may forthwith, or at or after the conclusion of the proceedings in which the perjury is committed, summarily convict and sentence such witness to prison for a term not exceeding six months, or may fine such a witness in any sum not exceeding one hundred pounds.

False statements by interpreters. 96. If any person, lawfully sworn as an interpreter in a judicial proceeding, wilfully makes a statement material in the proceeding, which he knows to be false, or does not believe to be true, he shall be guilty of perjury.

Evidence on charge of perjury. 97. A person cannot be convicted of committing perjury or of subornation of perjury solely upon the evidence of one witness as to the falsity of any statement alleged to be false.

Fabricating evidence. 98. Any person who, with intent to mislead any tribunal in any judicial proceeding—

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

(2) knowingly is guilty of a years.

99. Any person who declares or takes a declaration or takes a declaration in a judicial proceeding of a misdemeanour

100. Any person who knowingly makes or writing, to a judicial proceeding person as a witness

101. Any person who or other thing in a judicial proceeding renders it illegal with intent guilty of a misdemeanour

102. Any person

(a) conspires of any kind or does

(b) in or hindrance give evidence

(c) obstruct the course of justice

103. Any person who attempts to

(2) knowingly makes use of such fabricated evidence,
is guilty of a misdemeanour, and is liable to imprisonment for seven years.

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

False
swearing.

100. Any person who practises any fraud or deceit on, or knowingly makes or exhibits any false statement, representation, token, or writing, to any person called or to be called as a witness in any judicial proceeding, with intent to affect the testimony of such person as a witness, is guilty of a misdemeanour.

Deceiving
witnesses.

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

Destroying
evidence.

102. Any person commits a misdemeanour who—

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

Conspiracy
to defeat
justice and
interference
with
witnesses.

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

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

103. Any person who asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind

Compound-
ing felonies.

for himself or any other person upon any agreement or understanding that he will compound or conceal a felony, or will abstain from, discontinue or delay a prosecution for a felony, or will withhold any evidence thereof, is guilty of a misdemeanour.

Compound-
ing penal
actions.

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

Advertise-
ments for
stolen
property.

105. Any person who—

- (1) publicly offers a reward for the return of any property which has been stolen or lost, and in the offer makes use of any words purporting that no questions will be asked, or that the person producing such property will not be seized or molested; or
- (2) publicly offers a return to any person who may have bought or advanced money by way of loan upon any stolen or lost property the money so paid or advanced, or any other sum of money or reward for the return of such property; or
- (3) prints or publishes any such offer,

is guilty of a misdemeanour.

Offences
relating to
judicial
proceedings.

106. (1) Any person who—

- (a) within the premises in which any judicial proceeding is being had or taken, or within the precincts of the same, shows disrespect, in speech or manner, to or with reference to such proceeding, or any person before whom such proceeding is being had or taken; or
- (b) having been called upon to give evidence in a judicial proceeding, fails to attend, or having attended, refuses to be sworn or to make an affirmation or, having been sworn or affirmed, refuses without lawful excuse to answer a question or to produce a document, or remains in the room in which such proceeding is being had or taken, after the witnesses

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

Obstructing court officers.

CHAPTER XIII.—MISCELLANEOUS OFFENCES AGAINST PUBLIC AUTHORITY

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

Frauds and breaches of trust by persons employed in the public service.

113. Every person employed in the public service who wilfully neglects to perform any duty which he is bound either by common law or by Act to perform, provided that the discharge of such duty is not attended with greater danger than a man of ordinary courage might be expected to face, is guilty of a misdemeanour.

Neglect of official duty.

114. Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause such public servants—

False information to public servant.

(a) to do or omit anything which such public servant ought not to do or omit if the true state of facts, respecting which such information is given, were known to him; or

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

shall be guilty of a misdemeanour and shall be liable to imprisonment for six months or to a fine of fifty pounds or to both such fine and such imprisonment.

115. Everyone who wilfully disobeys any Act by doing any act which it forbids, or by omitting to do any act which it requires to be done, and which concerns the public or any part of the public, is

Disobedience of statutory duty.

guilty of a misdemeanour, and is liable, unless it appears from the Act that it was the intention of the Legislature to provide some other penalty for such disobedience, to imprisonment for two years.

Disobedience
of lawful
orders.

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

Division III.—Offences Injurious to the Public in General

CHAPTER XIV.—OFFENCES RELATING TO RELIGION.

Insult to
religion of
any class.

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

Disturbing
religious
assemblies.

118. Any person who voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremony, is guilty of a misdemeanour.

Trespassing
on burial
places.

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

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Public in General

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120. Any person who, with the deliberate intention of wounding the religious feelings of any person, utters or writes any word, or makes any sound in the hearing of that person, or makes any gesture in the sight of that person, or places any object in the sight of that person, is guilty of a misdemeanour, and is liable to imprisonment for one year.

Uttering
words with
the intent
to wound
religious
feelings.

CHAPTER XV.—OFFENCES AGAINST MORALITY

121. Any person who has unlawful carnal knowledge of a woman or girl, without her consent, or with her consent if the consent is obtained by force or by means of threats or intimidation of any kind, or by fear of bodily harm, or by means of false representations as to the nature of the act, or, in the case of a married woman, by personating her husband, is guilty of the felony termed rape.

Definition of
rape.

122. Any person who commits the offence of rape is liable to be punished with imprisonment for life.

Punishment
of rape.

123. Any person who attempts to commit rape is guilty of a felony, and is liable to imprisonment for seven years.

Attempt.

124. Any person who, with intent to marry or carnally know a woman of any age, or to cause her to be married or carnally known by any other person, takes her away, or detains her, against her will, is guilty of a felony, and is liable to imprisonment for seven years.

Abduction.

125. Any person who unlawfully takes or causes to be taken an unmarried girl under the age of sixteen years out of the custody or protection of her father or mother, or other person having the lawful care or charge of her, and against the will of such father or mother or other person, is guilty of a misdemeanour.

Abduction
of girls
under 16.

126. (1) Any person who unlawfully and indecently assaults any woman or girl is guilty of a misdemeanour, and is liable to imprisonment for two years.

Indecent
assault on
females.

(2) It shall be no defence to a charge for an indecent assault on

a girl under the age of sixteen years to prove that she consented to the act of indecency:

Provided that it shall be a sufficient defence to any charge under this subsection if it shall be made to appear to the court or jury before whom the charge shall be brought that the person so charged had reasonable cause to believe and did in fact believe that the girl was of or above the age of sixteen years.

Indecently
insulting
or annoying
females.

(3) Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, is guilty of a misdemeanour, and is liable to imprisonment for one year.

Defilement
of girls
under 16.

127. (1) Any person who unlawfully and carnally knows any girl under the age of sixteen years is guilty of a felony, and is liable to imprisonment for fourteen years.

Attempt.

(2) Any person who attempts to have unlawful carnal knowledge of any girl under the age of sixteen years is guilty of a felony, and is liable to imprisonment for three years:

Provided that it shall be a sufficient defence to any charge under this section if it shall be made to appear to the court or jury before whom the charge shall be brought that the person so charged had reasonable cause to believe and did in fact believe that the girl was of or above the age of sixteen years.

Defilement
of idiots or
imbeciles.

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

Procuration.

129. Any person who—

(1) procures or attempts to procure any girl or woman under the age of twenty-one years to have unlawful carnal connection, either in The Gambia or elsewhere, with any other

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- person or persons; or
- (2) procures or attempts to procure any woman or girl to become, either in The Gambia or elsewhere, a common prostitute; or
 - (3) procures or attempts to procure any woman or girl to leave The Gambia, with intent that she may become an inmate of or frequent a brothel elsewhere; or
 - (4) procures or attempts to procure any woman or girl to leave her usual place of abode in The Gambia, with intent that she may for the purposes of prostitution become an inmate of or frequent a brothel either in The Gambia or elsewhere,

is guilty of a misdemeanour:

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

130. Any person who—

- (1) by threats or intimidation procures or attempts to procure any woman or girl to have any unlawful carnal connection, either in The Gambia or elsewhere; or
- (2) by false pretences or false representations procures any woman or girl to have any unlawful carnal connection, either in The Gambia or elsewhere; or
- (3) applies, administers to, or causes to be taken by any woman or girl any drug, matter or thing, with intent to stupefy or overpower so as thereby to enable any person to have unlawful carnal connection with such woman or girl,

is guilty of a misdemeanour:

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

131. Any person who, being the owner or occupier of premises or having or acting or assisting in the management or control thereof, induces or knowingly suffers any girl under the age of thirteen years to resort to or be upon such premises for the purpose of being unlawfully and carnally known by any man, whether

Procuring defilement of woman by threats or fraud or administering drugs.

Householder, etc., permitting defilement of girl under 13 years on his premises.

such carnal knowledge is intended to be with any particular man or generally, is guilty of a felony, and is liable to imprisonment for five years:

Provided that it shall be a sufficient defence to any charge under this section if it shall be made to appear to the court or jury before whom the charge shall be brought that the person so charged had reasonable cause to believe and did in fact believe that the girl was of or above the age of sixteen years.

Householder,
etc.,
permitting
defilement
of girl under
16 years on
his premises.

132. Any person who, being the owner or occupier of premises, or having or acting or assisting in the management or control thereof, induces or knowingly suffers any girl above the age of thirteen years and under the age of sixteen years to resort to or be upon such premises for the purpose of being unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally, is guilty of a misdemeanour:

Provided that it shall be a sufficient defence to any charge under this section if it shall be made to appear to the court or jury before whom the charge shall be brought that the person so charged had reasonable cause to believe and did in fact believe that the girl was of or above the age of sixteen years.

Detention
with intent
or in brothel.

133. Any person who detains any woman or girl against her will—

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

is guilty of a misdemeanour.

Constructive
detention by
withholding
clothes.

When a woman or girl is in or upon any premises for the purpose of having any unlawful carnal connection, or is in any brothel, a person shall be deemed to detain such woman or girl in or upon such premises or in such brothel if, with intent to compel or induce her to remain in or upon such premises or in such brothel, such person withholds from such woman or girl any wearing apparel or other property belonging to her, or where wearing apparel has been lent or otherwise supplied to such woman or girl by or by the directions of such person, such person threatens such woman or girl with legal

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No legal proceedings, whether civil or criminal, shall be taken against any such woman or girl for taking away or being found in possession of any such wearing apparel as was necessary to enable her to leave such premises or brothel.

134. If it appears to any magistrate, on information made before him on oath by any parent, relative or guardian of any woman or girl or other person who, in the opinion of the magistrate, is acting bona fide in the interests of any woman or girl, that there is reasonable cause to suspect that such woman or girl is unlawfully detained for immoral purposes by any person in any place within the jurisdiction of such magistrate, such magistrate may issue a warrant authorising the person named therein to search for, and, when found, to take to and detain in a place of safety such woman or girl until she can be brought before a magistrate; and the magistrate before whom such woman or girl is brought may cause her to be delivered up to her parents or guardians, or otherwise dealt with as circumstances may permit and require.

Power of search.

A magistrate issuing such warrant may, by the same or any other warrant, cause any person accused of so unlawfully detaining such woman or girl to be apprehended and brought before a magistrate and proceedings to be taken for punishing such person according to law.

A woman or girl shall be deemed to be unlawfully detained for immoral purposes if she is so detained for the purpose of being unlawfully and carnally known by any man, whether any particular man or generally; and—

(a) either is under the age of sixteen years; or

(b) if she is of or over the age of sixteen years and under the age of eighteen years, is so detained against her will or against the will of her father or mother or of any person having the lawful care or charge of her; or

(c) if she is of or over the age of eighteen years and is so detained against her will.

Any person authorised by warrant under this section to search

for any woman or girl so detained as aforesaid may enter (if need be, by force) any house, building or other place mentioned in the warrant, and may remove such woman therefrom.

Male person
living on
earnings of
prostitution
or
persistently
soliciting.

135. (1) Every male person who—

135. (1) Every male person who
- (a) knowingly lives wholly or in part on the earnings of prostitution; or
 - (b) in any public place persistently solicits or importunes for immoral purposes;

is guilty of a misdemeanour.

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

Woman living on earnings of prostitution or aiding, etc., for gain prostitution of another woman.

136. Every woman who knowingly lives wholly or in part on the earnings of prostitution, or who is proved to have, for the purpose of gain, exercised control, direction or influence over the movements of a prostitute in such a manner as to show that she is aiding, abetting or compelling her prostitution with any person, or generally, is guilty of a misdemeanour.

Suspicious premises.

137. If it is made to appear to a magistrate by information on oath that there is reason to suspect that any house or any part of a house is used by a woman or girl for purposes of prostitution, and that any person residing in or frequenting the house is living wholly or in part on the earnings of the prostitute, or is exercising control, direction or influence over the movements of the prostitute, the magistrate may issue a warrant authorising any police officer to enter and search the house and to arrest such person.

Brothels.

138. Any person who keeps a house, room, set of rooms, or place of any kind whatsoever for purposes of prostitution is guilty of a misdemeanour.

139. Any woman or means to prove her is guilty

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139. Any person who conspires with another to induce any woman or girl, by means of any false pretence or other fraudulent means to permit any man to have unlawful carnal knowledge of her is guilty of a felony, and is liable to imprisonment for three years.

Conspiracy
to defile.

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

Attempts to
procure
abortion.

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

The like by
woman with
child.

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

Supplying
drugs or
instrument
to procure
abortion.

143. Except as otherwise expressly stated, it is immaterial in the case of any of the offences committed with respect to a woman or girl under a specified age, that the accused person did not know that the woman or girl was under that age, or believed that she was not under that age.

Knowledge
of age of
female
immaterial.

144. Any person who—

Unnatural
offences.

(1) has carnal knowledge of any person against the order of nature, or

(2) has carnal knowledge of an animal; or

(3) permits a male person to have carnal knowledge of him or her against the order of nature;

is guilty of a felony, and is liable to imprisonment for fourteen years.

