

# ACTS OF GHANA

## FIRST REPUBLIC

### CRIMINAL CODE, 1960 (ACT 29)

(Consolidated up to 1999.

THE CRIMINAL CODE (AMENDMENT) ACT, 2003 (ACT 646).

#### ARRANGEMENT OF SECTIONS

Section

#### PART I—GENERAL PROVISIONS

##### CHAPTER 1—PRELIMINARY MATTERS

1. Interpretation
2. Provisions Relating to a Company and its Officers
3. Definition of Public Officer, etc.
4. General Rules of Construction
5. Application of Part I to Other Offences
6. Jurisdiction Over Territorial Waters
7. Acts done Partly Beyond the Jurisdiction
8. Exclusion of Common Law
9. Offences under more than one Enactment
10. Saving for Contempt of Court

##### CHAPTER 2—GENERAL EXPLANATIONS

11. Provisions Relating to Intent
12. Provisions Relating to Negligence
13. Provisions Relating to Causing an Event
14. Provisions relating to consent
15. Provisions relating to claim of right
16. Provisions relating to fraud
17. Provisions relating to the meaning and use of threats

##### CHAPTER 3—ATTEMPTS TO COMMIT CRIMINAL

18. Provisions relating to attempts to commit crimes
19. Preparation for committing certain crimes

##### CHAPTER 4—ABETMENT AND CONSPIRACY

20. Abetment of crime, and trial and punishment of abettor
21. Cases where one crime is abetted and a different crime is committed
22. Duty to prevent a felony

23. Conspiracy
24. Punishment for conspiracy
25. Harboursing criminal

#### CHAPTER 5—GENERAL EXEMPTIONS

26. When an infant is incapable of committing crime
27. When an insane person is entitled to special verdict
28. Criminal liability of intoxicated person
29. Ignorance or mistake of fact or of law

#### PART II—OFFENCES AGAINST THE PERSON

##### CHAPTER I—JUSTIFIABLE FORCE AND HARM

30. Justification for force or harm
31. Grounds on which force or harm may be justified
32. General limits of justifiable force or harm
33. Use of force by authority of enactment
34. Use of force in execution of sentence or order of a Court
35. Use of force by peace officer, or by judicial or official authority for preservation of order
36. Use of force in arrest, detention or recapture of any person according to law.
37. Use of force for prevention of, or defence against, crime, etc.
38. Unlawful fights.
39. Use of force for defence of property or possession overcoming obstruction of legal right.
40. Use of force for preserving order on board a vessel.
41. Use of force in correcting a child, servant, or other similar person for misconduct.
42. Use of force in case of consent of the person against whom it is used
43. Use of force against third person interfering in case of justifiable use of force
44. Use of additional force for the exercise of justifiable force.
45. Justification of person aiding another in use of justifiable force
46. Murder
47. Definition of murder
48. Attempt to commit murder
49. Attempt to commit murder by convict
- 49A. Genocide
50. Manslaughter
51. Definition of manslaughter
52. Cases in which intentional homicide is reduced to manslaughter.
53. Matters which amount to provocation
54. Cases in which benefit of provocation is excluded
55. Mistake as to matter or provocation
56. Mistake as to person giving provocation
- Suicide and Abortion
57. Abetment of suicide attempted suicide
58. Abortion
59. Explanation as to causing abortion
- Causing Harm to Child at Birth and Concealment of Birth
60. Causing harm to child at birth

61. Explanation as to causing harm to child at birth
62. Concealment of body of child
63. Explanation as to concealment of body of child
64. Special Provisions as to causing death
65. Special provision as to abetment of homicide
66. Explanation as to a child as the object of homicide
67. Saving in case of medical or surgical treatment
68. Special provision as to jurisdiction in case of homicide

#### CHAPTER 3—CRIMINAL HARM TO THE PERSON

69. Causing harm
- 69A. Female circumcision
70. Use of offensive weapon
71. Exposing child to harm
72. Negligently causing harm
73. Person in charge of dangerous thing; surgeon, etc., negligently causing harm or danger.
74. Threat of harm
75. Threat of death
76. Definition of unlawful harm
77. Explanation as to causing harm by omission
78. Cases in which a person is under duty to prevent harm to another.
79. Cases of duty to give another person access to necessaries of health and life.
80. Explanation as to offence, etc.
81. Exceptions from general provisions as to causing an event
82. Special provision as to medical or surgical treatment
83. Causing harm by hindering escape from wreck, etc.

#### CHAPTER 4—ASSAULT AND SIMILAR OFFENCES

84. Assault
85. Different kinds of assault
86. Definition of and provision relating to assault and battery
87. Definition of and provisions relating to assault without actual battery.
88. Definition of and provision relating to imprisonment
- 88A. Cruel customs or practices in relation to bereaved spouses, etc.

#### CHAPTER 5—KIDNAPPING, ABDUCTION AND SIMILAR OFFENCES

89. Kidnapping
90. Definition of kidnapping
91. Abduction of child under eighteen
92. Definition of abduction
93. Child-stealing
94. Definition of child-stealing
95. Special provision as to child-stealing and abduction
96. Abandonment of infant

#### CHAPTER 6—SEXUAL OFFENCES

97. Rape
98. Definition of rape
99. Evidence of carnal knowledge.
100. Effect of void or voidable marriage with respect to consent
101. Defilement of child under sixteen years of age
102. Carnal knowledge
103. Indecent assault
104. Unnatural carnal knowledge
105. Incest
106. Householder, permitting defilement of child on his premises
107. Procuration
108. Causing or encouraging the seduction or prostitution of a child under sixteen.
109. Compulsion of marriage
110. Custody of child under sixteen years of age
111. Power of search for child detained for immoral purpose

#### CHAPTER 7—LIBEL

112. Negligent and intentional libel
113. Cases in which a person is guilty of libel
114. Definition of defamatory matter
115. Definition of publication
116. Definition of unlawful publication
117. When publication of defamatory matter is absolutely privileged.
118. When publication of defamatory matter is conditionally privileged.
119. Explanation as to good faith

#### PART III—OFFENCES AGAINST RIGHTS OF PROPERTY

##### CHAPTER 1—OFFENCES INVOLVING DISHONESTY

###### General Provisions

120. Explanation as to dishonest appropriation
121. Provisions relating to part owners
122. Acts which amount to appropriation
123. Things in respect of which stealing, etc., can be committed

###### Stealing

124. Stealing
125. Definition of stealing
126. Consent by wife in case of stealing
127. Explanation as to stealing of thing found

###### Fraudulent Breach of Trust

128. Fraudulent breach of trust
129. Definition of fraudulent breach of trust
130. Explanation as to a gratuitous trustee

###### False Pretences and Other Frauds

131. Defrauding by false pretence
132. Definition of defrauding by false pretences
133. Definition of and provisions relating to a false pretence

134. Explanation as to personation
135. Provisions relating to fictitious trading
136. Distinction between stealing and false pretences
137. Charlatanic advertisements in newspapers
138. Fraud as to weights and measures
139. Improper removal of or dealing with stamps on postal matter, etc.
140. Falsification of accounts, etc.
141. Fraud in sale or mortgage of land
142. Fraud as to boundaries or documents
143. Fraud as to thing pledged or taken in execution
144. Fraud in removing goods to evade legal process
145. Fraud by agents

#### Receiving

146. Dishonestly receiving property obtained or appropriated by offence.
147. Explanation as to dishonest receiving
148. Having possession of stolen, etc., property.

#### Robbery and Extortion

149. Robbery
150. Definition of robbery
151. Extortion

#### Unlawful entry, etc.

152. Unlawful entry
153. Explanation as to unlawful entry
154. Instruments intended or adapted for unlawful entry
155. Being on premises for unlawful purpose
156. Definition of owner and occupier
157. Trespass

### CHAPTER 2—FORGERY

158. Forgery of judicial or official document
159. Forgery of other documents
160. Forging hall mark on gold or silver plate, or bullion
161. Forging trade mark, etc.
162. Forgery of and other offences relating to stamps
163. Definition of trade mark and official document
164. Special provisions relating to forgery
165. Being in possession of means of forging
166. Possessing forged documents, etc.
167. Explanation as to possession or doing any act with respect to document or stamp.
168. Definition of counterfeiting
169. Uttering forged documents, etc.
170. Imitation of forged document, etc., need not be perfect
171. Special provision as to jurisdiction

### CHAPTER 3—UNLAWFUL DAMAGE

172. Causing unlawful damage

- 173. Definition of damage
- 174. Explanation of unlawful damage
- 175. Explanation as to amount of damage
- 176. Poisoning or using dynamite in river
- 177. Construction of repairs endangering train, vessel or aircraft
- 178. Intentionally endangering train, vessel or aircraft
- 179. Interference with signal, etc.
- 179A. Causing loss, damage or injury to property
- 179B. Import of explosives
- 179C. Using public office for profit
- 179D. Penalty

PART IV—OFFENCES AGAINST PUBLIC ORDER, HEALTH AND MORALITY  
CHAPTER 1—OFFENCES AGAINST THE SAFETY OF THE STATE

- 180. Treason
- 181. Misprison of treason
- 182. Treason felony
- 182A. Power to prohibit certain organisations
- 183. Power to prohibit importation or publication of newspaper: sedition, etc.
- 183A. Limitation on institution of proceedings
- 183B. Offence and penalty for unqualified persons sitting or voting in Parliament.
- 184. Insulting the National Flag and emblem
- 185. False reports injuring the reputation of the State
- 186. Aiding or permitting escape of prisoner of war
- 187. Abetment of mutiny, or desertion, or assault by sailor, soldier or airman.
- 188. Abetment of insubordination by sailor, etc.
- 189. Unlawful training
- 190. Evasion of naval, military or air service
- 191. Taking or administering unlawful oath
- 192. Possession of Explosives, Firearms and Ammunition without Lawful Excuse

CHAPTER 2—PIRACY

- 193. Piracy
- 194. Punishment for piracy
- 195. Hijacking and attack on international communications

CHAPTER 3—OFFENCES AGAINST THE PEACE

- 196. Definition of riot
- 197. Definition of violence
- 198. Riot
- 199. Rioting with weapons
- 200. Provocation of riot
- 201. Definition of unlawful assembly
- 202. Unlawful assembly
- 202A. Forcible entry
- 203. Challenging or agreeing to fight with weapons
- 204. Disturbance of lawful assembly
- 205. Assault, etc., on public officer

- 206. Carrying offensive weapons
- 207. Offensive conduct conducive to breaches of peace
- 208. Publication of false news with intent to cause fear and alarm
- 209. Discharging guns, etc., in town

#### CHAPTER 4—OFFENCES CONCERNING THE ADMINISTRATION OF JUSTICE

##### Perjury and similar Offences

- 210. Perjury
  - 211. Definition of perjury
  - 212. Special explanation as to perjury
  - 213. Fabrication of evidence
  - 214. Definition of fabrication
  - 215. Deceit of Court by personation, etc.
  - 216. Deceit by paper resembling Court process
  - 217. Causing witness to disobey summons
  - 218. Causing person to refrain from giving evidence on criminal trial
  - 219. Disobedience to summons as witness
- ##### Interference with legal proceedings
- 220. Hindrance of inquest
  - 221. Neglect to hold inquest
  - 222. Violence against judges, etc., in legal proceeding
  - 223. Disturbance of Court
  - 224. Insulting Court
  - 225. Exciting prejudice as to proceeding pending in Court
- ##### Rescue, Escape, Compounding Crime, etc.
- 226. Resisting arrest and rescue
  - 227. Prison officer accessory to breaches of discipline

228. Smuggling things into prison, etc.

229. Interference with prisoners outside prison

230. Prison officer leaving prisoner when outside prison, etc.

231. Oppression by prison officer

232. Preventing execution of person sentenced to death

233. Advertising a reward for the return of stolen property, etc.

234. Compounding a crime

235. Definition of compounding

#### CHAPTER 5—OFFENCES RELATING TO PUBLIC OFFICES AND TO PUBLIC ELECTIONS

236. Refusal to serve in public office
237. Falsely pretending to be public officer or juror, etc.
238. Proof of falsity of pretence
239. Corruption, etc., of and by public officer or juror
240. Explanation as to corruption by public officer, etc.
241. Explanation as to corruption of public officer, etc.
242. Special explanation as to corruption of and by public officer, etc.
243. Corrupt agreement for lawful act
244. Acceptance of bribe by public officer, etc., after act done
245. Promise of bribe to public officer, etc., after act done
246. Explanation as to oppression
247. Explanation as to extortion
248. Making false declaration, etc., for office or voting
249. Giving of false certificate by public officer
250. Destruction, etc., of document by public officer
251. Deceiving a public officer
252. Accepting or giving bribe to influence public officer or juror
253. Corrupt promise by judicial officer or juror
254. Corrupt selection of juror
255. Prevention, etc., of election by force, etc.
256. Corruption, intimidation and personation in respect of election.
257. Definition of intimidation
258. Falsification of return at election



259. Explanation as to an election

260. Withholding of public money, etc., by public officer

261. Definition of valuable consideration

## CHAPTER 6—BIGAMY AND SIMILAR OFFENCES

262. Bigamy

263. Definition of and special provision as to bigamy

264. Marriage with a person previously married

265. Marriage under customary law

266. Fictitious marriage

267. Personation in marriage

268. Unlawfully performing marriage ceremony

269. Making false declaration, etc., for marriage

270. False pretence of impediment to marriage

271. Wilful neglect of duty to fill up or transmit certificate of marriage.

272. Mode of proving marriage or divorce

## CHAPTER 7—OFFENCES AGAINST PUBLIC MORALS

Brothels, Prostitution, etc.

273. Allowing persons under sixteen to be in brothels

274. Persons trading in prostitution

275. Keeping a brothel

276. Offences by prostitutes

277. Provisions as to offence under section 276

278. Gross indecency

278A. Immoral or Indecent Customs or practices in relations to bereaved Spouses, etc.

279. Definitions

Obscenity

280. Publication or sale of obscene book, etc.

281. Further offences relating to obscenity

282. Indecent or obscene pictures or printed or written matter

283. Persons sending others to do the act punishable under section 282.

284. Advertisements as to syphilis, etc., declared indecent

## CHAPTER 8—PUBLIC NUISANCES

Hindering Burials, etc.

285. Hindering burial of dead body, etc.

Unwholesome Food

286. Selling, etc., unwholesome food

Noxious Trade, etc.

287. Carrying on noxious trade, and other interference with public rights.

288. Explanation as to carrying on of noxious trade, etc.

289. Explanation as to obstruction of public way

Drunken, Riotous, and Disorderly Conduct

290. Habitual drunkenness

291. Expulsion from liquor shop, etc., of drunken person, etc.

292. Penalty for harbouring thieves, etc.

Drumming and Firing Guns, etc.

293. Allowing houses, etc., in town to be used for drumming

294. Drumming, etc., near Court during sitting

295. Drumming with intent to challenge or insult

Nuisances and Obstructions in Streets, and the like

296. Throwing rubbish in street and other nuisances

297. Rubbish, etc., found in front of premises deemed to have been thrown there by occupier.

298. Acts tending to disturb the peace in a public place

#### CHAPTER 9—OFFENCES RELATING TO ANIMALS

299. Taking and using cattle, etc., without consent of owner

300. Stray cattle

301. Using horse, etc., with farcy or glanders in public way, etc.

302. Destruction of dog or other animal suspected to be rabid, and penalty on owner.

303. Cruelty to animals

304. Prosecution of medical practitioners and veterinary surgeons

305. Court may order destruction of animal

306. Court may deprive person of ownership

307. Power of police to take charge of animal

308. Destruction of stray dogs

309. Destruction of aged or neglected animals

310. Interpretation

#### CHAPTER 10—MISCELLANEOUS OFFENCES

Taking Liquor on Ship

311. Taking liquor on board state ship

Letters, Telegrams, etc.

312. Letter written for illiterate person to be signed, etc., by writer

313. Sending false telegram, etc.

313A. Issue of false cheques

Slave Dealing

314. Slave dealing

314A. Prohibition of customary servitude

Trial by Ordeal

315. Unlawful trial by ordeal

316. Penalty for being present at or making poison for unlawful trial by ordeal.

Unlawful Exportation of Cocoa

317. Unlawful exportation, etc., of cocoa

317A. Smuggling of gold, diamond, etc.

PART V—CONSEQUENTIAL

318. Repeals

319. Commencement and operation of the Code

THE TWENTY-NINTH



ACT

OF THE PARLIAMENT OF THE REPUBLIC OF GHANA

ENTITLED

**THE CRIMINAL CODE, 1960**

AN ACT to consolidate and amend the law relating to criminal offences.

DATE OF ASSENT: 12th January, 1961

BE IT ENACTED by the President and the National Assembly in this present Parliament assembly as follows:

PART I—GENERAL PROVISIONS

CHAPTER 1—PRELIMINARY MATTERS

**Section 1—Interpretation**

In this Code unless the contrary intention appears—

“administer”, when used with reference to administering any substance to a person, means causing a substance to be taken or introduced into any part of a person’s body, whether with or without his knowledge or consent;

“cattle” means the male, female, or young of any animal of the following kinds, namely, any horse, mule, kine, sheep, goat, or swine, and any animal, other than a dog, which is ordinarily kept or used as a beast of burden, or for draught, or for riding, or for the production of wool or of hair;

"corporation" does not include a corporation sole;

"crime" means any act punishable by death or imprisonment or fine;

"deliver" includes causing a person to receive a thing and permitting a person to take a thing, whether directly or by any other person;

"duress" means any force, harm, constraint, or threat, used with intent to cause a person against his will to do or to abstain from doing any act;

"Engineer-in-Chief of Public Works" includes any Assistant Engineer, any District or Assistant Engineer, any Inspector, Sub-Inspector, Foreman of Works, any Surveyor, Assistant Surveyor, or Foreman of Roads;

"felony", "first degree felony" and "second degree felony" shall be construed in accordance with section 2 of the Criminal Procedure Code;

"gaoler" means the keeper or other officer having the charge of any prison;

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

"Health officer" includes the Chief Medical Officer, any other medical officer, and any person appointed as a health officer;

"indictable offence" means any offence punishable on indictment;

"judicial proceeding" includes any civil or criminal trial, and any enquiry or investigation held by a judicial officer in pursuance of any duty or authority;

"jury" includes a judge in cases where a judge, whether with or without assessors, tries a case without a jury;

"Minister" means Minister responsible for Justice;

"misdemeanour" shall be construed in accordance with section 296 of the Criminal Procedure Code;

"night" means the time between the hour of seven in the evening of any day and the hour of six in the following morning;

"offence" has the same meaning as crime;

"order" includes a conviction;

"peace officer" means any person being or acting as a constable or special constable, or lawfully acting in the aid of any such person;

"person", for the purposes of any provision of this Code relating to defrauding a person or to committing an offence against the property of any person, includes the Republic of Ghana;

expressions referring to "the public" refer not only to the citizens of the Republic as a whole but also to persons inhabiting or using any particular place or any number of such persons, and also to indeterminate persons as may happen to be affected by the conduct with reference to which the expressions are used;

"public place" 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 a payment, and any building or place which is for the time being used for any public or religious meeting, assembly, or as an open Court;

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

acts are done "publicly"—

(1) if they are so done in any public place as to be likely to be seen by any person, whether

person be or be not in a public place; or

(2) if they are so done in any place, not being a public place, as to be likely to be seen by any person in any public place;

"send" includes causing, or attempting in any manner to cause, a thing to be received by a person;

"summary offence" means any offence punishable on summary conviction under any enactment;

"town" means—

(a) the area of authority of a Municipal or Urban Council; or

(b) any place to which the Towns Ordinance applies; or

(c) any place (whether a town or not) which the Minister may by executive instrument order.

"vehicle" includes cart, bicycle, tricycle, and any other carriage on wheels;

"will" when used with respect to a document, means any testamentary document, whether the same be formal or informal, complete or incomplete.

## **Section 2—Provisions Relating to a Company and its Officers.**

(1) "Company" includes any partnership or association whether corporate or unincorporate, and whether its purposes thereof be or be not the carrying on of any trade or business, and whether it be in course of formation or be actually formed, or be in course of dissolution, winding-up, or liquidation.

(2) A company is in course of formation as soon as any act is done for the purpose of forming it; and it is immaterial whether or not it be at any time actually formed.

(3) "Officer" of a company or corporation includes any officer, chairman, director, trustee, manager, secretary, treasurer, cashier, clerk, auditor, accountant, or other person provisionally, permanently or temporarily charged with or performing any duty or function in respect of the affairs of the company or corporation, whether for or without any remuneration.

(4) "Account", when used with reference to a company or corporation, includes any book, register, balance sheet, or document in writing relating to the affairs of a company or corporation, whether such affairs be or be not the ordinary business or object of the company or corporation.

## **Section 3—Definition of Public Officer, Etc.**

(1) "Public officer" includes any person holding an office by election or appointment under any enactment or under powers conferred by any enactment.

(2) A person acting as a minister of religion or ecclesiastical officer, of whatsoever denomination, is a public officer.

officer in so far as he performs functions in respect of the notification of intended 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.

(3) "Civil office" means any public office other than an office in the armed forces.

(4) "Judicial officer" means any person executing judicial functions as a public officer.

(5) It is immaterial, for the purposes of this section, whether a person is or is not entitled to any salary or other remuneration in respect of the duties of his office.

(6) "Public election" means any election the qualification for voting at which, or the mode of voting at which, is determined or regulated by any enactment.

#### **Section 4—General Rules of Construction.**

The following general rules shall be observed in the construction of this Code, namely—

(a) This Code shall not be construed strictly, either as against the State or as against a person accused of any offence, but shall be construed amply and beneficially for giving effect to the purpose thereof;

(b) In the construction of this Code, a Court shall not be bound by any judicial decision or opinion in the construction of any other enactment, or of the common law, as to the definition of any offence or of any element of any offence; and

(c) The illustrations set out in this Code form part of the Code and may be used as aids to construction, but they are not to be taken as limiting the generality of any of its provisions.

#### **Section 5—Application of Part I to other Offences.**

Whenever under the provisions of any law for the time being in force other than this Code any offence is created, this Part shall apply, except in so far as a contrary intention appears, to the offence as if it were an offence under this Code.

#### **Section 6—Jurisdiction Over Territorial Waters**

*[Repealed by Act 372, sec. 3.]*

#### **Section 7—Acts done Partly Beyond the Jurisdiction.**

*[Repealed by Act 372, sec. 3.]*

#### **Section 8—Exclusion of Common Law.**



No person shall be liable to punishment by the common law for any act.

### **Section 9—Offences Under more than One Enactment.**

(1) Where an act constitutes an offence under two or more enactments the offender shall be liable to be prosecuted and punished under either or any of those enactments but shall not be liable to be punished twice for the same offence.

(2) This section shall not affect a right conferred by an enactment on any person to take disciplinary measures against the offender in respect of the act constituting the offence.

### **Section 10—Saving for Contempt of Court.**

Nothing in this Code shall affect the power of a Court to punish a person for contempt of Court.

## **CHAPTER 2—GENERAL EXPLANATIONS**

### **Section 11—Provisions Relating to Intent.**

(1) If a person does an act for the purpose of thereby causing or contributing to cause an event, he is presumed to cause that event, within the meaning of this Code, although either in fact or in his belief, or both, the act is unlikely to cause or to contribute to cause the event.

(2) If a person does an act voluntarily, believing that it will probably cause or contribute to cause an event, he intends to cause that event, within the meaning of this Code, although he does not do the act for the purpose of causing or of contributing to cause the event.

(3) If a person does an act of such a kind or in such a manner as that, if he used reasonable caution and observation, it would appear to him that the act would probably cause or contribute to cause an event, that there would be great risk of the act causing or contributing to cause an event, he shall be presumed to have intended to cause that event until it is shown that he believed that the act would probably not cause or contribute to cause the event, or that he did not intend to cause or contribute to it.

(4) If a person, intending to cause an event with respect to one or some of several persons or things, causes such event with respect to such indeterminate person or thing as may happen to be affected by his act, he shall be liable in the same manner as if he had intended to cause the event with respect to that person or thing.

(5) If a person does an act with intent to assault, harm, kill, or cause any other event to a particular person or thing, and his act happens to take effect, whether completely or incompletely, against a different person, he shall be liable to be tried and punished as if his intent had been directed against that different person; but no ground of defence or extenuation shall be admissible on behalf of the accused person which would not have been admissible if his act had taken effect against the person or in respect of the thing against whom the event in respect of which he intended it to take effect.

### *Illustrations*

Subsection (1). A. discharges a gun for the purpose of shooting B., and actually hits him. It is immaterial that B. was at such a distance, or in such a situation that the shot would most probably miss B.

Subsection (2). A., for the purpose of causing the miscarriage of B., administers to her a medicine which he knows to be dangerous to life. It is immaterial that he earnestly desires to avoid causing B.'s death, and that he takes every precaution to avoid causing it.

Subsection (3). A. discharges a gun among a crowd of persons, and one of them is shot. A. is presumed to have intended to cause harm, unless he can show that he had ground for believing that the harm would not be caused.

Subsection (4). A., in the last illustration, is punishable as if he had purposed to cause the harm to the person to whom it was in fact caused.

Subsection (5). A. unlawfully strikes at B., but the blow happens to miss B. and to hit a constable. A. is punishable as if he had purposed to hit the constable.

### **Section 12—Provisions Relating to Negligence.**

A person causes an event negligently if, without intending to cause the event, he causes it by voluntarily doing it without such skill and care as are reasonably necessary under the circumstances.

### *Illustrations*

(a) A., a woman having no knowledge of midwifery, acts as a midwife, and through her want of skill she causes death. Here, if A. knew that a properly qualified midwife or surgeon could be procured, the fact of A. so acting without possessing proper skill and without any necessity for so acting is evidence of negligence, although it appears that she did her best. But if the emergency was such that no properly qualified midwife or surgeon could be procured, A. is not guilty of negligence, provided she did the best she could under the circumstances.

(b) A chemist sells poison so made up as to be liable to be mistaken for a harmless medicine. This is evidence of negligence.

(c) If the law directs poisons to be sold only in bottles of a particular kind, and the chemist sells them in a common bottle, this is evidence of negligence, even though the common bottle be labeled "Poison".

(d) A., knowing a horse to be dangerously vicious, rides it through a crowd, and it becomes excited by the noise and throng, and kicks B. A. is within this section, notwithstanding that he had and used all possible skill in riding.

(e) An acrobat carries a child on a tight-rope at a great height. He happens to miss his footing and the child is killed. He is guilty of negligence, notwithstanding that he had and used all possible skill.

rope-walking.

### **Section 13—Provisions Relating to Causing an Event.**

(1) If a person intentionally or negligently causes any involuntary agent to cause an event, that person shall be deemed to have caused the event. "Involuntary agent" means any animal or other thing, and any person who is exempted from liability to punishment for causing the event, by reason of infancy, or insanity, or otherwise, under the provisions of this Code.

(2) If an event is caused by acts of several persons acting either jointly or independently, each of those persons who has intentionally or negligently contributed to cause the event shall, subject to the provisions of the next subsection, and to the provisions of this Part with respect to abetment, be deemed to have caused the event; but any matter of exemption, justification, extenuation, or aggravation which exists in the case of any one of those persons shall have effect in his case, whether it exists or not in the case of any of the other persons.

(3) A person shall not be convicted of having intentionally or negligently caused an event if, notwithstanding his act and the acts of any person acting jointly with him, the event would not have happened but for the existence of some state of facts or the intervention of some other event or of some other person, the probability of the existence or intervention of which other event or person the accused person did not take into consideration, and had no reason to take into consideration. The provision shall not apply where a person is charged with having caused an event by an omission to perform a duty for averting the event.

(4) If a person beyond the jurisdiction of the Courts causes any voluntary agent to cause an event within the jurisdiction, he shall be deemed to have caused the event within the jurisdiction.

(5) Subject to the provisions of this section, and to the special provisions of any particular section of this Code, it is a question of fact whether an event is fairly and reasonably to be ascribed to a person's conduct having been caused thereby.

(6) A person shall not, by reason of anything in this section, be relieved from any liability in respect of an attempt to cause an event; and a person shall not, by reason of anything in this section, be relieved from any liability in respect of negligent conduct, if such negligent conduct is punishable under this Code irrespective of whether it actually causes any event.

#### *Illustrations*

Subsection (1) (a) A. gives poisoned sweetmeats to a child, who eats some and gives the rest to his other children. A. has poisoned the first child and also the other children.

(b) "A. induces a child under twelve years to steal a thing for him. A has stolen the thing."

(c) A. induces a madman to kill himself. A. has killed the madman.

(d) A. causes a dog to harm B. A. has caused the harm to B.

Subsection (2) A railway collision is caused partly by the neglect of A., a station master, to signal a train; partly by neglect of B., a pointsman, to arrange the points; partly by the carelessness of C., D., E., and F., the drivers and guards of the train. A., B., C., D., E., and F. have each caused the collision, although it would not have happened if any one of them had used proper skill and care.

Subsection (3) (a) A. rides a vicious horse in a crowd. B. wantonly strikes the horse, and it kicks C. In this case, B., and not A., has caused the harm to C.

(b) A., who is a signal-man improperly leaves his post. B., who is a trespasser, in A.'s absence unlawfully alerts the signals, and a collision ensues. A. is punishable as for having negligently caused the collision by omission to attend to his duty. B. is also punishable for having intentionally and negligently caused the collision.

Subsection (4) A., in Lagos, posts a letter to B. in Accra, borrowing money from B. on the credit of a bill of exchange which A. by the letter falsely represents that he has shipped for B. B. sends the money on the faith of the representation. A. has defrauded B. in Accra.

Subsection (6) A. shoots from a distance at B., who is on horseback, with the intent to maim him. B.'s horse is startled by the shot and throws B., who is killed by the fall. Here, by the reason of the rule in subsection (3), A cannot be convicted of having intentionally or negligently killed B. (unless he expected, or had reason to expect, that B.'s horse would be startled). But A. is punishable for his attempt to kill B.

## **Section 14—Provisions Relating to Consent.**

In construing any provision of this Code by which it is required for a criminal act or criminal intent that a certain thing should be done or intended to be done without a person's consent, or by which it is required for a justification or exemption that an act should be done with a person's consent, the following rules shall be observed, namely—

(a) a consent is void if the person giving it is under twelve years of age, or in the case of a child or a young person involving a sexual offence, sixteen years, or is, by reason of insanity or of immaturity, or of any other cause, unable to understand the nature or consequences of the act to which he consents".

(b) a consent is void if it is obtained by means of deceit or of duress;

(c) a consent is void if it is obtained by the undue exercise of any official, parental, or any other authority; and any such authority which is exercised otherwise than in good faith for the purpose for which it is allowed by law, shall be deemed to be unduly exercised;

(d) a consent is given on behalf of a person by his parent, guardian, or any other person authorized by law to give or refuse consent on his behalf, is void if it is given otherwise than in good faith for the benefit of the person on whose behalf it is given;

(e) a consent is no effect if it is given by reason of a fundamental mistake of fact;

- (f) a consent shall be deemed to have been obtained by means of deceit or of duress, or by undue exercise of authority, or to have been given by reason of a mistake of fact, if it would have been refused but for such deceit, duress, exercise of authority, or mistake, as the case may be;
- (g) for the purposes of this section, exercise of authority is not limited to exercise of authority by command, but includes influence or advice purporting to be used or given by virtue of an authority;
- (h) a person shall not be prejudiced by the invalidity of any consent if he did not know, and could not by the exercise of reasonable diligence have known, of the invalidity.

### *Illustrations*

- (a) "A. induces a person in a state of incapacity from idiocy or intoxication, or a child under twelve years of age to consent to his hair being cut off by A. Such consent is void.
- (b) A. by pretending to have the consent of a child's father, or under pretence of medical treatment or by threats of imprisonment, induces a child to consent to sexual intercourse. Such consent is void".
- (c) A. cruelly beats a child. It is no defence for A. that the child's father authorised the beating or that the child's father, by the exercise of his parental authority, induced the child to consent to the beating.
- (d) A. the Chairman of a Company, consents to B. drawing money from the Company to which A. knows he has no right. If A. does not honestly believe his action is in the interests of the Company the consent is void, and B. is guilty of stealing unless he has acted in good faith.
- (e) A. induces a woman to consent to his having carnal knowledge of her by personating her husband. Her consent is void.

### **Section 15—Provisions Relating to Claim of Right.**

*A claim of right means a claim of right in good faith.*

### **Section 16—Provisions Relating to Fraud.**

For the purposes of any provision of this Code by which any forgery, falsification, or other unlawful act is punishable if used or done with intent to defraud, an intent to defraud means an intent to cause, by means of such forgery, falsification, or other unlawful act, any gain capable of being measured in money, or the possibility of any such gain, to any person at the expense or to the loss of any other person.

### *Illustrations*

- (a) A. unlawfully alters B.'s will so as to increase or reduce the amount of the legacy left by B. Here A. is guilty of forgery with intent to defraud although A. may have no interest in the matter.
- (b) A. unlawfully alters the date on a bill exchange, for the purpose of postponing the time at which the bill is payable.

he or any other person may be called upon to pay it. Since such postponement may be a gain to such other person, A. is guilty of forgery with intent to defraud.

(c) A. forges B.'s signature to a deed, not for the purpose of gain to himself or to any other person but for the purpose of falsely charging C. with the forgery. Here A. is not guilty of forgery with intent to defraud, but he is liable to be punished for fabricating evidence.

### **Section 17—Provisions Relating to the Meaning and Use of Threats**

(1) In this Code, unless the context otherwise requires, "threat" means

(a) any threat of criminal force or harm; or

(b) any threat of criminal damage to property; or

(c) any threat of libel or of slander; or

(d) any threat that a person shall be prosecuted on a charge of having committed any offence, whether such alleged offence is punishable under this Code or under any other enactment, whether it has or has not been committed.

(e) any threat that a person shall be detained.

(2) Any expression in this Code referring to a threat includes any offer to abstain from doing, or to persuade any other person to abstain from doing, anything the threat of which is a threat of any of the kinds mentioned in the section before mentioned.

(3) It is immaterial whether a threat be that the matter thereof will be executed by the person using the threat or against or in relation to the person to whom the threat is used, or by, or against, or in relation to another person.

(4) It is immaterial whether a threat or offer is conveyed to any person by words, or by writing, or in any other manner, and whether it is conveyed directly, or through any other person, or in any other manner.