Attempts to
commit
unnatural
offences.

145. Any person who attempts to commit any of the offences specified in the last preceding section is guilty of a felony, and is liable to imprisonment for seven years.

Indecent
assault of
boys under
14.

146. Any person who unlawfully and indecently assaults a boy under the age of fourteen years is guilty of a felony, and is liable to imprisonment for seven years.

Indecent
practices
between
males.

147. Any male person who, whether in public or private, commits any act of gross indecency with another male person, or procures another male person to commit any act of gross indecency with him, or attempts to procure the commission of any such act by any male person with himself or with another male person, whether in public or private, is guilty of a felony and is liable to imprisonment for five years.

Incest by
males.

148. (1) Any male person who has carnal knowledge of a female person, who is to his knowledge his granddaughter, daughter, sister or mother, is guilty of a felony, and is liable to imprisonment for five years:

Provided that if it is alleged in the information or charge and proved that the female person is under the age of thirteen years, the offender shall be liable to imprisonment for life.

Consent
immaterial.

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

Attempt.

(3) If any male person attempts to commit any such offence as aforesaid he is guilty of a misdemeanour.

Order for
guardian-
ship.

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

Provided that the Supreme Court may at any time vary or rescind the order by the appointment of any other person as such

guardian, or

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guardian, or in any other respect.

149. Any female person of or above the age of sixteen years who with consent permits her grandfather, father, brother, or son to have carnal knowledge of her (knowing him to be her grandfather, father, brother or son, as the case may be) is guilty of a felony, and is liable to imprisonment for five years. Incest by females.

150. In the two last preceding sections the expressions "brother" and "sister" respectively include half-brother and half-sister, and the provisions of the said sections shall apply whether the relationship between the person charged with an offence and the person with whom the offence is alleged to have been committed is or is not traced through lawful wedlock. Test of relationship.

151. All proceedings under sections 148 and 149 may be held in camera. Proceedings in camera.

152. No prosecution for an offence under section 148 or 149 of this Code shall be commenced without the sanction of the Attorney-General. Sanction of Attorney-General.

CHAPTER XVI.—OFFENCES RELATING TO MARRIAGE AND DOMESTIC OBLIGATIONS

153. Any person who wilfully and by fraud causes any woman who is not lawfully married to him to believe that she is lawfully married to him and to cohabit or have sexual intercourse with him in that belief, is guilty of a felony, and is liable to imprisonment for ten years. Fraudulent pretence of marriage.

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

Provided that this section shall not extend to any person whose marriage with such husband or wife has been declared void by a

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

Marriage ceremony fraudulently gone through without lawful marriage.

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

Desertion of children.

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

Neglecting to provide food, etc., for children.

157. Any person who, being the parent or guardian or other person having the lawful care or charge of any child of tender years and unable to provide for itself, refuses or neglects (being able to do so) to provide sufficient food, clothes, bedding and other necessities for such child, so as thereby to injure the health of such child, is guilty of a misdemeanour.

Master not providing for servants or apprentices.

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

Child stealing.

159. Any person who, with intent to deprive any parent, guardian or other person who has the lawful care or charge of a child under the age of fourteen years, of the possession of such child—

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the child; or

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

is guilty of a felony, and is liable to imprisonment for seven years.

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

CHAPTER XVII.—NUISANCES AND OFFENCES AGAINST HEALTH AND CONVENIENCE

160. Any person who does an act not authorised by law or omits
to discharge a legal duty and thereby causes any common injury,
or danger or annoyance, or obstructs or causes inconvenience to
the public in the exercise of common rights, commits the mis-
demeanour termed a common nuisance, and is liable to imprison-
ment for one year.

Common
nuisance.

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

161. (1) Any person being the owner or occupier or, having the
use of, any house, room or place, who shall open, keep or use the
same for the purpose of unlawful gaming being carried on therein,
and any person who, being the owner or occupier of any house,
room or place, shall knowingly and wilfully permit the same to be
opened, kept or used by any other person for the purpose aforesaid,
and any person having the care or management of or in any manner
assisting in conducting the business of any house, room or place
opened, kept or used for the purposes aforesaid, is said to keep a
common gaming house.

Gaming
houses.

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

or against whom the other players stake, pay or bet.

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

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

Betting
houses.

162. Any house, room or place which is used for any of the purposes following, that is to say—

(1) for the purpose of bets being made therein between persons resorting to the place and—

(a) the owner, occupier, or keeper of the place, or any person using the place; or

(b) any person procured or employed by or acting for or on behalf of any such owner, occupier or keeper, or person using the place; or

(c) any person having the care or management, or in any manner conducting the business of the place; or

(2) for the purpose of any money or other property being paid or received therein by or on behalf of any such owner, occupier, or keeper, or person using the place, as, or for the consideration—

(a) for an assurance, undertaking, promise, or agreement, express or implied, to pay or give thereafter any money or other property on any event or contingency of or relating to any horse race, or other race, fight, game, sport or exercise; or

(b) for securing the paying or giving by some other person of any money or other property on any such event or contingency,

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Any person who, being the owner or occupier of any house, room or place, knowingly and wilfully permits it to be opened, kept or used as a common betting house by another person, or who has the use or management, or assists in conducting the business, of a common betting house, is guilty of a misdemeanour, and is liable to imprisonment for one year:

Provided always that nothing herein contained shall make illegal the use of a totalisator by a race club, gymkhana club or sports club recognised by the Government at any public meeting, with the approval in each case of the Commissioner of Police. In this proviso, "totalisator" means and includes the instrument, machine or contrivance commonly known as the totalisator, and any other instrument, machine or contrivance of a like nature, or any scheme for enabling any number of persons to make bets with one another on the like principles: Totalisator.

Provided further that nothing herein contained shall render illegal the use of any house, room or place for the receipt or negotiation of any pool bet in pursuance of a licence issued under the provisions of section 4 of the Pool Betting (Licensing) Act. Cap. 145.

163. (1) A lottery shall be deemed to be illegal unless it is authorised by the Commissioner of Police or by a police officer not below the rank of chief inspector of police to whom the power to authorise a lottery has been delegated in writing by the Commissioner of Police. Lotteries.

A lottery may be authorised in pursuance of this section subject to such conditions as the Commissioner of Police or any officer acting on his behalf as aforesaid may see fit to impose.

(2) Any person who opens, keeps or uses any place or otherwise carries on any lottery not authorised in the manner prescribed by this section or in contravention of any of the conditions imposed in pursuance of this section is guilty of a misdemeanour.

(3) Any person who prints or publishes or causes to be printed or published, any advertisement or other notice of or relating to any lottery not so authorised, or of or relating to the sale of any ticket or chance or of any share in any ticket or chance in any lottery not so authorised, is liable to a fine of one hundred pounds.

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

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

Keeper of
premises
defined.

164. Any person who appears, acts, or behaves as master or mistress, or as the person having the care or management of any such house, room, set of rooms, or place as is mentioned in sections 161, 162 and 163 is to be taken to be the keeper thereof, whether he is or is not the real keeper.

Traffic in
obscene
publications.

165. Any person who—

- (1) sells, lets to hire, distributes, or in any manner puts into circulation, or for purposes of sale, hire, distribution, public exhibition or circulation makes, produces or has in his possession any obscene book, pamphlet, paper, drawing, painting, representation or figure or any other obscene object whatsoever; or
- (2) imports, exports or conveys any obscene object for any of the purposes aforesaid, or knowing or having reason to believe that any such object will be sold, let to hire, distributed or publicly exhibited or in any manner put into circulation; or
- (3) takes part in or receives profits from any business in the course of which he knows or has reason to believe that any such obscene objects are, for any of the purposes aforesaid, made, produced, purchased, kept, imported, exported, conveyed, publicly exhibited, or in any manner put into circulation; or
- (4) advertises or makes known by any means whatsoever that any person is engaged or is ready to engage in any act which

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is an offence under this section, or that any such obscene
object can be procured from or through any person; or

- (5) exhibits any indecent show or performance in any public
place,

is guilty of a misdemeanour.

Every person committing any such misdemeanour as aforesaid
forfeits to Her Majesty all obscene books, pamphlets, papers,
drawings, paintings, representations or figures or any other obscene
objects whatsoever connected with the committing of such mis-
demeanour.

166. The following persons—

Idle and
disorderly
persons.*

- (1) every common prostitute behaving in a disorderly or indecent
manner in any public place;
- (2) every person playing at any game of chance for money or
money's worth in any public place;
- (3) every person who in any public place conducts himself in
a manner likely to cause a breach of the peace;
- (4) every person who publicly without lawful excuse does any
indecent act; and
- (5) every person who in any public place persistently solicits or
importunes for immoral purposes,

shall be deemed idle and disorderly persons, and shall be liable to
imprisonment for one month or to a fine not exceeding two pounds
or to both.

167. The following persons—

Rogues and
vagabonds.

- (1) every person convicted of an offence under the last preceding
section after having been previously convicted of an offence
against this Code;
- (2) every person going about as a gatherer or collector of alms,

There is also another class of idle and disorderly person mentioned in section 34 of
the Police Act (Cap. 144).

or endeavouring to procure charitable contributions of any nature or kind, under any false or fraudulent pretence;

- (3) every suspected person or reputed thief who has no visible means of subsistence and cannot give a good account of himself;
- (4) every person found wandering in or upon or near any premises or in any road or highway or any place adjacent thereto or in any public place at such time and under such circumstances as to lead to the conclusion that such person is there for an illegal or disorderly purpose;

shall be deemed to be a rogue and vagabond, and shall be guilty of a misdemeanour, and shall be liable for the first offence to imprisonment for three months, and for every subsequent offence to imprisonment for one year.

Criminal
charms.

168. (1) Any person who—

- (a) makes, lends, sells, keeps or offers for sale or for hire or reward, any fetish or charm which is pretended or reputed to possess power to protect burglars, robbers, thieves, or other malefactors, or to aid or assist in any way in the perpetration of any burglary, house-breaking, robbery or theft, or in the perpetration of any offence whatsoever, or to prevent, hinder or delay the detection of or conviction for any offence whatsoever; or
- (b) is found having in his possession without lawful and reasonable excuse (the proof of which excuse shall lie on such person) any such fetish or charm as aforesaid,

is guilty of a felony and is liable to imprisonment for three years.

(2) Where any person is convicted of an offence under this section the court may order that any criminal charm used in connection with any such offence shall be forfeited to Her Majesty.

Wearing of
uniform
without
authority
prohibited.

169. (1) Any person who, not being a person serving in Her Majesty's naval, military or air forces, or in any constabulary or police force in the Commonwealth, wears without the permission of the Governor-General the uniform of any of those forces, or any

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other distinctive
and is liable to
five pounds;

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dress having the appearance or bearing any of the regimental or other distinctive marks on such uniform, is guilty of a misdemeanour, and is liable to imprisonment for one month or to a fine of twenty five pounds:

Provided that nothing in this section shall prevent any person from wearing any uniform or dress in the course of a stage play performed in any place in which stage plays may lawfully be publicly performed, or in the course of a music-hall or circus performance, or in the course of any *bona fide* military representa-
tion.

(2) Any person who unlawfully wears the uniform of any of the forces aforesaid, or any dress having the appearance or bearing any of the regimental or other distinctive marks of any such uniform, in such a manner or in such circumstances as to be likely to bring contempt on that uniform, or employs any other person so to wear such uniform or dress, is guilty of a misdemeanour, and is liable to imprisonment for three months or to a fine of fifty pounds.

Bringing
contempt on/
uniform.

(3) Any person who, not being in the service of The Gambia or having previously received the written permission of the Governor-General so to do, imports or sells or has in his possession for sale any such uniform as aforesaid, or the buttons or badges appropriate thereto, is guilty of a misdemeanour, and is liable to imprisonment for six months, or to a fine of one hundred pounds.

Importation
and sale of
uniform, etc.,
without
authority
prohibited.

(4) When any person shall have been convicted of any offence under this section, the uniform, dress, button, badge or other thing in respect of which the offence has been committed shall be forfeited.

Forfeiture
of uniform,
etc., on
conviction.

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

Negligent
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171. Any person who subjects any article of food or drink to such treatment as to make such article noxious as food or drink or of less nutritive value, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, is guilty of a misdemeanour.

Adulteration
of food or
drink
intended
for sale.

Sale of
noxious
food or
drink.

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

Adulteration
of drugs.

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

Sale of
adulterated
drugs.

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

Fouling
water.

175. Any person who voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose for which it is ordinarily used, is guilty of a misdemeanour.

Fouling air.

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

Offensive
trades.

177. Any person who, for the purposes of trade or otherwise, makes loud noises or offensive or unwholesome smells in such places and circumstances as to annoy any considerable number of persons in the exercise of their common rights, commits and is liable to be punished as for a common nuisance.

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CHAPTER XVIII.—DEFAMATION

178. Any person who, by print, writing, painting, effigy, or by any means otherwise than solely by gestures, spoken words, or other sounds, unlawfully publishes any defamatory matter concerning another person, with intent to defame that other person, is guilty of the misdemeanour termed "libel".

Definition of libel.

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

Definition of defamatory matter.

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

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

Definition of publication.

(2) It is not necessary for libel that a defamatory meaning should be directly or completely expressed; and it suffices if such meaning and its application to the person alleged to be defamed can be collected either from the alleged libel itself or from any extrinsic circumstances, or partly by the one and partly by the other means.

181. Any publication of defamatory matter concerning a person is unlawful within the meaning of this Chapter, unless (a) the matter is true and it was for the public benefit that it should be published, or (b) it is privileged on one of the grounds hereafter mentioned in this Chapter.

Definition of unlawful publication.

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

Cases in which publication of defamatory matter is absolutely privileged.