## **CHAPTER 3—ATTEMPTS TO COMMIT CRIMES**

### **Section 18—Provisions Relating to Attempts to Commit Crimes.**

(1) A person who attempts to commit a crime by any means shall not be acquitted on the ground that the means used are imperfect, or by reason of the imperfection or other condition of the means, or by reason of the circumstances under which they are used, or by reason of any circumstances affecting the person against whom, or the thing in relation to which the crime is intended to be committed or by reason of the absence of that person or thing, or that the crime could not be committed to his intent.

(2) Every person who attempts to commit a crime shall, be deemed guilty of an attempt, and shall, except as otherwise expressly provided, be punishable in the same manner as if the crime had been committed.

completed.

(3) Where any act amounts to a complete crime, as defined by any provision of this Code, and is an attempt to commit some other crime, a person who is guilty of it shall be liable to be convicted and punished either under such provision or under this section.

(4) Any provision of this Code with respect to intent, exemption, justification, or extenuation, or any other matter in the case of any act, shall apply with the necessary modifications to the case of an attempt to commit that act.

### *Illustrations*

Subsection (1) (a) A. buys poison and brings it into B.'s room, intending there to mix it with B.'s drink. A. does not attempt to poison B. But if A. begins to mix it with B.'s drink, though A. afterwards alters his mind and throws away the mixture, he is guilty of an attempt.

(b) A. points a gun, believing it to be loaded, and meaning immediately to discharge it at B. A. is guilty of an attempt, although the gun is not in fact loaded.

(c) A. puts his hand into B.'s pocket, with the purpose of stealing. A. is guilty of an attempt, although there is nothing in the pocket.

(d) A. performs an operation on B. with a view to causing abortion. A. is guilty of an attempt, although B. is not in fact with child.

## **Section 19—Preparation for Committing Certain Crimes.**

Every person who prepares or supplies, or has in his possession, custody, or control, or in the possession, custody or control of any other person on his behalf, any instruments, materials, or means, with the intention that the instruments, materials, or means, may be used by him, or by any other person, in committing a crime by which life is likely to be endangered, or any forgery, or any felony shall be liable to punishment in like manner as if he had attempted to commit that crime.

## **CHAPTER 4—ABETMENT AND CONSPIRACY**

### **Section 20—Abetment of Crime and Trial and Punishment of Abettor.**

(1) Every person who, directly or indirectly, instigates, commands, counsels, procures, solicits, or in any manner purposely aids, facilitates, encourages, or promotes, whether by his act or presence or otherwise, the commission of a crime by any other person, whether known or unknown, certain or uncertain, is guilty of abetting that crime, and of abetting the other person in respect of that crime.

(2) Every person who abets a crime shall, if the crime is actually committed in pursuance or during the continuance of the abetment, be deemed guilty of that crime.

(3) Every person who abets a crime shall, if the crime is not actually committed, be punishable as if the crime had been committed; that is to say—

(a) where the crime abetted was punishable by death the abettor shall be liable to imprisonment for life; and

(b) in any other case the abettor shall be punishable in the same manner as if the crime had been actually committed in pursuance of the abetment.

(4) An abettor may be tried before, with, or after a person abetted, and although the person abetted is not or is otherwise not amenable to justice.

(5) An abettor may be tried before, with, or after any other abettor, whether he and such other abettor abetted each other in respect of the crime or not, and whether they abetted the same or different parts of the crime.

(6) An abettor shall have the benefit of any matter of exemption, justification, or extenuation to which the person abetted is entitled under this Code, notwithstanding that the person abetted or any other abettor is not entitled to such like benefit.

(7) Every person who, within the jurisdiction of the Courts, abets the doing beyond the jurisdiction of the Courts of an act which, if done within the jurisdiction, would be a crime, shall be punishable as if he had abetted that crime.

### *Illustrations*

Subsection (1) (a) A. encourages B. to commit a murder. Here A. is guilty of abetting murder.

(b) A. offers B. ₵20,000 to assault C. Here A. is guilty of abetting an assault on C.

(c) A. and B. are fighting unlawfully. C. and others hinder a peace officer from stopping the fight. C. and the others are guilty of abetting the fight.

Subsection (3) A. encourages B. to commit unlawful entry. B. attempts to commit the unlawful entry but is discovered and arrested. Here A. is punishable as if he had committed the unlawful entry.

Subsection (7) A. unlawfully strikes B. and B. and others immediately set upon A., and beat him so that he dies. Here, if the blow struck by A. was such as to be a provocation to B. (section 53), B. may be guilty of manslaughter, although the others may be guilty of murder.

Subsection (8) A., being in Accra, incites B. to carry a ship to sea and scuttle her, with intent to defraud the underwriters. A. is liable under this provision.

### **Section 21—Cases where One Crime is Abetted and a Different Crime is Committed.**

(1) Where a person abets a particular crime, or abets a crime against or in respect of a particular person or thing and the person abetted actually commits a different crime, or commits the crime against or in respect of a particular person or thing, the abettor shall be punishable as if he had abetted that crime.



of a different person or thing, or in a manner different from that which was intended by the abettor, the following provisions shall have effect—

(a) if it appears that the crime actually committed was not a probable consequence of the end intended to be committed, nor was substantially the same as the crime which the abettor intended to abet, nor was within the scope of the abetment, the abettor shall be punishable for his abetment of the crime which he intended to abet in the manner provided by this Chapter with respect to the abetment of crimes which are not actually committed;

and

(b) in any other case, the abettor shall be deemed to have abetted the crime which was actually committed, and shall be liable to punishment accordingly.

(2) If a person abets a riot or unlawful assembly with the knowledge that unlawful violence is intended to be used, he is guilty of abetting violence of any kind or degree which is committed by any person in executing the purposes of the riot or assembly, although he did not expressly intend that violence of that kind or degree.

### *Illustrations*

Subsection (1)(a) A. incites B. to commit robbery by threats, without violence on C. B., in attempting to commit the robbery, is resisted, and murders C. Here A. is guilty only of abetting robbery, and not of murder.

(b) A. incites B. to steal a horse. B., in pursuance of the incitement, gets the horse by false pretences. Here A. is guilty of abetting the crime which B. has committed.

Subsection (2)—Persons assemble together for the purpose of breaking open a prison and releasing a prisoner by force. Some of them are armed. If murder is committed by one of these in breaking open the prison, all persons, whether armed or not, who took part in or otherwise abetted the breaking open of the prison, are guilty of abetting murder, if they knew that arms were carried and were intended to be used.

### **Section 22—Duty to Prevent Felony.**

Every person who, knowing that a person designs to commit or is committing a felony, fails to take reasonable means to prevent the commission or completing thereof, is guilty of a misdemeanour.

### **Section 23—Conspiracy.**

(1) If two or more persons agree or act together with a common purpose for or in committing or abetting a crime, whether with or without any previous concert or deliberation, each of them is guilty of conspiracy to commit or abet that crime, as the case may be.

(2) A person within the jurisdiction of the Courts, can be guilty of conspiracy by agreeing with a person who is beyond the jurisdiction, for the commission or abetment of any crime to be committed by

or either of them, or by any other person, either within or beyond the jurisdiction; and for the purposes of this subsection as to a crime to be committed beyond the jurisdiction, 'crime' means any act which, if done within the jurisdiction, would be a crime under this Code or under any other enactment.

### *Illustrations*

Subsection (1)(a) If a lawful assembly is violently disturbed (section 204), any persons who take part in the disturbance are guilty of conspiracy to disturb it, although they may not have personally committed any act of violence, and although they do not act in pursuance of any previous concert or deliberation.

(b) A. and B. agree together to procure C. to commit a crime. Here A. and B. are both guilty of conspiracy to abet that crime.

Subsection (2). A. in Accra and B. in Lagos agree and arrange by letter for the scuttling of a ship on the high seas, with intent to defraud the underwriters. Here A. is guilty of a conspiracy punishable under this Code.

## **Section 24—Punishment for Conspiracy.**

(1) If two or more persons are guilty of conspiracy for the commission or abetment of any crime, each of them shall, in case the crime is committed, be punished for that crime, or shall, in case the crime is not committed, be punished as if he had abetted that crime.

(2) Any Court having jurisdiction to try a person for a crime shall have jurisdiction to try a person or persons charged with conspiracy to commit or abet that crime.

## **Section 25—Harbouring Criminal.**

Whoever, knowingly or having reason to believe that any person has committed or has been convicted of any crime, aids, conceals, or harbours such persons, with the purpose of enabling him to avoid lawful arrest or the execution of his sentence, shall be guilty of a misdemeanour.

## **Section 26—When a Child is Incapable of Committing Crime.**

Nothing is a crime which is done by a person under twelve years of age.

### *Illustration*

A., aged eleven years administers poison to B. A. is deemed not criminally responsible and consequently is incapable of understanding the consequences of his actions from a legal perspective.

## **Section 27—When an Insane Person is Entitled to Special Verdict.**

When a person is accused of crime, the special verdict provided by the Criminal Procedure Code in the case of insanity shall only be applicable—

(a) if he was prevented, by reason of idiocy, imbecility, or any mental derangement or other

affecting the mind, from knowing the nature or consequences of the act in respect of which he is accused; or

(b) if he did the act in respect of which he is accused under the influence of an insane delusion of such a nature as to render him, in the opinion of the jury or of the Court, an unfit subject for punishment of any kind in respect of such act.

### *Illustrations*

Paragraph (a)(1)—If a person by reason of idiocy is incapable of knowing that his act will cause death, the special verdict is applicable to such case.

(2) If a person commits homicide by reason of such a paroxysm of madness as at the time to make him incapable of considering that murder is a crime, the special verdict is applicable to such case.

(3) The special verdict is not applicable merely because it is proved that by reason of mental derangement the accused has a propensity to homicide.

Paragraph (b)(1) A. kills B. by reason of an insane delusion that B. is attempting to kill A. Here the jury may be justified in finding that A. is not a fit subject for punishment.

(2) A. is subject to insane delusions. In an interval of freedom these delusions A. kills B. Here the jury is not to take into account the fact that at other times A. was subject to delusions.

### **Section 28—Criminal Liability of Intoxicated Person.**

(1) Save as provided in this section, intoxication is not a defence to any criminal charge.

(2) Intoxication is a defence to a criminal charge if by reason thereof a person charged at the time of the offence did not know that the act was wrong or did not know what he is 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 the act.

(3) Where the defence under subsection (2) is established, then in a case falling under paragraph (a) the accused person shall be discharged, and in case falling under paragraph (b) the special verdict provided by the Criminal Procedure Code in the case of insanity shall apply.

(4) Intoxication shall be taken into account for the purpose of determining whether the person charged 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 natural causes.

or drugs.

### **Section 29—Ignorance or Mistake of Fact or of Law.**

(1) A person shall not be punished for any act which, by reason of ignorance or mistake of fact in good faith, he believes to be lawful.

(2) A person shall not, except as in this Code otherwise expressly provided, be exempt from liability or punishment for any act on the ground of ignorance that the act is prohibited by law.

#### *Illustrations*

Subsection (2) A., in defending himself against an assault uses greater violence than is justifiable under the provisions of Chapter 1 of Part II. Here A. cannot excuse himself on the ground that he did not know that his violence to be unlawful.

## **PART II—OFFENCES AGAINST THE PERSON**

### **CHAPTER 1—JUSTIFIABLE FORCE AND HARM**

#### **Section 30—Justification for Force or Harm.**

(1) For the purposes of this Code, force or harm is justifiable which is used or caused in pursuance of a legal right, in a matter of justification, and within such limits, as are hereafter in this Chapter mentioned.

(2) Throughout the remainder of this Chapter, expressions applying to the use of force apply also to the causing of harm, although force only may be expressly mentioned.

#### **Section 31—Grounds on which Force or Harm May be Justified.**

Force may be justified in the cases and manner, subject to the conditions, hereinafter in this Chapter mentioned, on the ground of any of the following matters, namely—

- (a) express authority given by an enactment; or
- (b) authority to execute the lawful sentence or order of a Court; or
- (c) the authority of an officer to keep the peace or of a Court to preserve order; or
- (d) authority to arrest and detain for felony; or
- (e) authority to arrest, detain, or search a person otherwise than for felony; or
- (f) necessity for prevention of or defence against crime; or
- (g) necessity for defence of property or possession or for overcoming the obstruction to the exercise of a legal right.

of lawful rights; or

(h) necessity for preserving order on board a vessel; or

(i) authority to correct a child, servant, or other similar person, for misconduct; or

(j) the consent of the person against whom the force is used.

### **Section 32—General Limits of Justifiable Force or Harm.**

Notwithstanding the existence of any matter of justification for force, force cannot be justified as having been used in pursuance of that matter—

(a) which is in excess of the limits hereinafter prescribed in the section of this Chapter relating to that matter; or

(b) which in any case extends beyond the amount and kind of force reasonably necessary for the purpose for which force is permitted to be used.

### **Section 33—Use of Force by Authority of Enactment.**

Whoever is authorised by an enactment to use force may justify the use of necessary force according to the terms and conditions of his authority.

### **Section 34—Use of Force in Execution of Sentence or Order of a Court.**

Whoever is authorised to execute any lawful sentence or order of a Court may justify the force mentioned in the sentence or order.

### **Section 35—Use of Force by Peace Officer, or by Judicial or Official Authority, for Preservation of Order.**

Whoever is authorised as a peace officer, or in any judicial or official capacity, to keep the peace or preserve the order at any place, or to remove or exclude a person from any place, or to use force for any similar purpose, may justify the execution of his authority by any necessary force.

### **Section 36—Use of Force in Arrest, Detention, or Recapture of any Person According to Law.**

Whoever by law may, with or without warrant or other legal process, arrest and detain another person, and the other person, having notice or believing that he is lawfully arrested, avoids arrest by resistance or escapes or endeavours to escape from custody, use any force which is necessary for his arrest, detention, or recapture, and may, if the arrest is made in respect of a felony, kill him, if he cannot by any other means be arrested, detained, or retaken.

### **Section 37—Use of Force for Prevention of or Defence Against Crime, Etc.**

For the prevention of, or for the defence of himself or any other person against any crime, or for the suppression or dispersion of a riotous or unlawful assembly, a person may justify any force or harm which is reasonably necessary extending in case of extreme necessity, even to killing.

### **Section 38—Unlawful Fights.**

No force used in an unlawful fight can be justified under any provision of this Code; and every fight is unlawful in which a person engages, or which he maintains, otherwise than solely in pursuance of one of the matters of justification specified in this Chapter.

### **Section 39—Use of Force for Defence of Property or Possession or Overcoming Obstruction of Legal Right.**

A person may justify the use of force for the defence of property or possession, or for overcoming any obstruction to the exercise of any legal right, as follows—

- (a) a person in actual possession of a house, land, or vessel, or goods, or his servant or any other person authorised by him, may use such force as is reasonably necessary for repelling a person who attempts forcibly and unlawfully to enter the house, land, or vessel, or to take possession of the goods;
- (b) a person in actual possession of a house, land, or vessel, or his servant or any other person authorised by him, may use such force as is reasonably necessary for removing a person who is in or on the house, land, or vessel, and having been lawfully required to depart therefrom refuses to depart;
- (c) if a person wrongfully takes possession of or detains goods, any other person who, as against him, has a present right to the possession of them, may, upon his refusal to deliver up the goods on demand, use such force, by himself or by any other person, as is reasonably necessary for recovering possession of the goods; and
- (d) a person may use such force, as is reasonably necessary for overcoming any obstruction to the exercise by him of any legal right.

### **Section 40—Use of Force for Preserving Order on Board a Vessel.**

The master of a vessel, or any person acting by his order, may justify the use of any such force against any person on board the vessel as is necessary for suppressing any mutiny or disorder on board the vessel, whether among officers, seamen, or passengers, whereby the safety of the vessel, or of any person on board, or about to enter or quitting it, is likely to be endangered, or the master is threatened to be subjected to the commands of any other persons; and may kill any person who is guilty of or abets any mutiny or disorder on board the vessel, or the preservation of any person as aforesaid, cannot by any means be otherwise secured.

### **Section 41—Use of Force in Correcting a Child, Servant, or Other Similar Person for Misconduct.**

A blow or other force, may be justified for the purpose of correction, as follows—

- (a) a father or mother may correct his or her legitimate or illegitimate child, being under sixteen years of age, or any guardian, or person acting as a guardian, his ward, being under sixteen years of age, for misconduct or disobedience to any lawful command.
- (b) a master may correct his servant or apprentice, being under sixteen years of age, for misconduct or default in his duty as such servant or apprentice;
- (c) *repealed by Act 183, section 320(2).*
- (d) a father or mother or guardian, or a person acting as a guardian, may delegate to any person whom he or she entrusts permanently or temporarily with the governance or custody of his or her child, or ward all his or her own authority for correction, including the power to determine in what cases correction ought to be inflicted; and such delegation shall be presumed, except in so far as it may be expressly withheld, in the case of a schoolmaster, or a person acting as a schoolmaster, in respect of a child or ward;
- (e) a person who is authorised to inflict correction as in this section mentioned may, in any particular case delegate to any fit person the infliction of such correction; and
- (f) no correction can be justified which is unreasonable in kind or in degree, regard being had to the age and physical and mental condition of the person on whom it is inflicted; and no correction can be justified in the case of a person who, by reason of tender years or otherwise, is incapable of understanding the purpose for which it is inflicted.

#### **Section 42—Use of Force in Case of Consent of the Person Against whom it is Used.**

The use of force against a person may be justified on the ground of his consent, but—

- (a) the killing of a person cannot be justified on the ground of consent;
- (b) a wound or grievous harm cannot be justified on the ground of consent, unless the consent is freely given, and the wound or harm is caused, in good faith, for the purposes or in the course of medical or surgical treatment.
- (c) consent to the use of force for the purposes of medical or surgical treatment does not extend to any improper or negligent treatment.
- (d) consent to the use of force against a person for purposes of medical or surgical treatment or otherwise for his benefit may be given against his will by his father or mother or guardian or a person acting as his guardian, if he is under eighteen years of age, or by any person lawfully having the custody of him if he is insane or is a prisoner in any prison or reformatory, and, when so given on his behalf, cannot be revoked by him;
- (e) if a person is intoxicated or insensible, or is from any cause unable to give or withhold consent,

any force is justifiable which is used, in good faith and without negligence, for the purposes of medical or surgical treatment or otherwise for his benefit, unless some person authorised by him or by his next of kin give or refuse consent on his behalf dissents from the use of that force;

(f) a party to a fight whether lawful or unlawful, cannot justify, on the ground of the consent of another party, any force which he uses with intent to cause harm to the other party; and

(g) a person may revoke any consent which he has given to the use of force against him, and any consent when so revoked shall have no effect for justifying force; save that the consent given by a husband or wife at marriage, for the purposes of marriage, cannot be revoked until the parties are divorced or separated by a judgment or decree of a competent Court.

### **Section 43—Use of Force Against Third Person Interfering in Case of Justifiable Use of Force.**

Every person who, in justifiably using force against another person, is obstructed or resisted by a third person, may in any case use such force against the third person, as is reasonably necessary for overcoming the obstruction or resistance; and may, if the obstruction or resistance amounts to a crime or to abetting a crime, use force in accordance with the provisions of this Chapter with respect to the use of force in cases of necessity for preventing crime.

### **Section 44—Use of Additional Force for Exercise of Justifiable Force.**

Every person who is authorised to use force of a particular kind against a person may further use such force, or further use such additional force, as is reasonably necessary for the execution of his authority.

### **Section 45—Justification of Person Aiding Another Person in Use of Justifiable Force.**

Every person who aids another person in a justifiable use of force is justified to the same extent and on the same conditions as the other person.

## **CHAPTER 2—CRIMINAL HOMICIDE AND SIMILAR OFFENCES**

### *Murder and Manslaughter, Etc.*

### **Section 46—Murder.**

Whoever commits murder shall be liable to suffer death.

### **Section 47—Definition of Murder.**

Whoever intentionally causes the death of another person by any unlawful harm is guilty of murder, but his crime is reduced to manslaughter by reason of such extreme provocation, or other matter of excuse, as mentioned in section 52.

### **Section 48—Attempt to Commit Murder.**



Whoever attempts to commit murder shall be guilty of first degree felony.

**Section 49—Attempt to Commit Murder by Convict.**

Whoever, being under sentence of imprisonment for three years or more, attempts to commit murder shall be liable to suffer death.

**Section 49A—Genocide.**

(1) Whoever commits genocide shall on conviction be sentenced to death.

(2) A person commits genocide where with intent to destroy, in whole or in part any national, ethnical, racial or religious group he—

- (a) kills members of the group;
- (b) causes serious bodily or mental harm to members of the group;
- (c) deliberately inflicts on the group conditions of life calculated to bring its physical destruction in whole or in part;
- (d) imposes measures intended to prevent births within the group; or
- (e) forcibly transfers children of the group to another group.

**Section 50—Manslaughter.**

Whoever commits manslaughter shall be guilty of first degree felony.

**Section 51—Definition of Manslaughter.**

Whoever causes the death of another person by any unlawful harm shall be guilty of manslaughter. Provided that if the harm causing death is caused by negligence he shall not be guilty of manslaughter unless the negligence amounts to a reckless disregard for human life.

**Section 52—Cases in which Intentional Homicide is Reduced to Manslaughter.**

A person who intentionally causes the death of another person by unlawful harm shall be guilty of manslaughter, and not of murder or attempt to murder, if—

- (a) he was deprived of the power of self-control by such extreme provocation given by the other person as is mentioned in succeeding sections; or
- (b) he was justified in causing some harm to the other person, and, in causing harm in excess of that harm which he was justified in causing, he acted from such terror of immediate death or grievous bodily harm as to deprive him of self-control.

harm as in fact deprived him for the time being of the power of self-control; or

(c) in causing the death, he acted in the belief, in good faith and on reasonable grounds, that he was under a legal duty to cause the death or to do the act which he did; or

(d) being a woman she caused the death of her child, being a child under the age of twelve months at a time when the balance of her mind was disturbed by reason of her not 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.

### *Illustration*

Paragraph (c)—A soldier is ordered by his commanding officer to fire upon a mob, there being no need for such an order to be given. Here, if the soldier in good faith believed himself bound to obey the order, he is not guilty of murder, but is guilty of manslaughter.

### **Section 53—Matters which Amount to Provocation.**

The following matters may amount to extreme provocation to one person to cause the death of another person namely—

(a) an unlawful assault and battery committed upon the accused person by the other person, or an unlawful fight or otherwise, which is of such a kind, either in respect of its violence or by reason of the accompanying words, gestures, or other circumstances of insult or aggravation, as to be likely to deprive a person, being of ordinary character and being in the circumstances in which the accused person was, of the power of self-control;

(b) the assumption by the other person, at the commencement of an unlawful fight, of an assault manifesting an intention of instantly attacking the accused person with deadly or dangerous means in a deadly manner.

(c) an act of adultery committed in the view of the accused person with or by his wife or her husband or the crime of unnatural carnal knowledge committed in his or her view upon his or her wife or husband, or child; and

(d) a violent assault and battery committed in the view or presence of the accused person upon his or her wife, husband, child, or parent, or upon any other person being in the presence and in the charge of the accused person.

### **Section 54—Cases in which Benefits of Provocation is Excluded.**

(1) Notwithstanding proof on behalf of the accused person of any matter of extreme provocation, the defence shall not be thereby reduced to manslaughter if it appears—

(a) that he was not in fact deprived of the power of self-control by the provocation; or

(b) that he acted wholly or partly from a previous intention to cause death or harm or to engage in an unlawful fight, whether or not he would have acted on that purpose at the time or in the manner in which he did act but for the provocation; or

(c) that, after the provocation was given, and before he did that act which caused the harm, a sufficient time elapsed or such circumstances occurred that an ordinary person might have recovered his self-control; or

(d) that he acted on a manner, in respect either of the instrument or means used or of the manner or in other manner in which it was used, in which no ordinary person would, under the circumstances, have been likely to act.

For the purposes of this subsection "an ordinary person" means an ordinary person of the community in which the accused belongs.

(2) Where a person, in the course of a fight, uses any deadly or dangerous means against an adversary who has not used or commenced to use any deadly or dangerous means against him, if it appears that the accused person intended or prepared to use such means before he had received any such blow or hurt in the fight as might be a sufficient provocation to use means of that kind, he shall be presumed to have used the means from a previous intention to cause death, notwithstanding that, before the actual use of the means, he may have received any such blow or hurt in the fight as might amount to extreme provocation.

### *Illustrations*

(a) Subsection (1)(b), A., who has long been seeking an occasion to fight in a deadly manner with B., is struck by B., and kills B. Here, if the jury think that A. put himself in B's way for the purpose of obtaining any opportunity which might occur to fight with B., the crime of A. is not reduced to manslaughter by reason of the blow which he received from B.

(b) A., receives a slight blow from a weaker man B., and beats and kicks B. to death. A.'s crime is not reduced to manslaughter.

### **Section 55—Mistake as to Matter or Provocation.**

A lawful blow, arrest, or other violence may be a provocation, notwithstanding its lawfulness, if the accused person neither believed, nor, at the time of his act, had reasonable means of knowing or reasonable grounds for supposing that it was lawful.

### **Section 56—Mistakes as to Person Giving Provocation.**

Where a sufficient provocation has been given to the accused person by one person, and he kills another person under the belief, on reasonable grounds, that the provocation was given by him, the provocation shall be admissible for reducing the crime to manslaughter in the same manner as if it had been given by the person killed; but, except, as in this section mentioned, provocation given by one person is not provocation to kill a different person.

*Suicide and Abortion*

**Section 57—Abetment of Suicide. Attempted Suicide.**

- (1) Whoever abets the commission of suicide by any person shall whether or not the suicide be a committed, be guilty of first degree felony.
- (2) Whoever attempts to commit suicide shall be guilty of a misdemeanour.

**Section 58—Abortion or Miscarriage.**

- (1) Subject to the provisions of subsection (2) of this section—
- (a) any woman who with intent to cause abortion or miscarriage administers to herself or consents to be administered to her any poison, drug or other noxious thing or uses any instrument or other means whatsoever; or
  - (b) any person who—
    - (i) administers to a woman any poison, drug or other noxious thing or uses any instrument or other means whatsoever with the intent to cause abortion or miscarriage, whether or not the woman is pregnant or has given her consent;
    - (ii) induces a woman to cause or consent to causing abortion or miscarriage;
    - (iii) aids and abets a woman to cause abortion or miscarriage;
    - (iv) attempts to cause abortion or miscarriage; or
    - (v) supplies or procures any poison, drug, instrument or other thing knowing that it is intended to be used or employed to cause abortion or miscarriage,

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

(2) It is not an offence under subsection (1) of this section if an abortion or a miscarriage is caused in any of the following circumstances by a registered medical practitioner specialising in gynaecology or any other registered medical practitioner in a Government hospital or in a private hospital or clinic registered under the Private Hospitals and Maternity Homes Act, 1958 (No. 9) or in a place approved for the purpose by a legislative instrument made by the Secretary:

- (a) where the pregnancy is the result of rape, defilement of a female idiot or incest and the abortion or miscarriage is requested by the victim or her next of kin or the person in loco parentis, if she lacks the capacity to make such request;
- (b) where the continuance of the pregnancy would involve risk to the life of the pregnant woman or injury to her physical or mental health and such woman consents to it or if she lacks the capacity to make such request.

give such consent it is given on her behalf by her next of kin or the person in loco parentis; or

(c) where there is substantial risk that if the child were born, it may suffer from, or later develop, a serious physical abnormality or disease.

(3) For purposes of this section "abortion or miscarriage" means the premature expulsion or removal of a conception from the uterus or womb before the period of gestation is completed.

### **Section 59—Explanation as to Causing Abortion.**

Not repealed by P.N.D.C.L. 102.

### *Causing Harm to Child at Birth and Concealment of Birth*

### **Section 60—Causing Harm to Child at Birth.**

Whoever intentionally and unlawfully causes harm to a living child during the time of its birth shall be guilty of a second degree felony.

### **Section 61—Explanation as to Causing Harm to Child at Birth.**

(1) Where harm is caused to a child during the time of its birth, or where, upon the discovery of a concealed body of the child, harm is found to have been caused to it, such harm shall be presumed to have been caused to the child before its death.

(2) The time of birth includes the whole period from the commencement of labour until the time when the child so becomes a person that it may be murder or manslaughter to cause its death.

### **Section 62—Concealment of Body of Child.**

Whoever conceals the body of a child, whether such child was born alive or not, with intent to conceal the fact of its birth, existence, or death, or the manner or cause of its death, shall be guilty of misdemeanor.

### **Section 63—Explanation as to Concealment of Body of Child.**

(1) Any secret disposition of the body of a child, whether it be intended to be permanent or not, may constitute a concealment.

(2) The abandonment of the body of a child in any public place may be a concealment, if the body is abandoned for the purpose of concealing the fact of its birth or existence.

(3) Section 62 shall not apply to the case of a child of less than six months growth before its birth.

(4) Section 62 shall not apply to the case of intent to conceal the birth, existence, or death of a child, or the manner or cause of its death, from any particular person or persons only, but it is requisite that there be an intent to conceal the same from all persons, except such persons as abet or consent

concealment.

(5) Section 62 applies to the mother of the child as to any other person.

### *Illustrations*

Subsection (4)(a): A woman conceals from her father or mother the body of her child. She is not guilty of concealment of birth unless she intended to conceal it from persons, generally.

(b) a woman conceals the body of her child from all persons except a nurse who helped her in the concealment. The woman is guilty of concealment of birth notwithstanding that she did not conceal it from her accomplice.

### *Special Provisions Relating to Homicide, Etc*

#### **Section 64—Special Provisions as to Causing Death.**

The general provisions of Part I with respect to causing an event are, in their application with respect to causing of death by harm, subject to the following explanations and modifications, namely—

(a) the death of a person shall be held to have been caused by harm if, by reason of the harm, the death has happened otherwise or sooner, by however short a time, than it would probably have happened but for the harm;

(b) it is immaterial that the harm would not have caused the person's death but for his infancy, age, disease, intoxication, or other state of body or mind, at the time when the harm was caused;

(c) it is immaterial that the harm would not have caused the person's death but for his refusal or neglect to submit to or seek proper medical or surgical treatment, or but for his negligent or improper conduct or manner of living or of treating the harm, unless the person so acting was guilty of a voluntary or reckless disregard of his own health or condition;

(d) death shall be held to have been caused by harm if the death is caused by the medical or surgical treatment of the harm, unless such treatment is grossly negligent or unless the death could not have been foreseen as a likely consequence of the treatment; and

(e) death shall not be held to have been caused by harm unless the death takes place within a year and a day of the harm being caused.

#### **Section 65—Special Provision as to Abetment of Homicide.**

The general provisions of Part I with respect to abetment are, in their application for the purposes of this Chapter, subject to the following special provision, namely, where a person commands the killing of another person, knowing that the killing will be unlawful, then, although the offence of the person commanded is reduced to manslaughter, or to an attempt to commit manslaughter, by his belief that he was under a legal duty to obey the command, the person giving the command is guilty of the same offence as if the

commanded had not believed himself to be under a legal duty to obey the command.

### **Section 66—Explanation as to a Child as the Object of Homicide.**

(1) In order that a child may be such a person that it may be murder or manslaughter to cause its death, it is necessary that, before its death, the child should have been completely brought forth alive from the body of the mother.

(2) It is not necessary either that a circulation of blood, independent of the mother's circulation, should have commenced in the child, or that the child should have breathed, or that it should have been detached from the mother by severance of the umbilical cord; and it is murder or manslaughter, as the case may be, if the cause of death happens to a child after it becomes a person, within the meaning of this section, by the harm caused to it before it became such a person.

### **Section 67—Saving in Case of Medical or Surgical Treatment.**

(1) Where any person does an act in good faith, for the purposes of medical or surgical treatment, and the act is intended to cause death shall not be presumed from the fact that the act was or appeared likely to cause death.

(2) Any act which is done, in good faith and without negligence, for the purposes of medical or surgical treatment of a pregnant woman is justifiable, although it causes or is intended to cause abortion, miscarriage, or premature delivery, or the death of the child.

### **Section 68—Special Provision as to Jurisdiction in Case of Homicide.**

Where harm is unlawfully caused to a person within the jurisdiction of the Court, and his death is thereby caused, but the death happens beyond the jurisdiction of the Court, any person who is guilty of causing the harm, or caused or abetted the causing of the harm may be tried and punished under this Code for murder or manslaughter as if the death had happened within the jurisdiction.

#### *Illustration*

A wounds B. in Accra. B. sails from Accra, and dies of the wounds in Lagos, A. is punishable in Accra for murder or manslaughter.

## **CHAPTER 3—CRIMINAL HARM TO THE PERSON**

### **Section 69—Causing Harm.**

Whoever intentionally and unlawfully causes harm to any person shall be guilty of second degree felony.

### **Section 69A.—Female Circumcision.**

(1) Whoever excises, infibulates or otherwise mutilates the whole or any part of the labia minora and the clitoris of another person commits an offence and shall be guilty of a second degree felony.

and liable on conviction to imprisonment of not less than three years.

(2) For the purposes of this section "excise" means to remove the prepuce, the clitoris and all or part of the labia minora; "infibulate" includes excision and the additional removal of the labia majora.

### **Section 70—Use of Offensive Weapon.**

Whoever intentionally and unlawfully causes harm to any person by the use of any offensive weapon shall be guilty of first degree felony.

### **Section 71—Exposing Child to Danger.**

(1) Whoever unlawfully—

(a) exposes a child to danger or abandons a child under twelve years; or

(b) exposes any physically or mentally handicapped child to danger or abandons a physically or mentally handicapped child in such a manner as to cause any harm to the child—

shall be guilty of a misdemeanor.

(2) Except as otherwise provided, for purposes of this Chapter, a child is a person under the age of eighteen years.

### **Section 72—Negligently Causing Harm.**

Whoever negligently and unlawfully causes harm to any person shall be guilty of a misdemeanor.

### **Section 73—Person in Charge of Dangerous thing; Surgeon, etc., Negligently Causing Harm to Person.**

Whoever—

(a) being solely or partly in charge of any steam-engine, machinery, ship, boat, or dangerous thing, negligently causes harm to any person in any matter of any kind; or

(b) having undertaken or being engaged in medical or surgical treatment of any person; or

(c) having undertaken or being engaged in the dispensing, supplying, selling, administering, or giving away of any medicine or any poisonous or dangerous matter,

negligently endangers the life of any person, shall be guilty of a misdemeanor.

### **Section 74—Threat of Harm.**

Whoever threatens any other person with unlawful harm, with intent to put that person in fear of such harm, shall be guilty of a misdemeanor.



harm, shall be guilty of a misdemeanour.

### **Section 75—Threat of Death.**

Whoever threatens any other person with death, with intent to put that person in fear of death, is guilty of a second degree felony.