(a) if the matter is published by the Governor-General or by the

- Cabinet or the House of Representatives, in any official document or proceeding; or
- (b) if the matter is published in the Cabinet or the House of Representatives by any member of such bodies; or
 - (c) if the matter is published by order of the Governor-General as advised by the Cabinet; or
 - (d) if the matter is published concerning a person subject to naval or military discipline for the time being, and relates to his conduct as a person subject to such discipline, and is published by some person having authority over him in respect of such conduct, and to some person having authority over him in respect of such conduct; or
 - (e) if the matter is published in the course of any judicial proceedings by a person taking part therein as a judge or magistrate or commissioner or counsel or juror or assessor or witness or party thereto; or
 - (f) if the matter published is in fact a fair report of anything said, done or published in the Cabinet or the House of Representatives; or
 - (g) if the person publishing the matter is legally bound to publish it.

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

Provided that nothing in this section shall exempt a person from any liability to punishment under any other Chapter of this Code or under any other Act in force within The Gambia.

Cases in which publication of defamatory matter is conditionally privileged.

183. The publication of defamatory matter is privileged if it is published in good faith and—

- (1) if the relation between the parties by and to whom the publication is made is such that the person publishing the matter is under some legal, moral or social duty to publish it to the person to whom the publication is made or has a legitimate personal interest in so publishing it; or;

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

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

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

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

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

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

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

- (8) if the matter is a censure passed by a person in good faith on the conduct of another person in any matter in respect of

which he has authority, by contract or otherwise, over the other person, or on the character of the other person so far as it appears in such conduct; or

- (9) if the matter is a complaint or accusation made by a person in good faith against another person in respect of his conduct in any matter, or in respect of his character so far as it appears in such conduct, to any person having authority, by contract or otherwise, over that other person in respect of such conduct or matter, or having authority by law to inquire into or receive complaints respecting such conduct or matter; or
- (10) if the matter is published in good faith for the protection of the rights or interests of the person who publishes it, or of the person to whom it is published, or of some person in whom the person to whom it is published is interested.

Explanation
as to good
faith.

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

- (a) that the matter was untrue, and that he did not believe it to be true; or
- (b) that the matter was untrue, and that he published it without having taken reasonable care to ascertain whether it was true or false; or
- (c) that, in publishing the matter, he acted with intent to injure the person defamed in a substantially greater degree or substantially otherwise than was reasonably necessary for the interest of the public or for the protection of the private right or interest in respect of which he claims to be privileged.

Presumption
as to good
faith.

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

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Division IV.—Offences Against the Person

CHAPTER XIX.—MURDER AND MANSLAUGHTER

186. Any person who by an unlawful act or omission causes the death of another person is guilty of the felony termed manslaughter. Man-slaughter.
 An unlawful omission is an omission amounting to culpable negligence to discharge a duty tending to the preservation of life or health, whether such omission is or is not accompanied by an intention to cause death or bodily harm.

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

188. Any person convicted of murder shall be sentenced to death. Punishment of murder.

189. Any person who commits the felony of manslaughter is liable to imprisonment for life. Punishment of manslaughter.

190. Malice aforethought shall be deemed to be established by evidence proving any one or more of the following circumstances— Malice aforethought.

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

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

(c) using violent measures in the commission of, or attempt at, a felony;

(d) an intention by the act or omission to facilitate the flight or escape from custody of any person who has committed or attempted to commit a felony.

191. When a person who unlawfully kills another under circumstances which, but for the provisions of this section, would constitute Killing on provocation.

murder, does the act which causes death in the heat of passion caused by sudden provocation as hereinafter defined, and before there is time for his passion to cool, he is guilty of manslaughter only.

Provocation defined.

192. The term "provocation" means and includes, except as hereinafter stated, any wrongful act or insult of such a nature as to be likely, when done to an ordinary person, or in the presence of an ordinary person to another person who is under his immediate care, or to whom he stands in a conjugal, parental, filial, or fraternal relation, or in the relation of master or servant, to deprive him of the power of self-control and to induce him to assault the person by whom the act or insult is done or offered.

When such an act or insult is done or offered by one person to another, or in the presence of another to a person who is under the immediate care of that other, or to whom the latter stands in any such relation as aforesaid, the former is said to give to the latter provocation for an assault.

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

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

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

Diminished responsibility.

192A. (1) Where a person is found guilty of the murder or of being a party to the murder of another, and the court is satisfied that he was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind, or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for his acts and omissions in doing or being a party to the murder, the court shall make a special finding to the effect that the accused was guilty of murder but with diminished responsibility.

(2) On a charge of murder, it shall be for the defence to prove that the person charged was suffering from such abnormality of mind as is mentioned in subsection (1) of this section.

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in the heat of passion after defined, and before guilt of manslaughter only.

and includes, except as assault of such a nature as person, or in the presence of who is under his immediate jugal, parental, filial, or master or servant, to deprive induce him to assault the or offered.

offered by one person to a person who is under the in the latter stands in any said to give to the latter

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quence of incitement given n to do the act and thereby assault is not provocation

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guilty of the murder or of r, and the court is satisfied normality of mind (whether or retarded development of ced by disease or injury) as ponsibility for his acts and the murder, the court shall at the accused was guilty of lity.

be for the defence to prove g from such abnormality of of this section.

(3) Where any such special finding as is mentioned in subsection (1) of this section is made the court shall not sentence the accused to death but shall sentence him to be detained during Her Majesty's pleasure and the provisions of section 255 of the Criminal Procedure Code shall apply as if the accused were a person sentenced to be detained under that section.

Cap. 39.

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

192B. (1) It shall be manslaughter, and shall not be murder, for a person acting in pursuance of a suicide pact between him and another to kill the other or be a party to the other killing himself or being killed by a third person.

Suicide pacts.

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

(3) For the purposes of this section "suicide pact" means a common agreement between two or more persons having for its object the death of all of them, whether or not each is to take his own life, but nothing done by a person who enters into a suicide pact shall be treated as done by him in pursuance of the pact unless it is done while he has the settled intention of dying in pursuance of the pact.

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

Causing death defined.

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

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

When child
deemed to be
a person.

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

Limitation
as to time of
death.

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

Reckoning
of period.

196. The period mentioned in section 195 is reckoned inclusive of the day on which the last unlawful act contributing to the cause of death was done.

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

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

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CHAPTER XX.—INFANTICIDE AND CHILD DESTRUCTION

197. Where a woman by any wilful act or omission causes the death of her child being a child under the age of twelve months, but at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child, then, notwithstanding that the circumstances were such that but for this section the offence would have amounted to murder, she shall be guilty of the felony of infanticide, and may for such offence be dealt with and punished as if she had been guilty of the offence of manslaughter of such child. Infanticide.

198. Subject as hereinafter in this section provided, any person who, with intent to destroy the life of a child capable of being born alive, by any wilful act causes a child to die before it has an existence independent of its mother, shall be guilty of the felony of child destruction, and shall be liable on conviction to imprisonment for life. Child destruction.

Provided that no person shall be found guilty of an offence under this section unless it is proved that the act which caused the death of the child was not done in good faith for the purpose only of preserving the life of the mother.

199. For the purposes of the last preceding section, evidence that a woman had at any material time been pregnant for a period of twenty-eight weeks or more shall be *prima facie* proof that she was at that time pregnant of a child capable of being born alive. Evidence of pregnancy.

CHAPTER XXI.—OTHER OFFENCES CONNECTED WITH MURDER AND SUICIDE

200. Any person who—

- (1) attempts unlawfully to cause the death of another; or
 - (2) with intent unlawfully to cause the death of another does any act, or omits to do any act which it is his duty to do, such act or omission being of such a nature as to be likely to endanger human life,
- shall be guilty of a felony, and is liable to imprisonment for seven years. Attempt to murder.

Attempt to
murder by
convict.

201. Any person who, being under sentence of imprisonment for three years or more, attempts to commit murder, is liable to imprisonment for life, with or without corporal punishment.

Accessory
after the
fact to
murder.

202. Any person who becomes an accessory after the fact to murder is guilty of a felony, and is liable to imprisonment for life.

Written
threats to
murder.

203. Any person who, knowing the contents thereof, directly or indirectly causes any person to receive any writing threatening to kill any person is guilty of a felony, and is liable to imprisonment for seven years.

Conspiracy
to murder.

204. Any person who conspires with any other person to kill any person, whether such person is in The Gambia or elsewhere, is guilty of a felony, and is liable to imprisonment for fourteen years.

Aiding
suicide.

205. Any person who—
(1) procures another to kill himself; or
(2) counsels another to kill himself and thereby induces him to do so; or
(3) aids another in killing himself,
is guilty of a felony, and is liable to imprisonment for life.

Attempting
suicide.

206. Any person who attempts to kill himself is guilty of a misdemeanour.

Concealing
the birth of
children.

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

CHAPTER XXII.—OFFENCES ENDANGERING LIFE AND HEALTH

Disabling in
order to
commit
felony or mis-
demeanour.

208. Any person who, by any means calculated to choke, suffocate or strangle, and with intent to commit or to facilitate the commission of a felony or misdemeanour, or to facilitate the flight of an offender after the commission or attempted commission of a felony or

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misdemeanour, renders or attempts to render any person incapable of resistance, is guilty of a felony, and is liable to imprisonment for life, with or without corporal punishment.

209. Any person who, with intent to commit or to facilitate the commission of a felony or misdemeanour, or to facilitate the flight of an offender after the commission or attempted commission of a felony or misdemeanour, administers or attempts to administer any stupefying or overpowering drug or thing to any person, is guilty of a felony, and is liable to imprisonment for life.

Stupefying
in order to
commit
felony or mis-
demeanour.

210. If any person over the age of sixteen years, who has the custody, charge, or care of any child under the age of fourteen years, wilfully assaults, ill-treats, neglects, abandons, or exposes such child, or causes or procures such child to be assaulted, ill-treated, neglected, abandoned, or exposed in a manner likely to cause such child unnecessary suffering or injury to his health (including injury to or loss of sight, or hearing, or limb or organ of the body, and any mental derangement), that person shall be guilty of a misdemeanour.

Exposing,
etc.,
children.

211. Where it is proved that the death of an infant under three years of age was caused by suffocation (not being suffocation caused by disease or the presence of any foreign body in the throat or air-passages of the infant) whilst the infant was in bed with some other person over sixteen years of age, and that that other person was at the time of going to bed under the influence of drink, that other person shall be deemed to have neglected the infant in a manner likely to cause injury to its health within the meaning of section 210.

Suffocation
of infants.

212. Any person who, with intent to maim, disfigure, or disable any person, or to do some grievous harm to any person, or to resist or prevent the lawful arrest or detention of any person—

(1) unlawfully wounds or does any grievous harm to any person by any means whatever; or

(2) unlawfully attempts in any manner to strike any person with any kind of projectile or with a spear, sword, knife, or other dangerous or offensive weapon; or

(3) unlawfully causes any explosive substance to explode; or

Acts
intended to
cause
grievous
harm or
prevent
arrest.

- (4) sends or delivers any explosive substance or other dangerous or noxious thing to any person; or
 - (5) causes any such substance or thing to be taken or received by any person; or
 - (6) puts any corrosive fluid or any destructive or explosive substance in any place; or
 - (7) unlawfully casts or throws any such fluid or substance at or upon any person, or otherwise applies any such fluid or substance to the person of any person,
- is guilty of a felony, and is liable to imprisonment for life

Preventing
escape from
wreck.

213. Any person who unlawfully—

- (1) prevents or obstructs any person who is on board of, or is escaping from, a vessel which is in distress or wrecked, in his endeavours to save his life; or
- (2) obstructs any person in his endeavours to save the life of any person so situated,

is guilty of a felony and is liable to imprisonment for life.

Grievous
harm.

214. Any person who unlawfully does grievous harm to another is guilty of a felony, and is liable to imprisonment for seven years.

Attempting
to injure by
explosive
substances.

215. Any person who unlawfully, and with intent to do any harm to another, puts any explosive substance in any place whatever, is guilty of a felony, and is liable to imprisonment for fourteen years.

Maliciously
administer-
ing poison
with intent
to harm.

216. Any person who unlawfully, and with intent to injure or annoy another, causes any poison or noxious thing to be administered to, or taken by, any person, and thereby endangers his life, or does him grievous harm, is guilty of a felony, and is liable to imprisonment for fourteen years.

Wounding
and similar
acts.

217. Any person who—

- (1) unlawfully wounds another; or
- (2) unlawfully, and with intent to injure or annoy any person,

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to, or taken by, any person,
is guilty of a felony and is liable to imprisonment for three years.

218. Any person who, being charged with the duty of providing
for another the necessities of life, without lawful excuse fails to do
so, whereby the life of that other person is or is likely to be endangered,
or his health is or is likely to be permanently injured, is guilty of a
felony, and is liable to imprisonment for three years.

Failure to
supply
necessaries.

219. A person is not criminally responsible for performing in
good faith and with reasonable care and skill a surgical operation
upon any person for his benefit, if the performance of the operation
is reasonable, having regard to the patients' state at the time, and
to all the circumstances of the case.

Surgical
operation.

220. Any person authorised by law or by the consent of the person
injured by him to use force is criminally responsible for any excess,
according to the nature and quality of the act which constitutes the
excess.

Excess of
force.

221. Notwithstanding anything contained in section 220, consent
by a person to the causing of his own death or his own maim does
not affect the criminal responsibility of any person by whom such
death or maim is caused.

Consent.

CHAPTER XXIII.—CRIMINAL RECKLESSNESS AND NEGLIGENCE

221A. Any person who by any rash or negligent act not amounting
to manslaughter, causes the death of another person is liable to
imprisonment for three years.

Rash or
negligent act
causing
death.

222. Any person who, in a manner so rash or negligent as to
endanger human life or to be likely to cause harm to any other
person—

Reckless and
negligent
acts.

(a) drives any vehicle or rides on any public way; or

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

- (c) does any act with fire or any combustible matter; or omits to take precautions against any probable danger from any fire or any combustible matter in his possession; or
- (d) omits to take precautions against any probable danger from any animal in his possession; or
- (e) gives medical or surgical treatment to any person whom he has undertaken to treat; or
- (f) dispenses, supplies, sells, administers, gives away or does any act with any medicine or poisonous or dangerous matter; or
- (g) does any act with respect to, or omits to take proper precautions against any probable danger from, any machinery, medicine or poisonous or dangerous matter, of which he is solely or partly in charge; or
- (h) does any act with respect to, or omits to take proper precautions against any probable danger from, any explosive in his possession,

is guilty of a misdemeanour.

Other
negligent
acts causing
harm.

223. Any person who unlawfully does any act, or omits to do any act which it is his duty to do, not being an act or omission specified in the last preceding section, by which act or omission harm is caused to any person, is guilty of a misdemeanour, and is liable to imprisonment for six months.

Exhibition
of false light,
mark or
buoy.

224. Any person who exhibits any false light, mark or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator, is liable to imprisonment for seven years.

Conveying
person by
water for
hire in
unsafe or
overloaded
vessel.

225. Any person who knowingly or negligently conveys, or causes to be conveyed for hire, any person by water in any vessel, when that vessel is in such a state or so loaded as to be unsafe, is guilty of a misdemeanour.

Danger or
obstruction
in public
way or line
of
navigation.

226. Any person who by doing any act, or by omitting to take reasonable care with any property in his possession or under his charge, causes danger, obstruction or injury to any person in any public way or public line of navigation, is liable to a fine.

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CHAPTER XXIV.—ASSAULTS

227. Any person who unlawfully assaults another is guilty of a misdemeanour, and, if the assault is not committed in circumstances for which a greater punishment is provided in this Code, is liable to imprisonment for one year. Common assault.

228. Any person who commits an assault occasioning actual bodily harm is guilty of a misdemeanour, and is liable to imprisonment for five years. Assaults causing actual bodily harm.

229. Any person who assaults and strikes or wounds any magistrate, officer, or other person lawfully authorised in or on account of the execution of his duty in or concerning the preservation of any vessel in distress, or of any vessel or goods or effects wrecked, stranded, or cast on shore, or lying under water, is guilty of a misdemeanour, and is liable to imprisonment for seven years. Assaults on persons protecting wreck.

230. Any person who—

(a) assaults any person with intent to commit a felony or to resist or prevent the lawful apprehension or detainer of himself or of any other person for any offence; or Assaults punishable with two years' imprisonment.

(b) assaults, resists, or wilfully obstructs any police officer in the due execution of his duty, or any person acting in aid of such officer; or

(c) assaults any person in pursuance of any unlawful combination or conspiracy to raise the rate of wages, or respecting any trade, business, or manufacture or respecting any person concerned or employed therein; or

(d) assaults, resists or obstructs any person engaged in lawful execution of process, or in making a lawful distress, with intent to rescue any property lawfully taken under such process or distress; or

(e) assaults any person on account of any act done by him in the execution of any duty imposed on him by law,

is guilty of a misdemeanour, and is liable to imprisonment for two years.

Slave-dealing;
various
forms.

230A. Whosoever—

- (a) sells, purchases, gives or takes in barter, transfers or receives any slave or other person, in order that such slave or other person may be held or treated as a slave; or
- (b) places or receives any person in servitude as a pledge or security for debt, whether then due or owing, or to be incurred or contingent, whether under the name of pawn or by whatever other name such person may be called or known; or
- (c) conveys any person, or induces any person to come into The Gambia in order that such person may be bought or sold, given or taken in barter, transferred, or may be held or treated as a slave, or be placed in servitude as a pledge or security for debt; or
- (d) conveys or sends any person, or induces any person to go outside The Gambia in order that such person may be bought, sold, given or taken in barter, transferred, or held or treated as a slave, or be placed in servitude as a pledge or security for debt; or
- (e) enters into any contract or agreement, with or without consideration, for doing or procuring to be done any of such acts or accomplishing any of such purposes; or
- (f) ships, tranships, embarks, receives, detains or confines on board, or contracts for, or authorises the shipping, transshipping, embarking, receiving, detaining or confining on board of any ship, vessel, boat or canoe, slaves or other persons for the purpose of their being carried away or removed from any place whatsoever, or imported or brought into any place whatsoever, as or in order to their being bought, sold, bartered, transferred or held or treated as slaves; or
- (g) by any species of coercion or restraint unlawfully compels or attempts to compel the service of any person;

shall on conviction be liable to imprisonment with or without hard labour for any period not exceeding seven years.

Presumption
of intention
to treat as a
slave.

230B. Any person bringing any slave into The Gambia, or purchasing, selling, or giving or taking in barter, any slave or other person, shall be presumed to have bought, sold, or otherwise dealt

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with such person in order that such person may be held or treated as a slave, unless the contrary be shown.

230C. (1) Any person who, with whatever intention—

- (a) brings any slave into The Gambia; or
- (b) lodges or receives any slave so brought, or come into The Gambia; or
- (c) adopts or takes into his household any runaway, purchased, redeemed or liberated slaves;

Slaves brought into The Gambia to be reported.

shall report the matter forthwith, in Bathurst or Kombo Saint Mary to the Commissioner of Police and elsewhere to the Commissioner of the Division in which such person resides or into which such slave is brought; and, in case of failure to do so, shall be guilty of an offence and shall be liable to be punished therefor as for an offence under section 230A. of this Code.

(2) It shall be the duty of the Commissioner of Police or the Commissioner of the Division, as the case may be, to inquire into the facts of any case so reported to him; and

(a) where he is of opinion that an offence against this Code has been committed, to take proceedings for the punishment of the offenders;

(b) in every case to make suitable arrangements to secure the liberty of the slave.

230D. Any ship, vessel, boat or canoe used for the commission of any offence under section 230A. of this Code shall be forfeited to the Crown.

Vessels employed to be forfeited.

CHAPTER XXV.—OFFENCES AGAINST LIBERTY

231. Any person who conveys any person beyond the limits of The Gambia without the consent of that person, or of some person legally authorised to consent on behalf of that person, is said to kidnap that person from The Gambia.

Definition of kidnapping from The Gambia.

232. Any person who takes or entices any minor under fourteen years of age if a male, or under sixteen years of age if a female, or any person of unsound mind, out of the keeping of a lawful guardian of such minor or person of unsound mind, without the consent of

Definition of kidnapping from lawful guardianship.

such guardian, is said to kidnap such minor or person from lawful guardianship.

Definition of abduction.

233. Any person who by force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person.

Punishment for kidnapping.

234. Any person, who kidnaps any person from The Gambia or from lawful guardianship, is guilty of a felony, and is liable to imprisonment for seven years.

Kidnapping or abducting in order to murder.

235. Any person who kidnaps or abducts any person in order that such person may be murdered, or may be so disposed of as to be put in danger of being murdered, is guilty of a felony, and is liable to imprisonment for ten years.

Kidnapping or abducting with intent to confine person.

236. Any person who kidnaps or abducts any person with intent to cause that person to be secretly and wrongfully confined, is guilty of a felony, and is liable to imprisonment for seven years.

Kidnapping or abducting in order to subject person to grievous harm, slavery, etc.

237. Any person who kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected, to grievous harm, or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, is guilty of a felony, and is liable to imprisonment for ten years.

Wrongfully concealing or keeping in confinement kidnapped or abducted person.

238. Any person who, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or confines such person, is guilty of a felony, and shall be punished in the same manner as if he had kidnapped or abducted such person with the same intention or knowledge, or for the same purpose, as that with which or for which he conceals or detains such person in confinement.

Kidnapping or abducting child under 14 years with intent to steal from its person.

239. Any person who kidnaps or abducts any child under the age of fourteen years with the intention of taking dishonestly any movable property from the person of such child, is guilty of a felony, and is liable to imprisonment for seven years.

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240. Any person who imports, exports, removes, buys, sells or disposes of any person as a slave, or accepts, receives, or detains against his will any person as a slave, is guilty of a felony, and is liable to imprisonment for seven years. Buying or disposing of any person as a slave.

241. Any person who habitually imports, exports, removes, buys, sells, traffics or deals in slaves is guilty of a felony, and is liable to imprisonment for ten years. Habitual dealing in slaves.

242. Any person who unlawfully compels any person to labour against the will of that person is guilty of a misdemeanour. Unlawful compulsory labour.

243. Every person who, with a view to compel any other person to abstain from doing or to do any act which such other person has a legal right to do or abstain from doing, wrongfully and without legal authority— Intimidation.

(a) uses violence to or intimidates such other person or his wife or children, or injures his property; or
(b) persistently follows such other person about from place to place;

(c) hides any tools, clothes, or other property owned or used by such other person, or deprives him of or hinders him in the use thereof; or

(d) follows such other person with two or more other persons in a disorderly manner in or through any street or road;

shall be liable to a fine not exceeding twenty pounds, or to imprisonment for a term not exceeding three months.

Division V.—Offences Relating to Property

CHAPTER XXVI.—THEFT

244. Every inanimate thing whatever which is the property of any person, and which is movable, is capable of being stolen. Things capable of being stolen.

Every inanimate thing which is the property of any person, and which is capable of being made movable, is capable of being stolen as soon as it becomes movable, although it is made movable in order to steal it.

Every tame animal, whether tame by nature or wild by nature and subsequently tamed, which is the property of any person, is capable of being stolen.

Animals wild by nature, of a kind which is not ordinarily found in a condition of natural liberty in The Gambia, which are the property of any person, and which are usually kept in a state of confinement, are capable of being stolen, whether they are actually in confinement or have escaped from confinement.

Animals wild by nature, of a kind which is ordinarily found in a condition of natural liberty in The Gambia, which are the property of any person, are capable of being stolen while they are in confinement, and while they are being actually pursued after escaping from confinement, but not at any other time.

An animal wild by nature is deemed to be in a state of confinement so long as it is in a den, cage, sty, tank, or other small enclosure, or is otherwise so placed that it cannot escape, and that its owner can take possession of it at pleasure.

Wild animals in the enjoyment of their natural liberty are not capable of being stolen, but their dead bodies are capable of being stolen.

Everything produced by or forming part of the body of an animal capable of being stolen is capable of being stolen.

Definition of theft.

245. (1) A person who fraudulently and without claim of right takes anything capable of being stolen, or fraudulently converts to the use of any person other than the general or special owner thereof anything capable of being stolen, is said to steal that thing.

(2) A person who takes or converts anything capable of being stolen is deemed to do so fraudulently if he does so with any of the following intents, that is to say—

- (a) an intent permanently to deprive the general or special owner of the thing of it;
- (b) an intent to use the thing as a pledge or security;
- (c) an intent to part with it on a condition as to its return which the person taking or converting it may be unable to perform;
- (d) an intent to deal with it in such a manner that it cannot be returned in the condition in which it was at the time of the taking or conversion;

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247. Whether person; any the sale; m whether ca

- (e) in the case of money, an intent to use it at the will of the person who takes or converts it, although he may intend afterwards to repay the amount to the owner.

The term "special owner" includes any person who has any charge or lien upon the thing in question, or any right arising from or dependent upon holding possession of the thing in question.

- (3) When a thing stolen is converted, it is immaterial whether it is taken for the purpose of conversion, or whether it is at the time of the conversion in the possession of the person who converts it. It is also immaterial that the person who converts the thing in question is the holder of a power of attorney for the disposition of it, or is otherwise authorised to dispose of it.

- (4) When a thing converted has been lost by the owner and found by the person who converts it, the conversion is not deemed to be fraudulent if at the time of the conversion the person taking or converting the thing does not know who is the owner, and believes on reasonable grounds that the owner cannot be discovered.

- (5) A person shall not be deemed to take a thing unless he moves the thing or causes it to move.

246. (1) When a factor or agent pledges or gives a lien on any goods or document of title to goods entrusted to him for the purpose of sale or otherwise for any sum of money not greater than the amount due to him from his principal at the time of pledging or giving the lien, together with the amount of any bill of exchange or promissory note accepted or made by him for or on account of his principal, such dealing with the goods or document of title is not deemed to be theft. Special cases.

- (2) When a servant, contrary to his master's orders, takes from his possession any food in order that it may be given to an animal belonging to or in the possession of his master, such taking is not deemed to be theft.

247. When a person receives, either alone or jointly with another person, any money or valuable security or a power of attorney for the sale, mortgage, pledge, or other disposition of any property, whether capable of being stolen or not, with a direction in either

Funds, etc.,
held under
direction.

case that such money or any part thereof, or any other money received in exchange for it, or any part thereof, or the proceeds or any part of the proceeds of such security, or of such mortgage, pledge or other disposition, shall be applied to any purpose or paid to any person specified in the direction, such money and proceeds are deemed to be the property of the person from whom the money, security or power of attorney was received until the direction has been complied with.

Funds, etc.,
received by
agents for
sale.

248. When a person receives, either alone or jointly with another person, any property from another on terms authorising or requiring him to sell it or otherwise dispose of it, and requiring him to pay or account for the proceeds of the property, or any part of such proceeds, or to deliver anything received in exchange for the property, to the person from whom it is received, or some other person, then the proceeds of the property, and anything so received in exchange for it, are deemed to be the property of the person from whom the property was so received, until they have been disposed of in accordance with the terms on which the property was received, unless it is a part of those terms that proceeds, if any, shall form an item in a debtor and creditor account between him and the person to whom he is to pay them or account for them, and that the relation of debtor and creditor only shall exist between them in respect thereof.

Money
received for
another.

249. When a person receives, either alone or jointly with another person, any money on behalf of another, the money is deemed to be the property of the person on whose behalf it is received, unless the money is received on the terms that it shall form an item in a debtor and creditor account, and that the relation of debtor and creditor only shall exist between the parties in respect of it.