### **Section 76—Definition of Unlawful Harm.**

Harm is unlawful which is intentionally or negligently caused without any of the justification mentioned in Chapter I of this Part.

### **Section 77—Explanation as to Causing Harm by Omission.**

A person causes harm by an omission, within the meaning of this Code, if harm is caused by his omission to perform any such duty for preventing harm as mentioned in section 78, and in no other case.

### **Section 78—Cases in which a Person is Under Duty to Prevent Harm to another Person.**

A person is under a duty for preventing harm to another person—

- (a) if he is under a duty, as mentioned in section 79 to supply a person with the necessaries of health and life; or
- (b) if he is otherwise under a duty, by virtue of the provisions of any enactment, or by virtue of his office or employment, or by virtue of a lawful order of any Court or person, or by virtue of a contract, agreement or undertaking, to do any act for the purpose of thereby averting harm from any person, whether ascertained or unascertained.

### **Section 79—Cases of Duty to give another Person Access to the Necessaries of Health and Life.**

(1) The following shall apply in respect of a duty to give access to the necessaries of health and life to another person— shall be determined by the court—

- (a) a spouse is under a duty to give access to the necessaries of health and life to his or her spouse, if the spouse is being actually under his or her control.
- (b) a parent is under a duty to give access to the necessaries of health and life to his child if the child is actually under his control not being of such age and capacity as to be able to obtain these necessaries;
- (c) a guardian of a child is under a duty to give access to the necessaries of health and life to his ward if the ward is actually under his control.

(2) A woman; upon being delivered of a child, whether legitimate or illegitimate, is under a duty, so far as she is able, to summon assistance and to do all such other acts as are necessary and reasonable for preventing the child from harm by exposure, exhaustion, or otherwise by reason of its condition as a newly-born child.

She is also under a duty, so far as she is able, to support and take reasonable care of the child, being her control or in her care or charge, until it can safely be weaned.

(3) A person who, by virtue of office as a gaoler, relieving officer, or otherwise, or by reason of the provisions of any enactment is bound to supply any of the necessaries of health and life to a person, is under a duty to supply them accordingly.

(4) A person who wrongfully imprisons another person is under a duty to supply him with the necessaries of health and life.

(5) A person who has agreed or undertaken to supply any of the necessaries of health and life to another person whether as his servant, apprentice, or otherwise, is under a duty to supply them accordingly.

(6) If a person is under a duty expressed in this section and he has not the means of performing that duty and there is any person or public authority bound to furnish him with the means, he is under a duty to take such reasonable steps for obtaining the means from such person or authority.

(7) If a person, being under a duty to supply any of the necessaries of health and life to another person, lawfully charges his wife, servant, or any other person with the supply of those necessaries, and furnishes the means for that purpose, the wife, servant, or other person so charged is under a duty to supply them accordingly.

(8) "Necessaries of health and life" includes proper food, clothing, shelter, warmth, medical or surgical treatment, and any other matters which are reasonably necessary for the preservation of the health and life of a person.

#### *Illustration*

Subsection (6). The father or mother of a child, having no means of providing the child with food or medical attendance, is bound to seek assistance from any officer appointed to relieve the poor, but is not bound to beg from private charity.

#### **Section 80—Explanations as to Office etc.**

(1) Where, under section 78 or 79, a duty is constituted by an office, employment, agreement, or undertaking, such a duty is sufficiently constituted in the case of a person who is actually performing the functions belonging to such an office or employment, or who is acting as if he were under such an office, employment, agreement or undertaking with respect to another person.

(2) No person is excused from liability for failure to perform a duty within the meaning of the said sections on the ground that another person is also under the same duty, whether jointly with him or independently of him, and whether on the same or on a different ground.

#### *Illustrations*

Subsection (1) (a) A deputy gaoler, even though unlawfully appointed, is under all the duties of a gaoler.

relation to his prisoners.

(b) A master is under all the duties of a master in relation to his apprentice, even though the articles of apprenticeship are void.

### **Section 81—Exceptions from General Provision as to Causing an Event.**

The general provisions of Part I with respect to causing an event are, in their application to the matters in this Chapter, subject to the following explanations and modifications, namely—

(a) a person shall not be deemed to have caused harm to another person by omitting to supply him with the necessaries of health and life, unless it is proved against him that the other person was unable, by reason of his age or physical or mental state, or by reason of control by the accused person, to obtain them, or that he could not by reasonable exertion have avoided the harm;

(b) disease or disorder which a person suffers as the inward effect of his grief, terror, or other emotion, shall not be deemed to be harm caused by another person, although such grief, terror, or emotion has been caused by him, whether with intent to cause harm or otherwise;

(c) harm which a person suffers by execution of a sentence of a Court in consequence of a prosecution instituted, prosecuted, or procured, or of evidence given or procured to be given by another person, whether in good faith or not, shall be deemed to have been caused by that person; and

(d) except as in this section expressly provided, a person is not excused from liability to punishment for causing harm to another person, on the ground that the other person, by his own treachery, negligence, act, or omission, contributed to causing the harm.

### **Section 82—Special Provision as to Medical Surgical Treatment.**

Where any person in good faith, for the purposes of medical or surgical treatment, intentionally causes harm to another person which, in the exercise of reasonable skill and care according to the circumstances of the case, he ought to have known to be plainly improper, he shall be liable to punishment as if he had caused the harm negligently, within the meaning of this Code, and not otherwise.

#### *Illustration*

A surgeon, through gross negligence, amputates a limb which there is no necessity to amputate. The surgeon is not liable to be convicted of having intentionally and unlawfully caused harm, but he is liable to be convicted of having negligently and unlawfully caused harm.

### **Section 83—Causing Harm by Hindering Escape from Wreck, etc.**

If a person intentionally hinders any other person from escaping from a wrecked vessel, or from protecting himself or any other person against harm in any case, he shall be deemed to have intended to cause harm to that person.

caused any harm which happens to that other person by reason of his being so hindered.

## CHAPTER 4—ASSAULT AND SIMILAR OFFENCES

### **Section 84—Assault.**

Whoever unlawfully assaults any person is guilty of a misdemeanour.

### **Section 85—Different Kinds of Assault.**

(1) "Assault" includes—

- (a) assault and battery;
- (b) assault without actual battery; and
- (c) imprisonment.

(2) Every assault is unlawful unless it is justified on one of the grounds mentioned in Chapter 1 of this

### **Section 86—Definition of and Provisions Relating to Assault and Battery.**

(1) A person makes an assault and battery upon another person, if without the other person's consent with the intention of causing harm, pain, or fear, or annoyance to the other person, or of exciting anger, he forcibly touches the other person, or causes any person, animal, or matter to forcibly touch h

(2) This definition is subject to the following provisions—

(a) where the consent of the other person to be forcibly touched has been obtained by deceit, it suffices with respect to intention that the touch is intended to be such as to cause harm or pain, or to excite anger, if the touch is intended to be such as, but for the consent obtained by the deceit, would have been likely to cause harm or pain, or to excite anger or to excite anger;

(b) where the other person is insensible, unconscious, or insane, or is, by reason of infancy or other circumstance, unable to give or refuse consent, it suffices, with respect to intention, either that the touch is intended to cause harm pain, fear or annoyance to him, or that the touch is intended to be such as would be likely to cause harm, pain, fear, or annoyance to him, or to excite his anger, if he were able to give or refuse consent, and were not consenting;

(c) any slightest actual touch suffices for an assault and a battery, if the intention is such as is required by this section;

(d) a person is touched, within the meaning of this section, if his body is touched, or if any cloth or other thing in contact with his body or with the clothes upon his body are or is touched, although his body is not actually touched; and

(e) for the purpose of this section, with respect to intention to cause harm, pain, fear or annoyance is immaterial whether the intention be to cause the harm, pain, fear, or annoyance by the manner of the touch itself or to forcibly expose the person, or cause him to be exposed, to harm, fear, or annoyance from any other cause.

### *Illustrations*

Subsection (1) (a) A. strikes B., or spits upon him or causes a dog to bite him, or in any manner causes to fall or be thrown upon the ground. Here, if A.'s intention was to cause harm, pain, fear or annoyance or to excite B.'s anger, A. is guilty of an assault and battery.

(b) A puts his hand on B's shoulder in order to attract the attention of B, using no unnecessary force. A is not guilty of an assault and battery.

Subsection (2) (a) A. under false pretence of surgical treatment induces B. to consent to harm or pain. A is guilty of an assault and battery.

(b) A kicks B, who is insensible. A is guilty of an assault and battery even though the kick be so light that no pain will be felt by B upon his recovering sensibility.

(c) A pushes B so as to cause him to fall into water. A is guilty of an assault and battery although the push is so slight as not of itself to be material.

### **Section 87—Definition and Provisions Relating to Assault without Actual Battery.**

(1) A person makes an assault without actual battery on another person, if by any act apparently commencing an assault and battery, he intentionally puts the other person in fear of an instant assault and battery.

(2) This definition is subject to the following provisions—

(a) it is not necessary that an actual assault and battery should be intended, or that the instrument or means by which the assault and battery is apparently intended to be made should be, or should appear to be, of such a kind or in such a condition as that an assault and battery could be made by means of them;

(b) a person can make an assault, within the meaning of this section, by moving, or causing to move, a person, animal, or matter to move, towards another person, although he or such person, animal, or matter, is not yet within such a distance from the other person as that an assault and battery could be made; and

(c) an assault can be made on a person, within the meaning of this section, although he can avoid an actual assault and battery by retreating, or by consenting to do, or to abstain from doing, any act.

### *Illustrations*

Subsection (2) (a) A. presents a pistol at B. in such a manner as to give B. reasonable ground for apprehending that he will be immediately shot. Here, A. is guilty of an assault, although A. does not fire, and although the pistol is not loaded, and although A. knows that it is not loaded.

(b) A. at a distance of 10 yards from B., runs at B. with apparent intention of striking him, intending to put B. in fear of an immediate beating. Here, A. is guilty of an assault, although he does not come within actual reach of B.

(c) A., being near B., lifts a stick and threatens that he will at once strike B., unless B. will immediately apologise. Here A has committed an assault.

### **Section 88—Definition of and Provisions Relating to Imprisonment.**

(1) A person imprisons another person if, intentionally and without the other person's consent, he detains that other person in a particular place, of whatever extent or character and whether enclosed or not, or causes him to move or be carried in any particular direction.

(2) This definition is subject to the following provision, namely, that detention or compulsion may be constituted, within the meaning of this section, either by force or by any physical obstruction to a person's escape, or by causing him to believe that he cannot depart from a place, or refuse to move or be carried in any particular direction, without overcoming force or incurring danger of harm, pain, or annoyance, or by causing him to believe that he is under legal arrest, or by causing him to believe that he will immediately be imprisoned if he does not consent to do, or to abstain from doing, any act.

#### *Illustrations*

(1) (a) A. detains B. on board a ship. Here, A imprisons B., although B. is left free within the ship; and although B. was prevented from leaving the ship until she sailed, B. is imprisoned so long as he necessarily remains on board, or reasonably continues on board the ship, even though during a part of the time he would have been free to leave there had been any means of leaving.

(2) A., by falsely pretending that B. is under arrest, prevents B. from leaving B.'s own house. Here, A. imprisons B.

### **Section 88A.—Cruel Customs or Practices in Relation to Bereaved Spouses, etc.**

(1) Whoever compels a bereaved spouse or a relative of such spouse to undergo any custom or practice that is cruel in nature shall be guilty of a misdemeanour.

(2) For the purposes of subsection (1) of this section a custom or practice shall be deemed to be of a cruel nature if it constitutes an assault within the meaning of sections 85, 86, 87 and 88 of this Act.

## **CHAPTER 5—KIDNAPPING, ABDUCTION, AND SIMILAR OFFENCES**

### **Section 89—Kidnapping.**

Whoever kidnaps any person shall be guilty of second degree felony.

### **Section 90—Definition of Kidnapping.**

A person is guilty of kidnapping—

- (a) who unlawfully imprisons any person, and takes him out of the jurisdiction of the Court, without consent;
- (b) who unlawfully imprisons any person within the jurisdiction of the Court, in such a manner as to prevent him from applying to a Court for his release or from discovering to any other person the place where he is imprisoned, or in such a manner as to prevent any person entitled to have access to him from discovering the place where he is imprisoned.

### **Section 91—Abduction of Child Under Eighteen.**

Whoever is guilty of an abduction of any child under eighteen years of age shall be guilty of misdemeanor.

### **Section 92—Definition of Abduction.**

- (1) (a) A person is guilty of abduction of a child who with intent to deprive any person entitled to possession or control of the child or with intent to cause the child to be carnally known or unnaturally carnally known by any person—
  - (i) unlawfully takes the child from the lawful possession, care or charge of any person; or
  - (ii) detains the child and prevents the child from returning to the lawful possession, care or charge of any person.
- (b) A person is guilty of abduction of a female who, with intent to cause her to be married to any person—
  - (i) unlawfully takes her from the lawful possession, care or charge of any person; or
  - (ii) detains the female and prevents her from returning to the lawful possession, care or charge of any person.
- (2) The possession, control, care, or charge of a child by a parent, guardian, or other person shall be deemed to continue, notwithstanding that the child is absent from his actual possession, control, care, or charge if the absence is for a special purpose only, and is not intended by the parent, guardian, or other person to exclude or determine such possession, control, care, or charge for the time being; but a person is not guilty of abduction by taking or detaining a child unless he knew, or had grounds for believing that the child was in the possession, control, care, or charge of some other person.

### **Section 93—Child-Stealing.**

Whoever steals any person under fourteen years of age, whether with or without his consent, shall be guilty of

of a second degree felony.

### **Section 94—Definition of Child-Stealing.**

(1) A person is guilty of stealing another person who unlawfully takes or detains him, with intent to deprive him of the possession or control of him any person entitled thereto, or with intent to steal anything upon or about his body, or with intent to cause any harm to him

(2) For the purposes of this section, it is not necessary to prove that the person stolen had been taken from the possession, care, or charge of any person, if it is shown that some person, other than the accused person, was entitled to the control or possession of the person stolen.

### **Section 95—Special Provisions as to Child-Stealing and Abduction.**

For the purposes of the sections of this Chapter relating to child-stealing and abduction—

(a) it is not necessary that the taking or detaining should be without the consent of the person taken or detained, and it suffices if the person is persuaded, aided, or encouraged to depart or not to depart;

(b) it is not necessary that there should be an intent permanently to deprive any person of the possession or control of the person taken or detained;

(c) a taking or detention is unlawful unless some person entitled to give consent to the taking or detention of the person taken or detained, for the purposes for which he is taken or detained, has given consent to the taking or detention for those purposes;

(d) a person having the temporary possession, care, or charge of another person for a special purpose, as the attendant, employer, or school master of such person, or in any other capacity, shall not be guilty of stealing or abduction of that person by acts which he is not entitled to do for the special purpose, and he cannot give consent to any act by another person which would be inconsistent with the special purpose; and

(e) notwithstanding the general provisions of Part I of this Code with respect to mistake of fact, a person is not guilty of stealing or of abduction of another person by anything which he does in good faith on the belief that he is entitled by law as a parent or guardian, or by virtue of any other legal right, to take or detain the other person for the purposes for which he takes or detains him; but this rule does not exempt a person from liability to punishment on the plea that he did not know or believe, or had no reasonable means of knowing that the age of the other person was under fourteen or eighteen years, in any case may be; nor exempt a person from liability to punishment as for stealing or abduction if he has taken or detained the other person for any immoral purpose.

#### *Illustration*

Paragraph (e). A mother, believing in good faith that she has a right to the custody of her child in pursu-



of an agreement with the father, takes it away from the father. She is not guilty of the offence of abduction although the agreement is invalid.

### **Section 96—Abandonment of Infant.**

Whoever, being bound by law, or by virtue of any agreement or employment, to keep charge of or maintain any child under five years of age, or being unlawfully in possession of any such child, abandons such child by leaving it at a hospital, or at the house of any persons, or in any other manner, shall be guilty of a misdemeanour.

## **CHAPTER 6—SEXUAL OFFENCE**

### **Section 97—Rape.**

Whoever commits rape shall be guilty of a first degree felony and shall be liable on conviction to imprisonment for a term of not less than five years and not more than twenty five years.

### **Section 98—Definition of Rape.**

Rape is the carnal knowledge of a female of sixteen years or above without her consent.

### **Section 99—Evidence of Carnal Knowledge.**

Whenever, upon the trial of any person for an offence punishable under this Code, it is necessary to prove carnal knowledge or unnatural carnal knowledge, the carnal knowledge or unnatural carnal knowledge shall be deemed complete upon proof of the least degree of penetration.

### **Section 100—Effect of Void or Voidable Marriage with Respect to Consent.**

If a female is compelled to marry another person by duress as to make the marriage void or voidable, such marriage is of no effect for the purpose of Part I of this Code with respect to consent.

### **Section 101—Defilement of Child Under 16 Years of Age.**

(1) For purposes of this Act defilement is the natural or unnatural carnal knowledge of any child under sixteen years of age.

(2) Whoever naturally or unnaturally carnally knows any child under sixteen years of age, whether with or without his or her consent commits an offence and shall be liable on summary conviction to imprisonment for a term of not less than seven years and not more than twenty-five years.

### **Section 102—Carnal Knowledge.**

Whoever has carnal knowledge or has unnatural carnal knowledge of any idiot, imbecile or a mental defective in or under the care of a mental hospital whether with or without his or her consent, in circumstances which prove that the accused knew at the time of the commission of the offence that the person had a

incapacity commits an offence and shall be liable on summary conviction to imprisonment for a term of not less than five or more than twenty-five years.