Theft by
person
having an
interest in
the thing
stolen.

250. When any person takes or converts anything capable of being stolen, under such circumstances as would otherwise amount to theft, it is immaterial that he himself has a special property or interest therein, or that he himself is the owner of the thing taken or converted subject to some special property or interest of some other person therein, or that he is lessee of the thing, or that he himself

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"No criminal proceeding shall be taken by any wife against her husband by virtue of this Act, while they are living together, as to or concerning any property claimed by her, nor while they are living apart as to or concerning any act done by the husband while they were living together, concerning property claimed by the wife, unless such property shall have been wrongfully taken by the husband when leaving or deserting or about to leave or desert his wife." (Married Women's Property Act, Cap. 115, s. 10 (3).)

"A wife, doing any act with respect to any property of her husband, which, if done by the husband with respect to property of the wife, would make the husband liable to criminal proceedings by the wife under this Act, shall in like manner be liable to criminal proceedings by her husband." (*ibid.* s. 14 (1).)

Stealing from the person; stealing goods in transit, etc.

256. If a theft is committed under any of the circumstances following, that is to say—

- (a) if the thing is stolen from the person of another;
- (b) if the thing is stolen in a dwelling-house, and its value exceeds five pounds, or the offender at or immediately before or after the time of stealing uses or threatens to use violence to any person in the dwelling-house;
- (c) if the thing stolen is from any kind of vessel or vehicle;
- (d) if the thing stolen is attached to or forms part of a railway;
- (e) if the thing is stolen from a vessel which is in distress or wrecked or stranded;
- (f) if the thing is stolen from a public office in which it is deposited or kept;
- (g) if the offender, in order to commit the offence, opens any locked room, box, or other receptacle, by means of a key or other instrument;

the offender is liable to imprisonment for seven years.

Stealing by persons in public service.

257. If the offender is a person employed in the public service and the thing stolen is the property of Her Majesty, or came into the possession of the offender by virtue of his employment, he is liable to imprisonment for seven years.

Stealing by clerks and servants.

258. If the offender is a clerk or servant, and the thing stolen is the property of his employer, or came into the possession of the offender on account of his employer, he is liable to imprisonment for seven years.

Stealing by directors or officers of companies.

259. If the offender is a director or officer of a corporation or company, and the thing stolen is the property of the corporation or company, he is liable to imprisonment for seven years.

Stealing by agents, etc.

260. If the thing stolen is any of the things following, that is to say—

- (a) property which has been received by the offender with a power or attorney for the disposition thereof;

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(b) property which has been entrusted to the offender either alone or jointly with any other person for him to retain in safe custody or to apply, pay, or deliver for any purpose or to any person the same or any part thereof or any proceeds thereof;

(c) property which has been received by the offender either alone or jointly with any other person for or on account of any other person;

(d) the whole or part of the proceeds of any valuable security which has been received by the offender with a direction that the proceeds thereof should be applied to any purpose or paid to any person specified in the direction;

(e) the whole or part of the proceeds arising from any disposition of any property which have been received by the offender by virtue of a power of attorney for such disposition, such power of attorney having been received by the offender with a direction that such proceeds should be applied to any purpose or paid to any person specified in the direction;

the offender is liable to imprisonment for seven years.

261. If the thing stolen is a fixture or chattel let to the offender to be used by him with a house or lodging, and its value exceeds five pounds, he is liable to imprisonment for seven years.

Stealing by tenants or lodgers.

262. If the offender, before committing the theft, had been convicted of a theft punishable under section 252 he is liable to imprisonment for seven years.

Stealing after previous conviction.

CHAPTER XXVII.—OFFENCES ALLIED TO STEALING

263. Any person who, with intent to defraud, conceals or takes from its place of deposit any register which is authorised or required by law to be kept for authenticating or recording the title to any property or for recording births, baptisms, marriages, deaths or burials, or a copy of any part of any such register which is required by law to be sent to any public office, is guilty of a felony, and is liable to imprisonment for ten years.

Concealing registers.

Concealing
wills.

264. Any person who, with intent to defraud, conceals any testamentary instrument, whether the testator is living or dead, is guilty of a felony, and is liable to imprisonment for ten years.

Concealing
deeds.

265. Any person who, with intent to defraud, conceals the whole or part of any document which is evidence of title to any land or estate in land, is guilty of a felony, and is liable to imprisonment for three years.

Killing
animals
with intent
to steal.

266. Any person who kills any animal capable of being stolen with intent to steal the skin or carcass, or any part of the skin or carcass, is guilty of an offence, and is liable to the same punishment as if he had stolen the animal.

Severing
with intent
to steal.

267. Any person who makes anything movable with intent to steal it is guilty of an offence, and is liable to the same punishment as if he had stolen the thing after it had become movable.

Fraudulent
disposition
of mortgaged
goods.

268. (1) Any person who, being the mortgagor of mortgaged goods, removes or disposes of the goods without the consent of the mortgagee, and with intent to defraud, is guilty of a misdemeanour.

(2) In this section the term "mortgaged goods" includes any goods and chattels of any kind and any animals, and any progeny of any animals and any crops or produce of the soil, whether growing or severed, which are subject for the time being, by virtue of the provisions of any Act or of any written instrument, to a valid charge or lien by way of security for any debt or obligation.

Fraudulently
dealing with
minerals in
mines.

269. Any person who takes, conceals, or otherwise disposes of any ore or any metal or mineral in or about a mine, with intent to defraud any person, is guilty of a felony, and is liable to imprisonment for five years.

Fraudulent
appropriation
of power.

270. Any person who fraudulently abstracts or diverts to his own use or to the use of any other person any mechanical, illuminating, or electrical power derived from any machine, apparatus or substance, the property of another person, is guilty of a felony, and is liable to imprisonment for five years.

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271. Any person who unlawfully and without colour or right, but not so as to be guilty of stealing, takes or converts to his own use or to the use of any other person, any draught or riding animal or any vehicle or cycle, however propelled, or any vessel, shall be guilty of a misdemeanour, and shall be liable to imprisonment for six months, or to a fine of fifty pounds, or to both such imprisonment and such fine.

Unlawful use
of vehicles,
animals, etc.

CHAPTER XXVIII.—ROBBERY AND EXTORTION

272. Any person who steals anything, and, at or immediately before or immediately after the time of stealing it, uses or threatens to use actual violence to any person or property in order to obtain or retain the thing stolen or to prevent or overcome resistance to its being stolen or retained, is guilty of the felony termed robbery.

Definition of
robbery.

273. Any person who commits the felony of robbery is liable to imprisonment for fourteen years.

Punishment
of robbery.

If the offender is armed with any dangerous or offensive weapon or instrument, or is in company with one or more other person or persons, or if, at or immediately before or immediately after the time of the robbery, he wounds, beats, strikes, or uses any other personal violence to any person, he is liable to imprisonment for life, with or without corporal punishment.

274. Any person who assaults any person with intent to steal anything, and, at or immediately before or immediately after the time of the assault, uses or threatens to use actual violence to any person or property in order to obtain the thing intended to be stolen, or to prevent or overcome resistance to its being stolen, is guilty of a felony, and is liable to imprisonment for seven years.

Attempted
robbery.

If the offender is armed with any dangerous or offensive weapon or instrument, or is in company with one or more other person or persons, or if, at or immediately before or immediately after the time of the assault, he wounds, beats, strikes, or uses any other personal violence to any person, he is liable to imprisonment for life, with or without corporal punishment.

Assault with
intent to
steal.

275. Any person who assaults any person with intent to steal anything is guilty of a misdemeanour, and is liable to imprisonment for two years.

Demanding
property by
written
threats.

276. Any person who, with intent to extort or gain anything from any person, and knowing the contents of the writing, causes any person to receive any writing demanding anything from any person without reasonable or probable cause, and containing threats of any injury or detriment of any kind to be caused to any person, either by the offender or any other person, if the demand is not complied with, is guilty of a felony, and is liable to imprisonment for fourteen years.

Attempts at
extortion by
threats.

277. Any person who, with intent to extort or gain anything from any person—

- (1) accuses or threatens to accuse any person of committing any felony or misdemeanour, or of offering or making any solicitation or threat to any person as an inducement to commit or permit the commission of any felony or misdemeanour; or
- (2) threatens that any person shall be accused by any other person of any felony or misdemeanour, or of any such act; or
- (3) knowing the contents of the writing, causes any person to receive any writing containing any such accusation or threat as aforesaid;

is guilty of a felony, and if the accusation or threat of accusation is of—

- (a) an offence for which the punishment of death or imprisonment for life may be inflicted; or
- (b) any of the offences defined in Chapter XV, or an attempt to commit any such offences; or
- (c) an assault with intent to have carnal knowledge of any person against the order of nature, or an unlawful and indecent assault upon a male person; or
- (d) a solicitation or threat offered or made to any person as an inducement to commit or permit the commission of any of the offences aforesaid;

the offender is liable to imprisonment for fourteen years.

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In any other case the offender is liable to imprisonment for three years.

It is immaterial whether the person accused or threatened to be accused has or has not committed the offence or act of which he is accused or threatened to be accused.

278. Any person who, with intent to defraud, and by means of any unlawful violence to, or restraint of, the person of another, or by means of any threat of violence or restraint to be used to the person of another, or by means of accusing or threatening to accuse any person of committing any felony or misdemeanour, or by offering or making any solicitation or threat to any person as an inducement to commit or permit the commission of any offence, compels or induces any person—

Procuring execution of deeds, etc., by threats.

(a) to execute, make, accept, endorse, alter, or destroy the whole or any part of any valuable security; or

(b) to write any name or impress or affix any 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 felony, and is liable to imprisonment for fourteen years.

279. Any person who, with intent to steal anything, demands it from any person with menaces or force, is guilty of a felony, and is liable to imprisonment for five years.

Demanding property with menaces with intent to steal.

CHAPTER XXIX.—BURGLARY, HOUSEBREAKING AND SIMILAR OFFENCES

280. A person who breaks any part, whether external or internal, of a building, or opens by unlocking, pulling, pushing, lifting, or any other means whatever, any door, window, shutter, cellar flap, or other thing intended to close or cover an opening in a building, or an opening giving passage from one part of a building to another, is deemed to break the building.

Definitions.

A person is deemed to enter a building as soon as any part of his body or any part of any instrument used by him is within the building.

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A person who obtains entrance into a building by means of any threat or artifice used for that purpose, or by collusion with any person in the building, or who enters any chimney or other aperture of the building permanently left open for any necessary purpose, but not intended to be ordinarily used as a means of entrance, is deemed to have broken and entered the building.

House-
breaking and
burglary.

281. Any person who—

- (1) breaks and enters any building, tent or vessel used as a human dwelling with intent to commit a felony therein; or
- (2) having entered any building, tent or vessel used as a human dwelling with intent to commit a felony therein, or having committed a felony in any such building, tent or vessel, breaks out thereof;

is guilty of the felony termed housebreaking, and is liable to imprisonment for seven years.

If the offence is committed in the night, it is termed burglary, and the offender is liable to imprisonment for ten years.

Entering
dwelling-
house with
intent to
commit
felony.

282. Any person who enters or is in any building, tent or vessel used as a human dwelling with intent to commit a felony therein, is guilty of a felony, and is liable to imprisonment for five years.

If the offence is committed in the night, the offender is liable to imprisonment for seven years.

Breaking
into
building and
committing
felony.

283. Any person who—

- (1) breaks and enters a schoolhouse, shop, warehouse, store, office, or counting-house, or a building which is adjacent to a dwelling-house and occupied with it, but is no part of it, or any building used as a place of worship, and commits a felony therein; or
- (2) having committed a felony in a schoolhouse, shop, warehouse, store, office, or counting-house, or in any such other building as last mentioned, breaks out of the building;

is guilty of a felony, and is liable to imprisonment for seven years.

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284. Any person who breaks and enters a schoolhouse, shop, warehouse, store, office, or counting-house, or a building which is adjacent to a dwelling-house and occupied with it, but is no part of it, or any building used as a place of worship, with intent to commit a felony therein, is guilty of a felony, and is liable to imprisonment for five years.

Breaking into building with intent to commit felony.

284A. When a person committing or attempting to commit an offence under section 281, 282, 283 or 284 of this Code is at the time of committing or attempting to commit such offence armed with a dangerous or offensive weapon, he is liable to imprisonment for fourteen years.

Penalty when certain offences committed by armed persons.

285. Any person who is found under any of the circumstances following, that it so say—

Persons found armed, etc., with intent to commit felony.

(a) being armed with any dangerous or offensive weapon or instrument, and being so armed with intent to break or enter a dwelling-house and to commit a felony therein;

(b) being armed as aforesaid by night, and being so armed with intent to break or enter any building whatever, and to commit a felony therein;

(c) having in his possession by night without lawful excuse, the proof of which lies on him, any instrument of house-breaking;

(d) having in his possession by day any such instrument with intent to commit a felony;

(e) having his face masked or blackened or being otherwise disguised, with intent to commit a felony;

(f) being in any building whatever by night with intent to commit a felony therein;

(g) being in any building whatever by day with intent to commit a felony therein, and having taken precautions to conceal his presence;

is guilty of a felony, and is liable to imprisonment for three years.

If the offender has been previously convicted of a felony relating to property, he is liable to imprisonment for seven years.

Criminal
trespass.

285A. Any person who—

- (a) enters in or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person;
- (b) having lawfully entered into or upon such property remains there with intent thereby to intimidate, insult or annoy any person or with intent to commit any offence;

shall be guilty of an offence for which he may be arrested by a police officer without warrant and shall be liable to imprisonment for one year.

Forfeiture
of house-
breaking
instruments,
etc.

286. When any person is convicted of an offence under this chapter the court may order that any dangerous or offensive weapon or instrument of housebreaking carried or used in connection with any such offence shall be forfeited to Her Majesty.

CHAPTER XXX.—FALSE PRETENCES

Definition of
false
pretence.

287. Any representation made by words, writing or conduct, of a matter or fact, either past or present, which representation is false in fact, and which the person making it knows to be false or does not believe to be true, is a false pretence.

Obtaining
goods by
false
pretences.

288. Any person who by any false pretence, and with intent to defraud, obtains from any other person anything capable of being stolen, or induces any other person to deliver to any person anything capable of being stolen, is guilty of a misdemeanour, and is liable to imprisonment for three years.

Obtaining
execution of
a security by
false
pretences.

289. Any person who by any false pretence, and with intent to defraud, induces any person to execute, make, accept, endorse, alter or destroy the whole or any part of any valuable security, or to write any name or impress or affix any 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 misdemeanour, and is liable to imprisonment for three years.

290. Any person who 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 misdemeanour, and is liable to imprisonment for three years.

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290. Any person who by means of any fraudulent trick or device obtains from any other person anything capable of being stolen, or induces any other person to deliver to any person anything capable of being stolen or to pay or deliver to any person any money or goods or any greater sum of money or greater quantity of goods than he would have paid or delivered but for such trick or device, is guilty of a misdemeanour, and is liable to imprisonment for three years. Cheating.

291. Any person who—

- (1) in incurring any debt or liability obtains credit by any false pretence or by means of any other fraud; or
- (2) with intent to defraud his creditors or any of them, makes or causes to be made any gift, delivery or transfer of or any charge on his property; or
- (3) with intent to defraud his creditors or any of them, conceals, sells or removes any part of his property, after or within two months before the date of any unsatisfied judgment or order for payment of money obtained against him;

Obtaining credit, etc., by false pretences.

is guilty of a misdemeanour, and is liable to imprisonment for one year.

292. Any person who conspires with another by deceit or any fraudulent means to affect the market price of anything publicly sold, or to defraud the public, or any person, whether a particular person or not, or to extort any property from any person, is guilty of a misdemeanour, and is liable to imprisonment for three years. Conspiracy to defraud.

293. Any person who, being a seller or mortgagor of any property, or being the solicitor 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—

Frauds on sale or mortgage of property.

- (1) conceals from the purchaser or mortgagee any instrument material to the title, or any incumbrance; or
- (2) falsifies any pedigree on which the title depends or may depend; or

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(3) makes any false statement as to the title offered or conceals any fact material thereto;

is guilty of a misdemeanour, and is liable to imprisonment for two years.

Pretending to exercise witchcraft or tell fortunes.

294. Any person who for gain or reward pretends to exercise or use any kind of witchcraft, sorcery, enchantment, or conjuration, or undertakes to tell fortunes, or pretends from his skill or knowledge in any occult science to discover where or in what manner anything supposed to have been stolen or lost may be found, is guilty of a misdemeanour, and is liable to imprisonment for one year.

Obtaining registration, etc., by false pretence.

295. Any person who wilfully procures or attempts to procure for himself or any other person any registration, licence or certificate under any law by any false pretence, is guilty of a misdemeanour, and is liable to imprisonment for one year.

False declaration for passport.

296. Any person who makes a statement which is to his knowledge untrue for the purpose of procuring a passport, whether for himself or for any other person is guilty of a misdemeanour.

CHAPTER XXXI.—RECEIVING PROPERTY STOLEN OR UNLAWFULLY OBTAINED AND LIKE OFFENCES

Receiving stolen property, etc.

297. (1) Any person who receives or retains any chattel, money, valuable security or other property whatsoever, knowing or having reason to believe the same to have been feloniously stolen, taken, extorted, obtained or disposed of, is guilty of a felony, and is liable to imprisonment for seven years.

Receiving property unlawfully obtained.

(2) Any person who receives or retains any chattel, money, valuable security or other property whatsoever, knowing or having reason to believe the same to have been unlawfully taken, obtained, converted or disposed of in a manner which constitutes a misdemeanour, is guilty of a misdemeanour, and is liable to the same punishment as the offender by whom the property was unlawfully obtained, converted or disposed of.

(3) No person shall be convicted of an offence under this section

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unless it is proved that the chattel, money, valuable security or other property to which the charge relates has in fact been unlawfully taken, obtained, converted or disposed of as the case may be.

298. (1) If any person without lawful excuse receives, or has in his possession, any property stolen outside The Gambia, knowing or having reason to believe such property to have been stolen, he shall be liable to imprisonment, with or without hard labour, for a term not exceeding seven years.

Receipt or possession of property stolen abroad.

(2) For the purposes of this section property shall be deemed to have been stolen where it has been taken, extorted, obtained, embezzled, converted, or disposed of, in such circumstances that, if the act had been committed in The Gambia, the person committing it would have been guilty of an offence under this Code.

(3) An offence under this section shall be a felony or misdemeanour according as the act committed outside The Gambia would have been a felony, or misdemeanour if committed in The Gambia.

298A. (1) Whenever any police officer has seized or detained anything which may reasonably be suspected of having been stolen or unlawfully obtained, and if the person in whose possession such thing was found shall not give an account to the satisfaction of the court of how he came by the same, he shall be guilty of a misdemeanour.

Suspected stolen property.

(2) For the purpose of subsection (1) of this section a thing shall be deemed to be in the possession of a person if it is on the person of or being carried by such person or is part of his goods or luggage or is in any part of any building in which such person resides or which he occupies.

299. Whenever any person is being proceeded against under section 297, 298 or 298A for the purpose of providing guilty knowledge or belief there may be given in evidence at any stage of the proceedings—

Evidence of guilty knowledge, etc.

(a) the fact that other property stolen within the period of twelve months preceding the date of the offence charged was found or had been in his possession;

- (b) the fact that within the five years preceding the date of the offence charged he has been convicted of any offence involving fraud or dishonesty:

Provided that this last-mentioned fact may not be proved unless—

- (1) seven days' notice in writing has been given to the person charged that proof of such previous conviction is intended to be given;
- (2) evidence has been given that the property in respect of which such person is being tried was found or had been in his possession.

CHAPTER XXXII.—FRAUDS BY TRUSTEES AND PERSONS IN A POSITION OF TRUST, AND FALSE ACCOUNTING

Trustees
fraudulently
disposing of
trust
property.

300. Any person who, being a trustee of any property, destroys the property with intent to defraud, or, with intent to defraud, converts the property to any use not authorised by the trust, is guilty of a felony, and is liable to imprisonment for seven years.

For the purposes of this section the term "trustee" includes the following persons and no others, that is to say—

- (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 an Act for any such purpose;
- (c) persons upon whom the duties of any such trust as aforesaid devolve;
- (d) executors and administrators:

Provided that no prosecution for any offence included in this section shall be commenced—

- (a) by any person without the sanction of the Attorney-General;
- (b) by any person who has taken civil proceedings against such trustee, without the sanction also of the court or Judge

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301. Any person who—

(1) 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 otherwise than in payment of a just debt or demand, 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 an entry to be made therein; or

(2) being a director, officer, or member of a corporation or company, does any of the following acts with intent to defraud, that is to say—

(a) 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

(b) makes, or is privy to making, any false entry in any such book, document or account; or

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

guilty of a felony, and is liable to imprisonment for seven years.

Directors and officers of corporations or companies fraudulently appropriating property, or keeping fraudulent accounts or falsifying books or accounts.

302. Any person who, being a promoter, director, officer or auditor of a corporation or company, either existing or intended to be formed, makes, circulates or publishes, or concurs in making, circulating or publishing, any written statement or account which, in any material particular, is to his knowledge false, with intent thereby to effect any of the purposes following, that is to say—

(a) to deceive or to defraud any member, shareholder, or creditor of the corporation or company, whether a particular person or not;

(b) to induce any person, whether a particular person or not, to become a member of, or to entrust or advance any property

False statements by officials of companies.

to, the corporation or company, or to enter into any security for the benefit thereof;

is guilty of a felony, and is liable to imprisonment for seven years.

Fraudulent
false
accounting.

303. Any person who, being a clerk or servant, or being employed or acting in the capacity of a clerk or servant, does any of the acts following with intent to defraud, that is to say—

(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) makes, or is privy to making, any false entry in any such book, document or account; or

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

is guilty of a felony, and is liable to imprisonment for seven years.

False
accounting
by public
officer.

304. Any person who, being an officer charged with the receipt, custody or management of any part of the public revenue or property, 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 or property in his possession or under his control, is guilty of a misdemeanour.

Division VI.—Malicious Injuries to Property

CHAPTER XXXIII.—OFFENCES CAUSING INJURY TO PROPERTY

Arson.

305. Any person who wilfully and unlawfully sets fire to—

(a) any building or structure whatever, whether completed or not; or

(b) any vessel, whether completed or not; or

(c) any stack of cultivated vegetable produce, or of mineral or vegetable fuel; or

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(d) a mine, or the workings, fittings or appliances of a mine;
is guilty of a felony, and is liable to imprisonment for life.

306. Any person who—

- (1) attempts unlawfully to set fire to any such thing as is mentioned in the last preceding section; or
- (2) wilfully and unlawfully sets fire to anything which is so situated that any such thing as is mentioned in the last preceding section is likely to catch fire from it;

is guilty of a felony, and is liable to imprisonment for fourteen years.

Attempts to
commit
arson.

307. Any person who wilfully and unlawfully sets fire to—

- (a) a crop of cultivated produce, whether standing, picked or cut; or
- (b) a crop of hay or grass under cultivation, whether the natural or indigenous product of the soil or not, and whether standing or cut; or
- (c) any standing trees, saplings, or shrubs, whether indigenous or not, under cultivation;

is guilty of a felony, and is liable to imprisonment for fourteen years.

Setting fire
to crops and
growing
plants.

308. Any person who—

- (1) attempts unlawfully to set fire to any such thing as is mentioned in the last preceding section; or
- (2) wilfully and unlawfully sets fire to anything which is so situated that any such thing as is mentioned in the last preceding section is likely to catch fire from it;

is guilty of a felony; and is liable to imprisonment for seven years.

Attempting
to set fire to
crops, etc.

309. Any person who—

- (1) wilfully and unlawfully casts away or destroys any vessel, whether completed or not; or

Casting away
vessels.

(2) wilfully and unlawfully does any act which tends to the immediate loss or destruction of a vessel in distress; or

(3) with intent to bring a vessel into danger, interferes with any light, beacon, buoy, mark or signal used for purposes of navigation, or exhibits any false light or signal;

is guilty of a felony, and is liable to imprisonment for fourteen years.

Attempts to
cast away
vessels.

310. Any person who attempts unlawfully to cast away or destroy a vessel, whether completed or not, or attempts unlawfully to do any act tending to the immediate loss or destruction of a vessel in distress, is guilty of a felony, and is liable to imprisonment for seven years.

Injuring
animals.

311. Any person who wilfully and unlawfully kills, maims, or wounds any animal capable of being stolen is guilty of a misdemeanour.

Punishment
for malicious
injuries in
general.

312. (1) Any person who wilfully and unlawfully destroys or damages any property is guilty of an offence, which, unless otherwise stated, is a misdemeanour, and he is liable, if no other punishment is provided, to imprisonment for two years.

In special
cases—
Destroying
or damaging
an inhabited
house or a
vessel with
explosives.

(2) If the property in question is a dwelling-house or a vessel, and the injury is caused by the explosion of any explosive substance, and if—

(a) any person is in the dwelling-house or vessel; or

(b) the destruction or damage actually endangers the life of any person;

the offender is guilty of a felony, and is liable to imprisonment for life.

River bank
or wall, or
navigation
works or
bridges.

(3) (a) If the property in question is a bank or wall of a river, canal, aqueduct, reservoir, or inland water, or work which appertains to a dock, reservoir, or inland water, and the injury causes actual danger or inundation or damage to any land or building; or

(b) if the property in question is a bridge, viaduct, or aqueduct,

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which is constructed over a highway or canal, or over which a
highway or canal passes, and the property is destroyed; or

(c) if the property in question, being any such bridge, viaduct,
or aqueduct, is damaged, and the damage is done with intent
to render the bridge, viaduct or aqueduct, or the highway or
canal passing over or under the same, or any part thereof,
dangerous or impassable, and the same or any part thereof is
thereby rendered dangerous or impassable;

the offender is guilty of a felony, and is liable to imprisonment for
life.

(4) If the property in question is a testamentary instrument,
whether the testator is living or dead, or a register which is authorised
or required by law to be kept for authenticating or recording the
title to any property, or for recording births, baptisms, marriages,
deaths or burials, or a copy of any part of any such register which is
required by law to be sent to any public officer, the offender is
guilty of a felony, and is liable to imprisonment for fourteen years.

Wills and
registers.

(5) If the property in question is a vessel in distress or wrecked,
or stranded, or anything which belongs to such vessel, the offender
is guilty of a felony, and is liable to imprisonment for seven years.

Wrecks.

(6) (a) If the property in question, being a vessel, whether
completed or not, is destroyed; or

Other
things of
special value.

(b) if the property in question, being a vessel, whether com-
pleted or not, is damaged, and the damage is done with intent to
destroy it or render it useless; or

(c) if the property in question is a light, beacon, buoy, mark,
or signal used for the purposes of navigation, or for the guidance
of persons engaged in navigation; or

(d) if the property in question is a bank or wall of a river,
canal, aqueduct, reservoir, or inland water, or a work which
appertains to a dock, canal, aqueduct, reservoir or inland water,
or which is used for the purposes of lading or unlading goods; or

(e) if the property in question, being a bridge, viaduct, or
aqueduct which is constructed over a highway or canal, or over
which a highway or canal passes, is damaged, and the damage
is done with intent to render the bridge, viaduct, or aqueduct,

or the highway or canal passing over or under the same, or any part thereof, dangerous or impassable; or

(f) if the property in question, being anything in process of manufacture, or an agricultural or manufacturing machine, or a manufacturing implement, or a machine or appliance used or intended to be used for performing any process connected with the preparation of any agricultural or pastoral produce, is destroyed; or

(g) if the property in question, being any such thing, machine, implement or appliance as last aforesaid, is damaged, and the damage is done with intent to destroy the thing in question, or to render it useless; or

(h) if the property in question is a well, or bore for water, or the dam, bank, wall, or floodgate of a millpond or pool; the offender is guilty of a felony, and is liable to imprisonment for seven years.