### **Section 103—Indecent assault.**

(1) Whoever indecently assaults any person shall be guilty of a misdemeanour and shall be liable on conviction to a term of imprisonment of not less than six months.

(2) A person commits the offence of indecent assault if, without the consent of the other person he—

(a) forcibly makes any sexual bodily contact with that other person; or

(b) sexually violates the body of that other person

in any manner not amounting to carnal knowledge or unnatural carnal knowledge.

### **Section 104—Unnatural Carnal Knowledge.**

(1) Whoever has unnatural carnal knowledge—

(a) of any person of the age of sixteen years or over without his consent shall be guilty of a degree felony and shall be liable on conviction to imprisonment for a term of not less than five years and not more than twenty-five years; or

(b) of any person of sixteen years or over with his consent is guilty of a misdemeanour; or

(c) of any animal is guilty of a misdemeanour.

(2) Unnatural carnal knowledge is sexual intercourse with a person in an unnatural manner or with an animal.

### **Section 105—Incest.**

(1) A male of sixteen years or over who has carnal knowledge of a female whom he knows to be his daughter, daughter, sister, mother or grandmother commits an offence and shall be liable on summary conviction to imprisonment for a term of not less than three years and not more than twenty-five years.

(2) A female of sixteen years or over who has carnal knowledge of a male whom she knows to be her son, son, brother, father or grandfather commits an offence and shall be liable on conviction to imprisonment for a term of not less than three years and not more than twenty-five years.

(3) A male of the age of sixteen years or over who permits a female whom he knows to be his grandmother, sister or daughter to have carnal knowledge of him with his consent commits an offence and shall be liable on conviction to imprisonment for a term of not less than three years and not more than twenty-five years.

(4) A female of the age of sixteen years or over who permits a male whom she knows to be her grandfather, brother or son to have carnal knowledge of her with her consent shall be liable on conviction to imprisonment for a term of not less than three years and not more than twenty-five years.

(5) In this section "sister" includes half-sister, and "brother" includes half-brother, and for the purposes of this section any expression importing a relationship between the two people shall be taken to include that relationship notwithstanding that the relationship is not traced through lawful wedlock.

### **Section 106—Householder Permitting Defilement of Child on his Premises.**

(1) The owner or occupier of any premises or a person acting or assisting in the management of those premises who induces or knowingly permits any child of less than sixteen years of age to resort to or be in or on those premises to be carnally known or unnaturally carnally known by any person commits an offence and shall be liable on conviction to imprisonment for a term of not less than seven years and not more than twenty years.

(2) For the purpose of subsection (1) of this section it shall be an offence under this section whether the knowledge or unnatural carnal knowledge is intended to be with any particular person or generally.

(3) It shall be a defence to any charge under this section that the accused person had reasonable cause to believe that the child was of or above sixteen years of age.

### **Section 107—Procuration.**

(1) Whoever—

(a) procures any person under twenty-one years of age, not being a prostitute or of known immoral character to have carnal or an unnatural carnal connexion in Ghana or elsewhere with any person; or

(b) procures any person to become a prostitute in Ghana or elsewhere; or

(c) procures any person to leave Ghana with the intention that the person becomes an inmate of a brothel elsewhere; or

(d) procures any person to leave his usual place of abode (not being a brothel) in Ghana with the intention that the person becomes an inmate of a brothel in Ghana or elsewhere for prostitution; or

(e) by threats or intimidation procures or attempts to procure any person to have any carnal or unnatural carnal connexion in Ghana or elsewhere; or

(f) by false pretences or false representations procures any person not being a prostitute or of known immoral character to have any carnal or unnatural carnal connexion in Ghana or elsewhere; or

(g) applies, administers to, or causes to be taken by any person, any drug, matter or thing, with the intention to stupefy or overpower the person as to enable any person to have a carnal or unnatural carnal connexion in Ghana or elsewhere.

connexion with the person

shall be guilty of a misdemeanour.

(2) A person shall not be convicted of any offence under this section on the evidence of one witness, the witness is corroborated in some material particular by evidence implicating the accused person.

### **Section 108—Causing or Encouraging the Seduction or Prostitution of a Child Under Sixteen.**

(1) Whoever having the custody, charge or care of a child under the age of sixteen years causes or encourages the seduction, carnal knowledge or unnatural carnal knowledge, prostitution or commission of indecent assault upon the child shall be guilty of a misdemeanour.

(2) For the purpose of this section, a person shall be deemed to have caused or encouraged the seduction, carnal knowledge or unnatural carnal knowledge, prostitution or commission of indecent assault upon a child if he knowingly allowed the person to consort with, enter or continue in the employment of a prostitute or person of known immoral character.

### **Section 109—Compulsion of Marriage.**

Whoever by duress causes a person to marry against his or her will, shall be guilty of a misdemeanour.

### **Section 110—Custody of Child Under Sixteen Years of Age.**

(1) Where on the trial of any offence under this Chapter it is proved to the satisfaction of the court that the seduction or prostitution of any child under sixteen years has been caused, encouraged or favoured by the father, mother, guardian, master or mistress, the court may divest that person of his or her authority over the child.

(2) The court may appoint any person or persons willing to take charge of the child under sixteen years of age in the place of the person divested of authority over the child until such time as he has attained twenty-one years of age or any other age or until the child attains twenty-one directed by the court.

(3) The court may rescind or vary the order of appointment by the appointment of another person or persons or may vary the order in any other respect.

### **Section 111—Power of Search for Child Detained for Immoral Purpose.**

(1) If it appears to a Chairman of a Tribunal or a Judge that there is reasonable cause to suspect that a child is detained for immoral purposes by any person in a place within his jurisdiction he may issue a warrant for the search of that place in accordance with subsection (3) of this section.

(2) The Chairman of the Tribunal or the Judge shall act upon information laid before him on oath by the parent, guardian, or relative of the child or may act on information of any other person who in his opinion is acting in good faith in the best interest of the child.

(3) The warrant shall authorise the person named in it to search for and when found to take and detain a child detained for immoral purposes in a place of safety until he can be brought before the Chairman of the Tribunal or the Judge or some other Tribunal or a Judge. The Chairman of the Tribunal or the Judge to whom the child is brought may order that the child be taken to his parents or guardian or be otherwise disposed of in such manner as the circumstances permit or require.

(4) The Chairman of the Tribunal or the Judge may by the same warrant or another warrant cause any person accused of unlawfully detaining a child to be apprehended and brought before the Tribunal or some other Tribunal or Court for legal proceedings and punishment.

(5) A child is detained for immoral purposes if he is detained to be carnally known or unnaturally carnally known by any particular person or generally and—

(a) is under sixteen years of age; or

(b) if of or above sixteen years and under twenty-one years of age, is detained against his will, or the will of his father, mother or any other person who has lawful care or charge of him.

(6) Any person authorised by warrant under this section to search for a detained child may enter if need be by force any house, building or other place mentioned in the warrant and may remove the child.

(7) Every warrant issued under this section shall be addressed to and executed by a superior officer of the police who shall be accompanied by the parent, guardian or relative of the child unless the Chairman of the Tribunal or the Judge otherwise directs.

(8) Where the warrant is issued on the basis of information given by any other person acting in good faith in the best interest of the child, that person may accompany the superior officer of the police to execute the warrant".

## CHAPTER 7—LIBEL

### **Section 112—Negligent and Intentional Libel.**

(1) Whoever is guilty of negligent libel shall be liable to a fine not exceeding ₪400,000.

(2) Whoever is guilty of intentional libel shall be guilty of misdemeanour.

### **Section 113—Cases in which a Person is Guilty of Libel.**

A person is guilty of libel, who, by print, writing, painting, effigy, or by any means otherwise than sound gestures, spoken words, or other grounds, unlawfully publishes any defamatory matter concerning a person, either negligently or with intent to defame that other person.

### **Section 114—Definition of Defamatory Matter.**

(1) Matter is defamatory which imputes to a person any crime, or misconduct in any public office or w

likely to injure him in his occupation, calling or office, or to expose him to general hatred, contempt or ridicule.

(2) In this section "crime" means a felony or misdemeanour and also any act, wheresoever committed, if committed by a person within the jurisdiction of the Court, would be a felony or misdemeanour.

### **Section 115—Definition of Publication.**

(1) A person publishes a libel if he causes the print, writing, painting, effigy, or other means by which 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 or is likely to become known to either the person defamed or any other person.

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

### **Section 116—Definition of Unlawful Publication.**

Any publication of defamatory matter concerning a person is unlawful, within the meaning of this Chapter, unless it is privileged on one of the grounds hereafter mentioned in this Chapter.

### **Section 117—When Publication of Defamatory Matter is Absolutely Privileged.**

(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—

(a) if the matter is published by the President, a Minister or in any Parliament official document or proceeding; or

(b) if the matter is published in Parliament by the President or a Minister or member of the Parliament; or

(c) if the matter is published by order of the President, a Minister or Parliament, or

(d) if the matter is published concerning a person subject to the discipline of the armed forces at any 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 by a person acting in any judicial proceeding as a Judge or Magistrate, as Attorney-General or other public prosecutor, or as a juror or witness; or

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

(g) if the person publishing the matter is legally bound to publish it; or

(h) if the matter is true, and if it is found that it was for the public benefit that the matter should be published.

(2) Where a publication is absolutely privileged, it is immaterial for the purposes of this section (notwithstanding any of the general provisions of Part I with respect to justifications or excuses) whether the matter published (except as mentioned in paragraph (h) of subsection (1)) is true or false, and whether it has or has not been known or believed to be false, and whether it has or has not been published in good faith.

### **Section 118—When Publication of Defamatory Matter is Conditionally Privileged.**

A publication of defamatory matter is privileged, on condition that it was published in good faith, in any of the following cases, namely—

(a) if the matter published is in fact a fair report of anything said, done, or shown in a civil or criminal proceeding or enquiry or proceeding before any Court: Provided that if the Court prohibits the publication of anything said or shown before it, on the ground that it is seditious, immoral, or blasphemous, the publication thereof shall not be privileged; or

(b) if the matter published is a copy or reproduction, or in fact a fair abstract, of any matter which has been previously published, and the previous publication of which was or would have been privileged under section 117; or

(c) if the matter is published by a person acting as a legal practitioner in the course of his professional preparation for any legal proceeding; or

(d) 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

(e) 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

(f) 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

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

(h) if the matter is a censure passed by a person 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

(i) if the matter is a complaint or accusation made by a person 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, by a person having authority, by contract or otherwise over that other person in respect of such conduct, or having authority by law to enquire into or receive complaints respecting such conduct, in respect of such matter; or

(j) if the matter is published 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.

### **Section 119—Explanation as to Good Faith.**

(1) A publication of defamatory matter is not made in good faith by a person within the meaning of section 118, if—

(a) the matter was untrue, and he did not believe it to be true; or

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

(c) in publishing the matter, he acted with intent to injure the person defamed in a substantial or 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.

(2) If it is proved, on behalf of the accused person, that the defamatory matter was published under 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 proved, either from the libel itself, or from evidence given on behalf of the accused person, or from evidence given on the part of the prosecution.

## **PART III—OFFENCES AGAINST RIGHTS OF PROPERTY**

### **CHAPTER 1—OFFENCES INVOLVING DISHONESTY**

#### *General Provisions*

### **Section 120—Explanation as to Dishonest Appropriation.**

(1) An appropriation of a thing is dishonest if it is made with an intent to defraud or if it is made by a person without claim of right, and with a knowledge or belief that the appropriation is without the consent of the person for whom he is trustee or who is owner of the thing, as the case may be, or that the appropriation would, if known to any such person, be without his consent.



(2) It is not necessary, in order to constitute a dishonest appropriation of a thing, that the accused should know who is the owner of the thing, but it suffices if he has reason to know or believe that some person, whether certain or uncertain, is interested therein or entitled thereto, whether as owner in his right, or by operation of law, or in any other manner; and any person so interested in or entitled to a thing is to be taken to be an owner thereof for all the purposes of the provisions of this Code relating to criminal misappropriation and frauds.

(3) The general provisions of Part I with respect to consent, and with respect to the avoidance thereof by force, duress, incapacity, and otherwise, apply for the purposes of this section, except as is hereafter in this chapter expressly mentioned with respect to deceit.

### *Illustrations*

Subsection (1) (a) A., a commercial traveller, is directed to collect moneys for his employer. If he is at liberty to dispose of the particular moneys which he collects, and is only bound to account for the balance in his hands at particular times or when called upon, he does not commit stealing or fraudulent breach of trust merely by spending any of the moneys collected by him, unless there is an intent to defraud.

(b) A., being the guest of B., writes a letter on B. 's paper. Here A. is not guilty of stealing, because, although he does not use the paper under any claim of right, yet he believes that B., as a reasonable person, would not object to his doing so.

(c) A., during a law suit with B. as to the right of certain goods, uses or sells some of the goods. Here A. is not guilty of stealing, because, although A. believes that B. would object, yet A. acts under a claim of right.

Subsection (2) A person can be guilty of stealing by appropriating things the ownership of which is in dispute or unknown, or which have been found by another person.

## **Section 121—Provisions Relating to Part Owners.**

A person who is an owner of or interested in a thing, or in the amount, value, or proceeds thereof, jointly or in common with another person or as a member of a company or who is owner of a thing as a trustee or as himself jointly or in common with another person or for a company of which he is a member, can be guilty of stealing or of fraudulent breach of trust in respect of the thing; and a person can be a clerk, servant, or officer of a company of which he is a member.

### *Illustrations*

(a) A member of a partnership, or of any association or corporation, can be guilty of stealing property belonging to himself and the other members of the partnership, association, or corporation.

(b) A servant or officer of a partnership, association, or corporation can be guilty of stealing property, although he is a member of it.

## **Section 122—Acts which Amount to an Appropriation.**

(1) An appropriation of a thing by a trustee means any dealing with the thing by the trustee, with the intent to convert it to his own use or to the use of another person.

depriving any person for whom he is trustee of the benefit of his right or interest in the thing, or in its value or proceeds, or any part thereof.

(2) An appropriation of a thing in any other case means any moving, taking, obtaining, carrying away, or dealing with a thing, with the intent that some person may be deprived of the benefit of his ownership or the benefit of his right or interest in the thing, or in its value or proceeds, or any part thereof.

(3) An intent to deprive can be constituted by an intent to appropriate the thing temporarily or for a particular use, if the intent is so to use or deal with the thing that it probably will be destroyed, or become useless, or greatly injured or depreciated, or to restore it to the owner only by way of sale or exchange, or for reward, or in substitution for some other thing to which he is otherwise entitled, or if it is pledged or pawned.

(4) It is immaterial whether the act by which a thing is taken, obtained, or dealt with be or be not a trespass or a conversion, or be or be not in any manner unlawful other than by reason of its being done for the purpose of dishonest appropriation; and it is immaterial whether, before or at the time of doing such an act, the accused person had or had not a possession, custody, or control of the thing.

### *Illustrations*

Subsection (1) A. is a trustee of stock for B. If A. orders the stock to be sold with the intention of appropriating the proceeds, A. has appropriated the stock.

Subsection (2) A., intending to steal a horse, disguise it by cutting its mane and tail, this is a sufficient appropriation.

Subsection (3) (a) A. is a workman paid according to the quantity of metal which he obtains from ore. If A. fraudulently puts into the furnace some metal belonging to this employer instead of ore, with the purpose of increasing A.'s wages, A. may be guilty of stealing the metal, although he does not mean to deprive his employer of it permanently.

(b) A. borrows a horse without the consent of its owner intending to keep it until it is worn out and then to return it. Here A. is guilty of stealing the horse.

Subsection (4) A person can be guilty of stealing a thing entrusted to him to carry or keep, and it is not necessary in order to constitute a stealing by such a person that any package in which the thing is contained should be broken or damaged by him.

### **Section 123—Things in respect of which stealing, etc., can be committed.**

(1) Any of the crimes of stealing, fraudulent breach of trust, robbery, extortion, or defrauding by false pretence can be committed in respect of anything, whether living or dead, and whether fixed to the soil or any building or fixture, or not so fixed, and whether the thing be a mineral or water, or gas, or electricity, or of any other nature, and whether the value thereof be intrinsic or for the purpose of evidence, or be of some value only for a particular purpose to a particular person, and whether the value thereof do or do not amount to the value of the lowest denomination of coin; and any document shall be deemed to be of some value, whether it be complete or incomplete, and whether or not it satisfied, exhausted, or cancelled.

(2) In any proceedings in respect of any of the crimes mentioned in subsection (1) it shall not be necessary to prove that the thing was of any value.

to prove ownership or value.

### **Section 124—Stealing.**

(1) Whoever steals shall be guilty of a second degree felony.

(2) Where the Court which finds a person guilty of the offence of stealing is satisfied that on not less than two previous occasions he was found guilty of the offence of stealing, the Court shall order that the whole or any part of any term of imprisonment imposed by it shall be spent in productive hard labour.

(3) A person in respect of whom the Court makes an order under subsection (2) shall be disqualified from election to the District Assembly within the meaning of the Local Government Act, 1993 (Act 462) for a period not exceeding five years.

(4) For the purposes of this section, "productive hard labour" means labour in any State Farm or State Factory or any other public co-operative or collective enterprise specified by the Minister.