Deeds and records.

(7) If the property in question is a document which is deposited or kept in a public office, or which is evidence of title to any land or estate in land, the offender is guilty of a felony, and is liable to imprisonment for seven years.

Attempts to destroy property by explosives.

313. Any person who, unlawfully and with intent to destroy or damage any property, puts any explosive substance in any place whatever, is guilty of a felony, and is liable to imprisonment for fourteen years.

Communicating infectious diseases to animals.

314. Any person who wilfully and unlawfully causes, or is concerned in causing, or attempts to cause, any infectious disease to be communicated to or among any animal or animals capable of being stolen, is guilty of a felony, and is liable to imprisonment for seven years.

Removing boundary marks with intent to defraud.

315. Any person who wilfully and unlawfully, and with intent to defraud, removes 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 felony, and is liable to imprisonment for three years.

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316. Any person who—

- (1) wilfully removes, defaces or injures any survey mark or boundary mark which shall have been made or erected by or under the direction of any Government department or in the course of or for the purposes of a Government survey; or
- (2) being under an obligation to maintain in repair any boundary mark made or erected as aforesaid, neglects or refuses to repair the same; or

Wilful
damage, etc.,
to survey and
boundary
marks.

- (3) wilfully removes, defaces or injures any survey mark erected by or under the authority of any Government or licensed surveyor, or by an intending applicant for any lease, licence or right under an Act relating to mines or minerals;

is guilty of a misdemeanour, and is liable to imprisonment for three months or to a fine of twenty pounds, and may further be ordered by the court to pay the cost of repairing or replacing the survey mark or boundary mark and of making any survey rendered necessary by the offender's act or neglect.

317. Any person who, knowing the contents thereof, sends, delivers, utters, or directly or indirectly causes to be received, any letter or writing threatening to burn or destroy any house, barn or other building, or any rick or stack of grain, hay or straw, or other agricultural produce, whether in or under any building or not, or any vessel, or to kill, maim, or wound any cattle, is guilty of a felony, and is liable to imprisonment for seven years.

Threats to
burn, etc.

*Division VII.—Forgery, Coining, Counterfeiting and
Similar Offences*

CHAPTER XXXIV.—DEFINITIONS

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

Definition of
forgery.

319. The term "document" in this division of this Code does not include a trade mark or any other sign used in connection with articles of commerce though they may be written or printed.

Document.

Making a
false
document.

320. Any person makes a false document who—

- (a) makes a document purporting to be what in fact it is not;
- (b) alters a document without authority in such a manner that if the alteration had been authorised it would have altered the effect of the document;
- (c) introduces into a document without authority whilst it is being drawn up matter which if it had been authorised would have altered the effect of the document;
- (d) signs a document—

(i) in the name of any person without his authority, whether such name is or is not the same as that of the person signing;

(ii) in the name of any fictitious person alleged to exist, whether the fictitious person is or is not alleged to be of the same name as the person signing;

(iii) in the name represented as being the name of a different person from that of the person signing it and intended to be mistaken for the name of that person;

(iv) in the name of a person personated by the person signing the document, provided that the effect of the instrument depends upon the identity between the person signing the document and the person whom he professes to be.

Intent to
defraud.

321. An intent to defraud is presumed to exist if it appears that at the time when the false document was made there was in existence a specific person ascertained or unascertained capable of being defrauded thereby, and this presumption is not rebutted by proof that the offender took or intended to take measures to prevent such person from being defrauded in fact, nor by the fact that he had or thought he had a right to the thing to be obtained by the false document.

CHAPTER XXXV.—PUNISHMENT FOR FORGERY

General
punishment
for forgery.

322. Any person who forges any document is guilty of an offence which, unless otherwise stated, is a misdemeanour, and he is liable,

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unless owing to the circumstances of the forgery or the nature of the thing forged some other punishment is provided, to imprisonment for three years.

323. Any person who forges any will, codicil or other testamentary documents either of a dead or of a living person or any probate or letters of administration, whether with or without the will annexed, document of title to land, judicial record, power of attorney, bank note, currency note, bill of exchange, promissory note or other negotiable instrument, policy of insurance, cheque or other authority for the payment of money by a person carrying on business as a banker, is liable to imprisonment for life, and the Court may in addition order that any such document as aforesaid shall be forfeited to Her Majesty.

Imprisonment for life.

324. Any person who forges any judicial or official document is liable to imprisonment for seven years.

Forgery of judicial or official document.

325. Any person who, without lawful authority or excuse the proof of which lies on him—

Making or having in possession paper or implements for forgery.

(a) makes, uses, sells, exposes for sale or knowingly has in his custody or possession any paper intended to resemble and pass as special paper such as is provided and used for making any bank note; or

(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; or

(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 the Commonwealth, or of any foreign state, or in any stock, annuity, fund or debt of any body corporate, company, or

SENT FOR FORGERY

ment is guilty of an offence of this kind, and he is liable to imprisonment for life.

society, whether within or without the Commonwealth; or

(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 felony, and is liable to imprisonment for seven years.

Unlawful
inquiries
relating to
the possibility
of forgery.

326. (1) Any person who, without lawful authority or excuse, the proof of which lies on him, either orally or in writing makes inquiries of any other person, whether in The Gambia or outside The Gambia—

(a) as to obtaining or supplying or as to the cost of obtaining or supplying any machinery or instrument or material for the making of any paper or capable of producing in or on any paper any words, figures, letters, marks or lines resembling any words, figures, letters, marks or lines used in or on paper specially provided for any purpose mentioned in section 325; or

(b) as to the cost of printing or otherwise reproducing any document referred to in section 325 no matter by what name such document may be referred to; or

(c) as to whether such other person or any other person is prepared to print or otherwise reproduce or would be prepared to print or otherwise reproduce any such document as aforesaid; or

(d) as to whether such other person or any other person is prepared to obtain or would be prepared to obtain any such document as aforesaid by any means other than paying full value for the same;

shall be guilty of a misdemeanour and liable to imprisonment for one year.

(2) In the case of written inquiries in connection with any of the matters or subjects to which subsection (1) relates the fact that such

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inquiries were reduced into writing shall be sufficient proof of an attempt to commit the offence and the offender shall be subject to a like penalty as if he had committed the offence.

327. Any person who—

- (1) forges any stamp, whether impressed or adhesive, used for the purposes of revenue or accounting by any Government department; or
- (2) without lawful excuse, the proof whereof shall lie upon him, makes or has knowingly in his possession any die or instrument capable of making the impression of any such stamp; or
- (3) fraudulently cuts, tears in any way, or removes from any material any stamp used for purposes of revenue or accounting by the Government, with intent that another use shall be made of such stamp or any part thereof; or
- (4) fraudulently mutilates any such stamp as last aforesaid, with intent that another use shall be made of such stamp; or
- (5) fraudulently fixes or places upon any material or upon any such stamp as last aforesaid any stamp or part of a stamp which, whether fraudulently or not, has been cut, torn or in any way removed from any other material or out of or from any other stamp; or
- (6) fraudulently erases or otherwise either really or apparently removes from any stamped material any name, sum, date or other matter or thing whatsoever written thereon with the intent that another use shall be made of the stamp upon such material; or
- (7) knowingly and without lawful excuse, the proof whereof shall lie upon him, has in his possession any stamp or part of a stamp which has been fraudulently cut, torn, or otherwise removed from any material, or any stamp which has been fraudulently mutilated, or any stamped material out of which any name, sum, date or other matter or thing has been fraudulently erased or otherwise really or apparently removed.

liable to imprisonment for seven years.

Imprison-
ment for
seven years.

Uttering
false
documents.

328. Any person who knowingly and fraudulently utters a false document is guilty of an offence of the same kind and is liable to the same punishment as if he had forged the thing in question.

Uttering
cancelled or
exhausted
documents.

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

Procuring
execution of
documents
by false
pretences.

330. Any person who, by means of any false and fraudulent representations as to the nature, contents or operation of a document, procures another to sign or execute the document, is guilty of an offence of the same kind, and is liable to the same punishment, as if he had forged the document.

Obliterating
crossings
on cheques.

331. Any person who, with intent to defraud or deceive—

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

is guilty of a felony, and is liable to imprisonment for seven years.

Making
documents
without
authority.

332. Any person who, with intent to defraud or deceive—

- (1) without lawful authority or excuse, makes, signs or executes for or in the name or on account of another person, whether by procuration or otherwise, any document or writing; or
- (2) knowingly utters any document or writing so made, signed or executed by another person;

is guilty of a felony, and is liable to imprisonment for seven years.

Demanding
property
upon forged
testamentary
instruments.

333. Any person who procures the delivery or payment to himself or any other person of any property or money by virtue of any probate or letters of administration granted upon a forged testamentary instrument, knowing the testamentary instrument to have been

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fraud or deceive—

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of another person, whether
document or writing; or
writing so made, signed

imprisonment for seven years.

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money by virtue of any
instrument or upon a forged testamentary
instrument to have been

forged, or upon or by virtue of any probate or letters of admini-
stration obtained by false evidence, knowing the grant to have been
so obtained, is guilty of an offence of the same kind, and is liable to
the same punishment, as if he had forged the document or thing
by virtue whereof he procures the delivery or payment.

334. Any person who, without lawful authority or excuse, the
proof of which lies on him, purchases or receives from any person,
or has in his possession, a forged bank note or currency note,
whether filled up or in blank, knowing it to be forged, is guilty of a
felony, and is liable to imprisonment for seven years.

Purchasing
forged notes.

335. Any person who, being employed in the public service,
knowingly and with intent to defraud makes out or delivers to any
person a warrant for the payment of any money payable by public
authority, for a greater or less amount than that to which the person
on whose behalf the warrant is made out is entitled, is guilty of a
felony, and is liable to imprisonment for seven years.

Falsifying
warrant for
money
payable
under public
authority.

336. Any person who, having the actual custody of any register
of record kept by lawful authority, knowingly permits any entry
in which any material particular is to his knowledge false, to be
made in the register or record, is guilty of a felony, and is liable to
imprisonment for seven years.

Falsification
of register.

337. Any person who signs or transmits to a person authorised
by law to register marriages a certificate of marriage or any docu-
ment purporting to be a certificate of marriage, which in any
material particular is to his knowledge false, is guilty of a felony, and
is liable to imprisonment for seven years.

Sending
false
certificate of
marriage to
registrars.

338. Any person who knowingly, and with intent to procure the
same to be inserted in a register of births, deaths or marriages,
makes any false statement, touching any matter required by law to
be registered in any such register, is guilty of a felony, and is liable
to imprisonment for three years.

False state-
ments for
registers
of births,
deaths and
marriages.

CHAPTER XXXVI.—OFFENCES RELATING TO COIN

Definitions.

339. In this Chapter—

the term "coin" includes any coin coined in any of Her Majesty's mints, or lawfully current by virtue of any order in council, Act, proclamation or otherwise in The Gambia or in any part of the Commonwealth, and any coin of a foreign Sovereign or State;

the term "counterfeit coin" means coin not genuine but resembling or apparently intended to resemble or pass for genuine coin, and includes genuine coin prepared or altered so as to pass for coin of a higher denomination.

Counter-
feiting coin.

340. Any person who makes or begins to make any counterfeit coin is guilty of a felony, and is liable to imprisonment for life.

Preparations
for coining.

341. Any person who—

- (1) gilds or silvers any piece of metal of a fit size or figure to be coined, with intent that it shall be coined into counterfeit coin; or
- (2) makes any piece of metal into a fit size or figure to facilitate the coining from it of any counterfeit coin, with intent that such counterfeit coin shall be made from it; or
- (3) without lawful authority or excuse, the proof of which lies on him—

(a) buys, sells, receives, pays, or disposes of any counterfeit coin at a lower rate than it imports or is apparently intended to import, or offers to do any such thing; or

(b) makes or mends, or begins or prepares to make or mend, or has in his possession, or disposes of any stamp or mould which is adapted to make the resemblance of both or either of the sides of any coin, or any part of either side thereof, knowing the same to be a stamp or mould, or tool so adapted; or

(c) makes or mends, or begins or prepares to make or mend, or has in his possession, or disposes of any tool, instrument

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RELATING TO COIN

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or altered so as to pass for

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imprisonment for life.

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ment or machine which is adapted and intended to be used
for marking coin round the edges with marks or figures
apparently resembling those on the edges of any coin,
knowing the same to be so adapted and intended; or

(d) makes or mends, or begins or prepares to make or
mend, or has in his possession, or disposes of any press for
coinage, or any tool, instrument or machine which is adapted
for cutting round blanks out of gold, silver or other metal,
knowing such press, tool, instrument, or machine to have
been used or to be intended to be used for making any
counterfeit coin;

is guilty of a felony, and is liable to imprisonment for life.

342. (1) Any person who, without lawful authority or excuse
the proof of which lies on him, either orally or in writing makes
inquiries of any other person, whether in The Gambia or outside
The Gambia,—

Unlawful
inquiries
relating to
the possibility
of uttering
counterfeit
coin.

(a) as to obtaining or supplying or as to the cost of obtaining or
supplying any press, tool, instrument, machine or material
for the making of any counterfeit coin or for the moulding or
making the resemblance of both or either of the sides of any
coin, or any part of either side thereof, or for marking coin
round the edges with marks or figures apparently resembling
those on the edges of any coin, or for cutting round blanks
out of gold, silver or other metal or mixture of metals knowing
or having reasonable cause to believe that such blanks shall
be or are intended to be used for making any counterfeit
coin; or

(b) as to the cost of making or otherwise reproducing or marking
as aforesaid any counterfeit coin; or

(c) as to whether such other person or any other person is or
would be prepared to supply, obtain, make, reproduce or
mark as aforesaid any counterfeit coin;

shall be guilty of a misdemeanour and liable to imprisonment for
one year.

(2) In the case of written inquiries in connection with any of the
matters or subjects to which subsection (1) relates, the fact that such

inquiries were reduced into writing shall be sufficient proof of an attempt to commit the offence and the offender shall be subject to a like penalty as if he had committed the offence.

Clipping.

343. Any person who deals with any coin in such a manner as to diminish its weight with intent that when so dealt with it may pass as coin, is guilty of a felony, and is liable to imprisonment for seven years.

Possession of clippings.

344. Any person who unlawfully has in his possession or disposes of any filings, or clippings of gold or silver, or any gold or silver in bullion, dust, solution, or any other state, obtained by dealing with gold or silver coin in such a manner as to diminish its weight, knowing the same to have been so obtained, is guilty of a felony, and is liable to imprisonment for seven years.

Uttering counterfeit coin.

345. Any person who utters any counterfeit coin, knowing it to be counterfeit, is guilty of a misdemeanour.

Repeated uttering.

346. Any person who—

- (1) utters any counterfeit coin knowing it to be counterfeit and at the time of such uttering has in his possession any other counterfeit coin; or
- (2) utters any counterfeit coin knowing it to be counterfeit, and either on the same day or on any of the ten days next ensuing utters any other counterfeit coin knowing it to be counterfeit; or
- (3) has in his possession three or more pieces of counterfeit coin, knowing them to be counterfeit and with intent to utter any of them;

is guilty of a felony, and is liable to imprisonment for three years.

Uttering medal as coin.

347. Any person who, with intent to defraud, utters as and for coin any medal or piece of metal, is guilty of a misdemeanour, and is liable to imprisonment for one year.

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348. Any person who, without lawful authority or excuse the proof of which lies on him, makes or has in his possession for sale, or offers for sale, or sells, any medal, cast, coin, or any other like thing made wholly or partially of metal, or any metallic combination and resembling in size, figure, and colour, any coin or having thereon a device resembling any device on any coin, or being so formed that it can be gilding, silvering, colouring, washing, or other like process, be so dealt with as to resemble any coin, is guilty of a misdemeanour and is liable to imprisonment for one year.

Making,
etc., medals
resembling
coin.

349. Any person who, without lawful authority or excuse the proof of which lies on him—

- (a) imports or receives into The Gambia any counterfeit coin whatever, knowing it to be counterfeit; or
- (b) exports or puts on board of a vessel or vehicle of any kind for the purpose of being exported from The Gambia, any counterfeit coin whatever, knowing it to be counterfeit;

is guilty of a felony, and is liable to imprisonment for fourteen years.

Importing
or exporting
counterfeit.
coin.

350. When any person is convicted of an offence under this Chapter, or the last preceding Chapter, the court may order the forfeiture to Her Majesty of any forged bank note or currency note or of any counterfeit coin or any stamp, mould, tool, instrument, machine, press, or any coin, bullion or metal used or employed in the commission of any such offence.

Forfeiture.

CHAPTER XXXVII.—COUNTERFEIT STAMPS

351. Any person who, without lawful authority or excuse, the proof of which lies on him—

- (a) makes or mends, or begins or prepares to make or mend, or uses, or knowingly has in his possession or disposes of any die, plate or instrument capable of making an impression resembling that made by any die, plate or instrument used for the purpose of making any stamp, whether impressed or adhesive, which is used for the purposes of the public revenue or of the Posts and Telecommunications Department in The

Possession
of die used
for purpose
of making
stamps.

Gambia or in any part of the Commonwealth, or any foreign country, or capable of producing in or on paper any words, figures, letters, marks, or lines resembling any words, figures, letters, marks or lines used in or on any paper specially provided by the proper authority for any such purpose; or

- (2) knowingly has in his possession or disposes of any paper or other material which has on it the impression of any such die, plate or instrument, or any paper which has on it or in it any such words, figures, letters, marks or lines as aforesaid; or
- (3) fraudulently, and with intent that use may be made of any such stamp as aforesaid, or of any part of it, removes the stamp from any material in any way whatever; or
- (4) fraudulently, and with intent that use may be made of any part of such stamp, mutilates the stamp; or
- (5) fraudulently fixes or places upon any material or upon any such stamp, any stamp or part of a stamp which has been in any way removed from any other material, or out of or from any other stamp; or
- (6) fraudulently, and with intent that use may be made of any such stamp which has been already impressed upon or attached to any material, erases or otherwise removes, either really or apparently, from such material anything whatever written on it; or
- (7) knowingly has in his possession or disposes of anything obtained or prepared by any such unlawful act as aforesaid; or
- (8) fraudulently or with intent to cause loss to the Government, uses for any purpose a stamp issued by Government for the purpose of revenue, which he knows to have been before used;

is guilty of a felony, and is liable to imprisonment for seven years, and any die, plate, instrument, paper or other thing as aforesaid which is found in his possession shall be forfeited to Her Majesty.

Paper and
dies for
postage
stamps.

352. Any person who, without lawful authority or excuse, the proof of which lies on him—

- (1) makes, or begins or prepares to make, or uses for any postal

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disposes of any paper, or
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which has on it or in it any
lines as aforesaid; or

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anything whatever written

or disposes of anything
unlawful act as aforesaid

loss to the Government
by Government for the
to have been before used
imprisonment for seven years
other thing as aforesaid
forfeited to Her Majesty

authority or excuse,

like, or uses for any postal

purpose, or has in his possession, or disposes of any imitation
or representation on paper or any other material, of any
stamp used for denoting any rate of postage of The Gambia,
or of any part of the Commonwealth, or of any foreign
country; or

- (2) makes or mends, or begins or prepares to make or mend,
or uses, or has in his possession, or disposes of any die, plate,
instrument, or material for making any such imitation or
representation;

is guilty of a misdemeanour, and is liable to imprisonment for one
year, or to a fine of fifty pounds, and any stamps, and any other
such things as aforesaid, which are found in his possession, shall be
forfeited to Her Majesty.

For the purposes of this section a stamp purporting to denote a
rate of postage of any country is to be taken to be a stamp used for
postal purposes in that country until the contrary is shown.

CHAPTER XXXVIII.—PERSONATION

353. Any person who, with intent to defraud any person, falsely
represents himself to be some other person, living or dead, is guilty
of a misdemeanour.

Personation
in general.

If the representation is that the offender is a person entitled by
will or operation of law to any specific property and he commits
the offence to obtain such property or possession thereof, he is liable
to imprisonment for seven years.

354. Any person who, without lawful authority or excuse, the
proof of which lies on him, makes, in the name of any other person,
before any court or person lawfully authorised to take such an
acknowledgement, an acknowledgement of liability of any kind, or
an acknowledgement of a deed or other instrument, is guilty of a
misdemeanour.

Falsely
acknowledg-
ing deeds,
recognis-
ances, etc.

355. Any person who utters any document which has been issued
by lawful authority to another person, and whereby that other person
is entitled to be a person possessed of any qualification recognised

Personation
of a person
named in a
certificate.

by law for any purpose, or to be the holder of any office, or to be entitled to exercise any profession, trade, or business, or to be entitled to any right or privilege, or to enjoy any rank or status, and falsely represents himself to be the person named in the document, is guilty of an offence of the same kind and is liable to the same punishment as if he had forged the document.

Lending,
etc.,
certificate for
personation.

356. Any person who, being a person to whom any document has been issued by lawful authority whereby he is certified to be a person possessed of any qualification recognised by law for any purpose, or to be the holder of any office or to be entitled to exercise any profession, trade or business, or to be entitled to any right or privilege, or to enjoy any rank or status, sells, gives, or lends the document to another person with intent that that other person may represent himself to be the person named therein, is guilty of a misdemeanour.

Personation
of person
named in a
testimonial
of
character.

357. Any person who, for the purpose of obtaining any employment, utters any document of the nature of a testimonial of character given to another person, is guilty of a misdemeanour, and is liable to imprisonment for one year.

Lending,
etc.,
testimonial
for
personation.

358. Any person who, being a person to whom any such document as is mentioned in the last preceding section has been given, gives, sells, or lends such document to another person with the intent that that other person may utter such document for the purpose of obtaining any employment, is guilty of a misdemeanour.

CHAPTER XXXIX.—SECRET COMMISSIONS AND CORRUPT PRACTICES

Interpret-
ation.

359. (1) For the purpose of this Chapter, the expression "consideration" includes valuable consideration of any kind; the expression "agent" includes any person employed by or acting for another; and the expression "principal" includes an employer.

(2) A person serving under the Crown or under any municipal council or board or under any other public body having power to impose rates or entrusted with the expenditure of any Government

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funds or grants, and a member of any such municipal council or
board or other public body is an agent within the meaning of this
Chapter.

360. If any agent corruptly accepts or obtains, or agrees to accept
or attempts to obtain, from any person, for himself or for any other
person, any gift or consideration as an inducement or reward for
doing or forbearing to do or for having done or forborne to do, any
act in relation to his principal's affairs or business or for showing
or forbearing to show favour or disfavour to any person in relation
to his principal's affairs or business; or

Corrupt
practices.

if any person corruptly gives or agrees to give or offers any gift
or consideration to any agent as an inducement or reward for doing
or forbearing to do, or for having done or forborne to do, any act in
relation to his principal's affairs or business, or for showing or
forbearing to show favour or disfavour to any person in relation to
his principal's affairs or business; or

if any person knowingly gives to any agent, or if any agent
knowingly uses with intent to deceive his principal, any receipt,
account or other document in respect of which the principal is
interested, and which contains any statement which is false or
erroneous or defective in any material particular, and which to his
knowledge is intended to mislead the principal,

he shall be guilty of a misdemeanour, and shall be liable on
conviction to imprisonment for a term not exceeding two years or
to a fine not exceeding one thousand pounds, or to both such
imprisonment and such fine.

361. Any person convicted of an offence under this Chapter shall,
where the matter or transaction in relation to which the offence was
committed was a contract or a proposal for a contract with the
Government or any Government department or a municipal council
or board or other public body having power to impose rates or
entrusted with the expenditure of any Government funds or grants,
to a sub-contract to execute any work comprised in such contract,
be liable to imprisonment for seven years, or to a fine of one
thousand pounds, or to both such fine and such imprisonment.

Secret
commission
on
Government
contracts.

Presumption
as to corrupt
practices.

362. Where in any proceedings against a person for an offence under this Chapter it is proved that any money, gift or other consideration has been paid or given to or received by a person in the employment of the Crown or any Government department or a municipal council or board or other public body having power to impose rates or entrusted with the expenditure of any Government funds or grants, by or from a person or agent of a person holding or seeking to obtain a contract from the Crown or any Government Department or municipal or local government council or board or other public body having power to impose rates or entrusted with the expenditure of any Government funds or grants, the money, gift or consideration shall be deemed to have been paid or given and received corruptly as such inducement or reward as is mentioned in this Chapter, unless the contrary is proved.

Consent to
prosecution.

363. A prosecution for an offence under this Chapter shall not be instituted without the consent of the Attorney-General.

Division VIII.—Attempts and Conspiracies to Commit Crimes

CHAPTER XL.—ATTEMPTS

Attempt
defined.

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

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

It is immaterial that by reason of circumstances not known to the offender it is impossible in fact to commit the offence.

Attempts to
commit
offences.

365. Any person who attempts to commit a felony or misdemeanour is guilty of an offence, which, unless otherwise stated, is a misdemeanour.

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this Chapter shall not be the General.

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cumstances not known to mit the offence.

commit a felony or mis unless otherwise stated,

366. Any person who attempts to commit a felony of such a kind that a person convicted of it is liable to the punishment of death or imprisonment for a term of fourteen years or upwards, with or without other punishment, is guilty of a felony, and is liable, if no other punishment is provided, to imprisonment for seven years.

Punishment of attempts to commit certain felonies.

367. Every person who, knowing that a person designs to commit or is committing a felony, fails to use all reasonable means to prevent the commission or completion thereof, is guilty of a misdemeanour.

Neglect to prevent felony.

CHAPTER XLI.—CONSPIRACIES

368. Any person who conspires with another to commit any felony, or to do any act in any part of the world which if done in The Gambia would be a felony, and which is an offence under the laws in force in the place where it is proposed to be done, is guilty of a felony, and is liable, if no other punishment is provided, to imprisonment for seven years, or, if the greatest punishment to which a person convicted of the felony in question is liable is less than imprisonment for seven years, then to such lesser punishment.

Conspiracy to commit felony.

369. Any person who conspires with another to commit a misdemeanour, or to do any act in any part of the world which if done in The Gambia would be a misdemeanour, and which is an offence under the laws in force in the place where it is proposed to be done, is guilty of a misdemeanour.

Conspiracy to commit misdemeanour.

370. Any person who conspires with another to effect any of the purposes following, that is to say—

Other conspiracies.

- (1) to prevent or defeat the execution or enforcement of any Act; or
- (2) to cause any injury to the person or reputation of any person or to depreciate the value of any property of any person; or
- (3) to prevent or obstruct the free and lawful disposition of any property by the owner thereof for its fair value; or
- (4) to injure any person in his trade or profession; or

- (5) to prevent or obstruct, by means of any act or acts which if done by an individual person would constitute an offence on his part, the free and lawful exercise by any person of his trade, profession, or occupation; or
- (6) to effect any unlawful purpose; or
- (7) to effect any lawful purpose by any unlawful means;

is guilty of a misdemeanour.

SUBSIDIARY LEGISLATION

(No subsidiary legislation)

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