(5) The "previous occasions" referred to in subsection (2) may include occasions which occurred prior to the commencement of this Code.

### **Section 125—Definition of Stealing.**

A person steals if he dishonestly appropriates a thing of which he is not the owner.

### **Section 126—Consent by Wife in case of Stealing.**

(1) If it is proved, on behalf of a person accused of having stolen a thing, that the wife of the owner of the thing consented to its appropriation by the accused person, the accused person shall not be convicted of stealing unless it is proved against him that he had notice that the wife had no authority to consent to the appropriation.

(2) If it appears that he had committed, or designed to commit, adultery with the wife, he shall be deemed to have had such notice, but he shall not in such case be deemed guilty of stealing by reason only of appropriating, with the consent of the wife, or of assisting the wife to appropriate any wearing apparel of the wife, or any money or other thing of which the wife is apparently permitted to have the disposal for her private use.

### **Section 127—Explanation as to Stealing of thing Found.**

A person who appropriates a thing which appears to have been lost by another person is not guilty of stealing it, unless—

(a) at the time of appropriating it, he knows who is the owner of the thing or by whom it has been lost, or

(b) the character or situation of the thing, the marks upon it, or any other circumstances is or are such as to lead a reasonable person to believe that it is the property of another person.

as to indicate the owner of the thing or the person by whom has been lost; or

(c) the character or situation of the thing, the marks upon it, or any other circumstances is or are such as that the person who has lost the thing appears likely to be able to recover it by reasonable search and enquiry, if it were not removed or concealed by any other person.

### *Illustrations*

(a) A. finds a ring in the high road. If the ring has a owner's or maker's name or motto engraved upon it, or if it is of great value, A. will be guilty of stealing if he appropriates it without making reasonable enquiry.

(b) A. buys an old chest at the sale of a deceased personal effects. He finds a banknote in a secret drawer of the chest. A. is guilty of stealing if he appropriates the note, unless either expressly bought the right to whatever he might find in the chest, or makes reasonable enquiry and fails to discover the owner.

### *Fraudulent Breach of Trust*

#### **Section 128—Fraudulent Breach of Trust.**

Whoever commits fraudulent breach of trust shall be guilty of a second degree felony.

#### **Section 129—Definition of Fraudulent Breach of Trust.**

A person is guilty of fraudulent breach of trust if he dishonestly appropriates a thing the ownership of which was invested in him as a trustee for or on behalf of any other person.

#### **Section 130—Explanation as to a Gratuitous Trustee.**

When a person, being the owner of a thing in his own right and for his own benefit, undertakes to apply the thing as a trustee for another person, he shall not be deemed thereby to become a trustee within the meaning of the provisions of this Code relating to fraudulent breaches of trust, unless he has constituted himself such trustee by an instrument in writing executed by him and specifying the nature of the trust and the persons to be benefited thereby.

### *Illustrations*

A., on the marriage of his daughter, verbally promises thenceforth to hold certain moneys of his own in trust for her and her children. A. is not a trustee within the meaning of the aforesaid provisions; but, if the moneys were entrusted to him by the husband for the wife, A. would be a trustee within the meaning of the aforesaid provisions.

### *False Pretences and Other Frauds*

#### **Section 131—Defrauding by False Pretence.**

Whoever defrauds any person by any false pretence shall be guilty of a second degree felony.

## **Section 132—Definition of Defrauding by False Pretence.**

A person is guilty of defrauding by false pretences if, by means of any false pretence, or by personation, he obtains the consent of another person to part with or transfer the ownership of anything.

## **Section 133—Definition of and Provisions Relating to a False Pretence.**

(1) A false pretence is a representation of the existence of a state of facts made by a person with the knowledge that such representation is false or without the belief that it is true, and made with an intent to defraud.

(2) For the purpose of this section—

(a) a representation may be made either by written or spoken words, or by personation, or other conduct, sign, or means of whatsoever kind;

(b) the expression "a representation of the existence of a state of facts" includes a representation to the non-existence of any thing or condition of things, and a representation of any right, liability, authority, ability, dignity or ground of credit or confidence as resulting from any alleged past fact or state of facts, but does not include a mere representation of any intention or state of mind of persons making the representation, nor any mere representation or promise that anything will happen or be done, or is likely to happen or be done;

(c) a consent shall not be deemed to have been obtained by a false representation as to the quality or value of a thing, unless, the thing is substantially worthless for the purpose for which it is represented to be fit, or to have been substantially a different thing from that which it is represented to be; and

(d) subject to the foregoing rules, if the consent of a person is in fact obtained by a false pretence, it is immaterial that the pretence is such as would have had no effect on the mind of a person acting with ordinary care and judgment.

### *Illustrations*

#### Subsection (2)

1. A. goes into a shop dressed as an officer in the army (which he is not). If he does this in order to gain credit he would not otherwise get, he is guilty of a false pretence, although he does not actually say that he is an officer.

2. (a) The following pretences (being false) are sufficient "false pretences" by A. within the meaning of this Chapter

(i) that a picture which he is selling once belonged to a particular collector;

(ii) that a picture which he is selling was painted by a particular painter;

(iii) that a picture which he is selling belong to him;

(iv) that he is entitled to a legacy under the will of a deceased relative;

(v) that he has an account at a particular bank; or

(vi) that he has the authority of another person to act on his behalf.

(b) The following are not sufficient, although false—

(i) that the picture is a valuable work of A

(ii) that he expects to receive a legacy when relative dies.

### **Section 134—Explanation as to Personation**

Personation means a false pretence or representation by a person that he is a different person, whether that different person is living or dead or is a fictitious person and a person may be guilty of personation although he gives or uses his own name, if he does so with intent that he may be believed to be a different person of the same or of a similar name.

### **Section 135—Provisions Relating to Fictitious Trading.**

(1) Where a person orders, or makes a bargain for purchase of any goods or things by way of such exchange, and, after obtaining the same, he makes default in payment of the purchase money, rendering the goods or things to be rendered by him by way of such exchange, he shall be deemed guilty of defrauding or attempting to defraud, as the case may be, by false pretences if—

(a) at the time of giving the order or making the bargain, he intended to make default as aforesaid, and

(b) the order was given, or the bargain was made with intent to defraud and not in the course of trade carried on in good faith.

### **Section 136—Distinction between Stealing and False Pretences.**

(1) Where the owner of a thing, or any person having authority to part with the ownership thereof, has given consent to the appropriation of it by the accused person, then, although such consent has been obtained by deceit, the accused person shall not be deemed guilty of having stolen the thing but he may be convicted of the crime of having defrauded by false pretences, if his acts amounted to such crime.

(2) The consent to be proved by the accused person for the purposes of this section, is an unconcoerced consent to the immediate and final appropriation of the thing by the accused person, by way of gift or sale or of sale on credit to the accused person.

#### *Illustrations*

Subsection (1) (a) A., intending fraudulently to appropriate a horse belonging to B., obtains it from B., un-

pretence that he wants it for a day. Here A. is guilty of stealing.

(b) A., intending to defraud B. of a horse without paying for it induces B. to sell and deliver it to him without present payment, by a false pretence that he has at his bank. Here A. is guilty of obtaining by false pretence and not guilty of stealing.

### **Section 137—Charlatanic Advertisements in Newspapers.**

The publication in any journal or newspaper of any advertisement or notice relating to fortune-telling, palmistry, astrology, or the use of any subtle craft, means, or device, whereby it is sought to deceive or impose on any member of the public, or which is calculated or likely to deceive or impose on any member of the public, is illegal; and the editors, publishers, proprietors, and printers of any journal or newspaper in which any such advertisement or notice as aforesaid is published shall each severally be liable to a fine not exceeding ₱500,000.

### **Section 138—Fraud as to Weights and Measures**

[Repealed by NRC 326, section 34.]

### **Section 139—Improper Removal of a Dealing with Stamps on Postal Matters, etc.**

(1) Whoever does any of the following acts shall be liable to a fine not exceeding ₱100,000 namely—

(a) unlawfully removes from any postal matter or telegraph form any stamp affixed thereon and impressed thereon in payment for the postage or message, whether it has been cancelled or not;

(b) knowingly uses or attempts to use, or sells, or buys, or otherwise procures a stamp which has been so removed;

(c) knowingly uses or attempts to use in payment for any postage any stamp or stamped envelope, card or wrapper which has been before used for a like purpose, or any stamp cut from an envelope or wrapper;

(d) removes or attempts to remove the cancelling marks from any stamp which has been so affixed and impressed, in order that it may be used or otherwise disposed of.

(2) Whoever, being employed in the Posts and Telecommunications Department, commits any of the offences described in subsection (1) shall be guilty of a misdemeanour.

### **Section 140—Falsification of Accounts, etc.**

Whoever, being a clerk or servant or public officer, and whoever, being an officer of any partnership, company, or corporation, does any of the acts hereinafter mentioned, with intent to cause or enable any person to be defrauded, or with intent to commit or to facilitate the commission, by himself or by any other person, of any crime, that is to say—

(a) conceals, injures, alters, or falsifies any book, paper, or account kept by or belonging or entrusted to his employers or to such partnership, company, or corporation; or entrusted to him, or to whom he has access, as such clerk, servant, or officer, or omits to make a full and true entry in any account of anything which he is bound to enter therein; or

(b) publishes any account, statement, or prospectus, relating to the affairs of such partnership, company, or corporation, which he knows to be false in any material particular,

shall be guilty of a second degree felony.

### **Section 141—Fraud in Sale or Mortgage of Land.**

Whoever, in order to induce any person to become a purchaser or mortgagee of any land, fraudulently conceals any document which is material to the title to such land shall be guilty of a misdemeanour.

### **Section 142—Fraud as to Boundaries or Documents.**

Whoever with intent to defraud does any of the following acts, that is to say—

(a) removes, injures, alters, or falsifies any boundary mark or thing serving or intended to distinguish the land or other property of himself, or of any person, from the land or other property of any other person; or

(b) conceals, injures, alters, or falsifies any bill of lading invoice, manifest, receipt, or other document evidencing the quantity, character, or condition of any property, or the receipt or disposition of the title of any person to, any property,

shall be guilty of a misdemeanour.

### **Section 143—Fraud as to thing Pledged or taken in Execution.**

Whoever, secretly or by duress or deceit, and with intent to defraud, takes or obtains any property from any person to whom he has pawned, pledged, or otherwise bailed it or from any person having, by virtue of any execution, seizure or other process of law, the possession, custody, or control thereof, is guilty of a misdemeanour.

### **Section 144—Fraud in Removing goods to Evade Legal Process.**

Whoever, knowing that any execution, warrant, or other process of law has been awarded or issued for the seizure of anything belonging to him or in his possession, custody, or control, removes, conceals, or in any manner disposes of any such thing, with intent to defeat or evade such execution, warrant, or other process, is guilty of a misdemeanour.

### **Section 145—Fraud by Agents.**



(1) If—

(a) any agent dishonestly 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 this principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to this principal's affairs or business; or

(b) any person dishonestly 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

(c) any person knowingly gives to any agent, or if any agent knowingly uses with intent to deceive the principal, any receipt, account, or other document in respect of which the principal is interested, which contains any statement which is false or erroneous or defective in any material particular, which to his knowledge is intended to mislead the principal;

he shall be guilty of a misdemeanour.

(2) For the purposes of this section "consideration" includes valuable consideration of any kind; "agent" includes any person employed by or acting for another; and "principal" includes an employer.

(3) A civil servant or officer of a local authority is an agent within the meaning of this section.

### *Receiving*

#### **Section 146—Dishonestly receiving Property obtained or Appropriated by Offence.**

Whoever dishonestly receives any property which he knows to have been obtained or appropriated by any offence punishable under this Chapter shall be liable to the same punishment as if he had committed that offence.

#### **Section 147—Explanation as to Dishonest Receiving.**

(1) A person is guilty of dishonestly receiving any property which he knows to have been obtained or appropriated by any crime, if he receives, buys, or in any manner assists in the disposal of such property, otherwise than with a purpose to restore it to the owner.

(2) It is immaterial whether the crime by which the property was obtained or appropriated was or was not committed within the jurisdiction of the Court; and if the property was obtained or appropriated beyond the jurisdiction of the Court by an act the doing of which within the jurisdiction would be a crime punishable under this Code, the act is, for the purposes of this section, equivalent to a crime punishable under this code.

## **Section 148—Having Possession of Stolen, etc., Property**

(1) Where a person is charged with dishonest receiving and is proved to have had in his possession under his control, anything which is reasonably suspected of having been stolen or unlawfully obtained and he does not give an account, to the satisfaction of the Court, as to how he came by it the property is presumed to have been stolen or unlawfully obtained and the accused may be presumed guilty of dishonest receiving in the absence of evidence to the contrary.

(2) The possession or control of carrier, agent, or servant shall be deemed to be the possession or control of the person who employed the carrier, agent, or servant, and that person shall be liable accordingly.

### *Robbery and Extortion*

## **Section 149—Robbery**

(1) Whoever commits robbery is guilty of an offence and shall be liable, upon conviction on trial summarily or on indictment, to imprisonment for a term of not less than ten years, and where the offence is committed with the use of an offensive weapon or offensive missile, the offender shall upon conviction be liable to imprisonment for a term of not less than fifteen years.

(2) For the purposes of subsection (1) the Attorney-General shall in all cases determine whether the offender shall be tried summarily or on indictment.

(3) In this section "offensive weapon" means any article made or adapted for use to cause injury to a person or damage to property or intended by the person who has the weapon to use it to cause injury to a person or damage; and "offensive missile" includes a stone, brick or any article or thing likely to cause harm, damage or injury if thrown. [As substituted by the Criminal Code (Amendment) Act, 2003 (Act 646)].

## **Section 150—Definition of Robbery.**

A person who steals a thing is guilty of robbery if in and for the purpose of stealing the thing, he uses force or causes any harm to any person, or if he uses any threat or criminal assault or harm to any person with intent thereby to prevent or overcome the resistance of that or of other person to the stealing of the thing.

## **Section 151—Extortion.**

(1) Whoever extorts any property from any person by means of threat shall be guilty of second class felony.

(2) "Threat" when used with reference to extortion, does not include a threat of criminal assault or harm to the person threatened.

### *Illustration*

If A. obtains money from B. by threat of violence to B., he is guilty not of extortion, but of the crime of robbery.

robbery.

### *Unlawful Entry*

#### **Section 152—Unlawful Entry.**

Whoever unlawfully enters any building with the intention of committing crime therein shall be guilty of a second degree felony.

#### **Section 153—Explanation as to Unlawful Entry.**

A person unlawfully enters a building if he enters otherwise than in his own right or by the consent of another person able to give such consent for the purposes for which he enters.

#### **Section 154—Instruments Intended or Adapted for Unlawful Entry.**

Whoever has, without lawful excuse, the proof of which shall lie on him, the possession of any implement adapted or intended for use in unlawfully entering any building shall be guilty of a misdemeanor.

#### **Section 155—Being on Premises for Unlawful Purpose.**

Whoever is found in or about any market, wharf, jetty, or landing place, or in or about any vessel, veranda, outhouse, building, premises, passage, gateway, yard, garden or enclosed piece of land, for any unlawful purpose, shall be guilty of a misdemeanour.

For the purposes of this section the expression "enclosed piece of land" shall be construed as including any piece of land of any of the following descriptions—

- (a) land in respect of which a concession, within the meaning of the Concessions Act, 1962 (Act 122) is for the time being in force;
- (b) land which is held by any person by virtue of a grant made in pursuance of the Administration of Lands Act, 1962 (Act 123)
- (c) land in respect of which a licence granted under section 3 of the Minerals and Mining Law (PNDCL 153) is for the time being in force; and
- (d) land which is vested in the President by or by virtue of any enactment, or which is Stool Land, within the meaning of the said Administration of Lands Act.

#### **Section 156—Definition of Owner and Occupier.**

In the following section "owner" and "occupier" respectively includes any tenant or lessee, and the agent or agent of any owner or occupier.

## **Section 157—Trespass.**

Whoever—

- (a) unlawfully enters in an insulting, annoying or threatening manner upon any land belonging to the possession of any other person; or
- (b) unlawfully enters upon any such land after having been forbidden so to do; or
- (c) unlawfully enters and remains on any such land after having been required to depart therefrom;
- (d) having lawfully entered upon any such land, misconducts himself by having thereon in an insulting, annoying, or threatening manner; or
- (e) having lawfully entered on any such land, remains thereon after having been lawfully required to depart therefrom,

shall, on the complaint of the owner or occupier of the land, be liable to a fine not exceeding ₱500,000.00. The Court may order the removal from the land, by force if necessary, of any person, animal, erected building, or any thing.

## **CHAPTER 2—FORGERY**

### **Section 158—Forgery of Judicial or Official Document.**

Whoever, with intent to deceive any person, forges any judicial or official document, shall be guilty of a first degree felony.

### **Section 159—Forgery of Other Documents.**

Whoever forges any document whatsoever, with intent to defraud or injure any person, or with intent to evade the requirements of the law, or with intent to commit, or to facilitate the commission of, any crime, shall be guilty of a misdemeanour.

### **Section 160—Forging Hall-mark on Gold or Silver Plate or Bullion.**

Whoever with intent to defraud, forges or counterfeits any hall-mark or make appointed, under authority of law, by any corporation or public officer to denote the weight, fineness, or age, or place of manufacture of any gold or silver plate or bullion, shall be guilty of a misdemeanour.

### **Section 161—Forging Trade Mark, etc.**

Whoever forges or counterfeits any trade-mark, or marks with a forged or counterfeited trade-mark any goods or anything used in, or about, or in connection with the sale of any goods, or sells or offers for sale any goods or such thing so marked, or has in his possession, custody, or control any goods of such trade-mark, or any materials or means prepared or contrived for the forging or counterfeiting of any trade-mark,

or for the marking of any goods or thing therewith, intending in any such case fraudulently to pass off, or to enable any other person fraudulently to pass off, any goods as having been lawfully marked with the mark or as being of a character signified by the trade-mark, shall be guilty of a misdemeanour.

### **Section 162—Forgery of and Other Offences Relating to Stamps.**

Whoever—

- (a) forges any stamp, whether impressed or adhesive, used for the purposes of revenue by the Government, or by any foreign country; or
- (b) without lawful excuse (the proof whereof shall lie on him) makes or has knowingly in possession any die or instrument capable of making the impression of any such stamp; or
- (c) fraudulently cuts, tears, or in any way removes from any material any stamp used for purposes of revenue by the Government, with intent that any use should be made of such stamp or of any part thereof; or
- (d) fraudulently mutilates any stamp to which paragraph (c) applies, with intent that use should be made of any part of the stamp; or
- (e) fraudulently fixes or places upon any material, or upon any stamp to which paragraph (c) applies, any stamp or part of a stamp which, whether fraudulently or not, has been cut, torn, or in any way removed, or removed any other material or out of or from any other stamp; or
- (f) fraudulently erases or otherwise either really or apparently removes from any stamped material any name, sum, date, or other matter or thing whatsoever written thereon, with the intent that any use should be made of the stamp upon such material; or
- (g) 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 either really or apparently removed,

shall be liable to a fine not exceeding ₪1 million.

### **Section 163—Definition of Trade-Mark, and Official Document.**

(1) In this Chapter, "trade-mark" means any mark, label, ticket, or other sign or device lawfully approved by any person as a means of denoting that any article of trade, manufacture, or merchandise is an article of the manufacture, workmanship, production, or merchandise of any person, or is an article or any particular description made or sold by any person, and also means any mark, sign, or device which, in pursuance of any enactment relating to registered designs, is to be put or placed upon, or attached to any article during the existence or continuance of any copyright or other peculiar right in respect thereof.

(2) A mark, label, ticket, or other sign or device shall not be deemed to be lawfully appropriated by a person within the meaning of this section, unless it is of such a kind and so appropriated as that an injunction or other process would be granted by the Court to restrain the use thereof by any person without the consent of the person by whom it is appropriated, or that an action might be maintained by the last mentioned person against any other person making use thereof without his consent.

(3) In this Chapter "official document" means any document purporting to be made, used, or issued by a public officer for any purpose relating to his office.

### **Section 164—Special Provisions Relating to Forgery.**

The following provisions apply to forgery, namely—

(a) a person forges a document if he makes or alters the document, or any material part thereof, with intent to cause it to be believed—

(i) that the document or part has been so made or altered by any person who did not in fact make or alter it; or

(ii) that the document or part has been so made or altered with the authority or consent of any person who did not in fact give his authority or consent; or

(iii) that the document or part has been so made or altered at a time different from that at which it was in fact so made or altered;

(b) a person who issues or uses any document which is exhausted or cancelled, with intent to cause it to pass or have effect as if it were not exhausted or cancelled, shall be deemed guilty of forgery;

(c) the making or alteration of a document or part by a person in his own name may be forgery if the making or alteration is with any of the intents mentioned in this section;

(d) the making or alteration of a document or part by a person in a name which is not his ordinary name is not forgery unless the making or alteration is with one or other of the intents mentioned in this section;

(e) it is immaterial whether the person by whom, or with whose authority or consent, a document or part purports to have been made, or is intended to be believed to have been made, be living or dead, or be a fictitious person;

(f) every word, letter, figure, mark, seal, or thing expressed on or in a document, or forming part thereof, or attached thereto; and any coloring, shape, or device used therein, which purports to indicate the person by whom, or with whose authority or consent the document or part has been made, altered, executed, delivered, attested, verified, certified, or issued, or which may affect the purport, operation, or validity of the document in any material particular, is a material part of the document;

(g) "alteration" includes any cancelling, erase severance, interlineation, or transposition of a document or of or in any material part thereof, and the addition of any material part thereto, and any other act or device whereby the purport, operation, or validity of the document may be affected;

(h) all the provisions of this section apply to the forgery of a stamp or trade-mark in the same manner as to the forgery of a document.

### *Illustrations*

(a) A. endorses his own name on a cheque, meaning it to pass as an endorsement by another person of the same name. Here A. is guilty of forgery.

(b) A. is living under an assumed name. It is not forgery for him to execute a document in that name, unless he does so with the intent to defraud, etc.

(c) A., with intent to defraud, makes a promissory note in the name of an imaginary person. Here A. is guilty of forgery.

### **Section 165—Being in Possession of means of Forging.**

Whoever without lawful excuse, the proof whereof shall lie on him, has in his possession any instrument or thing specially contrived or adapted for purposes of forgery shall be guilty of a misdemeanour.

### **Section 166—Possessing Forged Document, etc.**

Whoever, with any of the intents mentioned in this Chapter, has in his possession any document or stamp which is forged, counterfeited, or falsified, or which he knows not to be genuine, shall be liable to the punishment as if he had, with that intent forged, counterfeited, or falsified the document or stamp.

### **Section 167—Explanation as to Possession of doing any Act with Respect to Document, or Stamp**

(1) A person possesses or does any act with respect to a document knowing it not to be genuine if he possesses it, or does such act with respect to it, knowing that it was not in fact made or altered at the time it was made or altered, or by the person, or with the authority or consent of the person, at which or by whom or with whose authority or consent, it purports, or is pretended by him to have been made or altered; and in such case it is immaterial whether the act of the person who made or altered it was or was not a crime.

(2) In like manner, a person possesses or does any act with respect to a stamp, knowing it not to be genuine, if he possesses in or does such act with respect to it, knowing it is in fact counterfeited or falsified, and in such case it is immaterial whether the act of the person who counterfeited or falsified it was or was not a crime.

### **Section 168—Definition of Counterfeiting.**

A person counterfeits a stamp or mark if he makes any imitation thereof, or anything which is intended to pass or which may pass as such a stamp, or mark; and if a person makes anything which is intended

serve as a specimen, or pattern or trial of any process for counterfeiting a stamp or mark, he shall be liable for counterfeiting, within the meaning of this Chapter, although he does not intend that any person should be defrauded or injured by, or that any further use should be made of, the specimen or pattern.

### **Section 169—Uttering Forged Documents, etc.**

Whoever, with any of the intents mentioned in this Chapter, utters or in any manner deals with or uses such document, stamp as in this Chapter mentioned, knowing it to be forged, counterfeited, or falsified, or knowing it not to be genuine, shall be liable to the like punishment as if he had, with that intent, forged, counterfeited, or falsified the document, or stamp.

### **Section 170—Imitation of Forged Document, etc., need not be perfect.**

For the purposes of the provisions of this Code relating to the forgery, counterfeiting, falsifying, uttering, dealing with, using, or possessing of any document, stamp, or trade-mark, it is not necessary that the document, stamp, or trade-mark should be so complete, or should be intended to be made so complete, or should be capable of being made so complete, as to be valid or effectual for any of the purposes of the kind which it purports or is intended to be or to represent, or as to deceive a person of ordinary judgment and observation.

### **Section 171—Special Provision as to Jurisdiction.**

For the purposes of the provisions of this Code relating to the possessing or doing any act with respect to any document, stamp, or trade-mark which is forged, counterfeited, or falsified, or which is not genuine, it is immaterial whether such document, stamp, or trade-mark has been forged, counterfeited, falsified, made, or altered beyond or within the jurisdiction of the Courts.

## **CHAPTER 3—UNLAWFUL DAMAGE**

### **Section 172—Causing Unlawful Damage.**

(1) Whoever intentionally and unlawfully causes damage to any property by any means whatsoever—

(a) to a value not exceeding ₱1 million, or to no pecuniary value, shall be guilty of a misdemeanor;

(b) to a value exceeding ₱1 million, shall be guilty of second degree felony.

(2) Whoever intentionally and unlawfully causes damage to any property in such a manner as to cause death or be likely to cause danger to life shall be guilty of first degree felony.

(3) In this section property means movable and immovable property of every description.

### **Section 173—Definition of Damage.**

"Damage" includes not only damage to the matter of a thing, but also any interruption of the use thereof or any interference therewith, by which the thing becomes permanently or temporarily useless, or by



expense is rendered necessary in order to render the thing fit for the purposes for which it was maintained.

### **Section 174—Explanation of Unlawful Damage.**

(1) A person does an act or causes an event unlawfully, within the meaning of the provisions of this Code relating to unlawful damage, in any case in which he is liable to any civil action or proceeding, or to any other punishment under any enactment, in respect of his doing such act causing such event, or in respect of the consequences of the act or event, or in which he would be so liable if he caused the event directly by his own act, or in which he is liable to be restrained by injunction or any other proceeding from doing such act causing such event.

(2) It is immaterial whether a person accused of a crime in respect of any premises or thing be or be not in possession or occupation thereof.

(3) A person who is interested jointly or in common with other persons in any premises or thing as an owner or otherwise, or who is owner thereof in trust for any other person, can be guilty of any crime punishable under the aforesaid provisions by an act which is unlawful as herein before mentioned.

(4) A person who is sole owner for his own benefit of any premises or thing can be guilty of any crime punishable under the aforesaid provisions by an act done with intent to injure or defraud any person or to cause harm to any person although such act be not otherwise unlawful.

(5) Notwithstanding anything contained in Part I as to mistake of law, a person shall not be liable to any punishment in respect of his doing anything which, in good faith, he believes that he is entitled to do.

#### *Illustrations*

Subsection (2) A tenant of a house can be guilty of a crime against the aforesaid provisions by setting fire to the house.

Subsection (3) A person who is a joint owner or owner in common with other persons of a house or other property can be guilty of a crime against the aforesaid provisions in respect of the injury caused by his crime to other joint owners or co-owners.

Subsection (4) A person who intentionally sets fire to his own dwelling-house or ship may be guilty of causing unlawful damage as, for instance, if the fire is likely to spread to and does spread to other houses or if the property of any other person is likely to be destroyed and is destroyed.

### **Section 175—Explanation as to Amount of Damage.**

(1) Where an intention to cause damage to a certain amount, or a causing of damage to a certain amount is required by any enactment of this Code relating to unlawful damage, it is not necessary that damage to that amount should be intended or done to any individual thing of a kind mentioned in such section, but it is sufficient if damage to that amount in the aggregate is intended or done, as the case may be, to any number of such things.

collection of such things.

(2) Where different punishments are provided by any enactments of this Code relating to unlawful damage according to differences in the amount of damage caused, a person who is accused of having attempted to cause damage to a greater amount shall not be acquitted or relieved from liability to the greater punishment on the ground that he actually caused damage to a lesser amount.

### **Section 176—Poisoning or Using Dynamite in River.**

Whoever—

(a) throws any substance poisonous to fish into any river, stream or lagoon, in order to poison or stupefy the fish therein; or

(b) turns or obstructs any river or stream, for the purpose of taking or destroying fish; or

(c) throws any substance poisonous to fish into any part of the sea at the mouth of any river or stream running into the sea, for the purpose of poisoning, stupefying, taking or destroying any fish; or

(d) uses dynamite or other explosive substance to catch or destroy fish in any river, stream or lagoon; or

(e) uses any mode of catching fish which tends to destroy the fishing in any river, stream, or lagoon;

shall be liable to a fine not exceeding ₱5 million.

### **Section 177—Construction of Repairs Endangering Train, Vessel or Aircraft.**

(1) Whoever in constructing or repairing any vessel or aircraft or any fittings or machinery for a vessel or aircraft, or any engine, carriage, or apparatus to be used on or forming part of a railway, knowingly uses those materials, or so does any work, or so conceals any defect, as that the safety of the vessel or aircraft or of any person on board the vessel or aircraft, or who may use the railway, is likely to be endangered, shall be guilty of second degree felony.

(2) Whoever supplies for use on board any vessel or aircraft any medical or surgical stores or instruments or any life-belt or apparatus for saving life, of such inferior quality or in such a condition as to be substantially unfit for the purposes for which the same are or is supplied or as to be likely to endanger life, shall, if he does so knowingly, or negligently, be guilty of a misdemeanour.

### **Section 178—Intentionally Endangering Train, Vessel or Aircraft.**

Whoever causes the safety of any engine, carriage, or train upon a railway, or of any vessel or aircraft to be endangered, with intent to cause harm or danger to any person, shall be guilty of first degree felony.

### **Section 179—Interference with Signal etc.**

Whoever in any manner unlawfully interferes with or obstructs the working of any lighthouse, beacon signal, or other apparatus or thing, of what kind soever, which is used or maintained for the safe navigation, whether on the sea or on a river or other water or in the air or for the safe working or using of a railway, shall be guilty of a misdemeanour.

## CHAPTER 4—SPECIAL OFFENCES

### **Section 179A—Causing Loss, Damage or Injury to Property.**

(1) Any person who by a wilful act or omission causes loss, damage or injury to the property of any public body or any agency of the State commits an offence.

(2) Any person who in the course of any transaction or business with a public body or any agency of the State intentionally causes damage or loss whether economic or otherwise to the body or agency commits an offence.

(3) Any person through whose wilful, malicious or fraudulent action or omission—

(a) the State incurs a financial loss; or

(b) the security of the State is endangered, commits an offence.

(4) In this section "public body" includes the State, Government of Ghana, public board or corporation, public institution and any company or other body in which the State or a public corporation or other statutory body has a proprietary interest.

### **Section 179B.—Import of Explosives.**

(1) Any person who without lawful authority (proof of which shall be on him) imports into Ghana any explosives, firearms or ammunition commits an offence.

(2) For the purpose of this section explosives, firearms or ammunition shall have the same meaning as provided under section 192 of this Code.

### **Section 179C—Using Public Office for Profit.**

Any person who—

(a) while holding a public office corruptly or dishonestly abuses the office for private profit or benefit, or

(b) not being a holder of a public office acts or is found to have acted in collaboration with a holder of a public office for the latter to corruptly or dishonestly abuse the office for private profit or benefit,

commits an offence.

### **Section 179D.—Penalty**

A person convicted of an offence under any of the offences specified in this Chapter is liable on conviction to a fine of not less than ₵5 million or imprisonment not exceeding ten years or both."

## **PART IV—OFFENCES AGAINST PUBLIC ORDER, HEALTH, AND MORALITY.**

### **CHAPTER 1—OFFENCES AGAINST THE SAFETY OF THE STATE**

#### **Section 180—Treason**

(1) Whoever commits treason shall be liable to suffer death.

(2) For the purposes of this section, "treason" shall have the meaning assigned to it by clause (3) of Article 25 of the Constitution.

(3) A person who is not a citizen of Ghana shall not be punishable under this section for anything done outside Ghana, but a citizen of Ghana may be tried and punished for an offence under this section which he has committed.

#### **Section 181—Misprison of Treason.**

Whoever knows of any treason and does not forthwith reveal it to the President or to a police officer of a rank below the rank of Inspector shall be guilty of misprison of treason and shall be punishable as for first degree felony.

#### **Section 182—Treason Felony.**

A person is guilty of treason-felony and shall be punishable as for first degree felony who—

- (a) prepares or endeavours to procure by unlawful means any alteration of the law or the policy of the Government; or
- (b) prepares or endeavours to carry out by unlawful means any enterprise which usurps the executive power of the State in any matter of both a public and a general nature.

#### **Section 182A—Power to Prohibit Certain Organisations.**

(1) Whenever the President is satisfied with respect to any organisation either—

- (a) that its objects or activities are contrary to the public good; or
- (b) that there is danger of the organisation being used for purposes prejudicial to the public good.

may, if he thinks fit, by executive instrument declare that organisation to be a prohibited organisation

(2) Where an organisation is declared under subsection (1) to be a prohibited organisation, no shall—

- (a) summon a meeting of members or managers of such an organisation;
- (b) attend or cause any person to attend any meeting in the capacity of a member or manager of an organisation;
- (c) publish any notice or advertisement relating to any such meeting;
- (d) invite persons to support such an organisation;
- (e) make any contribution or loan to funds held or to be held by or for the benefit of such organisation or accept any such contribution or loan; or
- (f) give any guarantee in respect of such funds as aforesaid.

(3) Any person who contravenes any of the provisions of subsection (2) shall be guilty of an offence liable on conviction to a fine not exceeding ₵5 million or to imprisonment not exceeding one year or to

(4) Upon application being made by the Attorney-General, the High Court may with respect to an organisation declared under this section to be a prohibited organisation, make such orders as appear to the Court just and equitable for its winding up and dissolution or the disposition of any of its property or as

(5) For the purposes of this section "manager" means, in relation to any organisation, any officer of the organisation, and any person taking part in the management or control of the organisation or holding or purporting to hold a position of management or control therein.

### **Section 183—Power to Prohibit Importation or Publication of Newspaper, Sedition, etc.**

(1) Whenever the President is of opinion that the importation of any newspaper, book, or document, or any part thereof would be contrary to the public interest he may, if he thinks fit, by executive instrument, prohibit the importation of that newspaper, book, or document, and in the case of a newspaper, book, or document which is published periodically, may by the same or subsequent instrument prohibit the importation of any past or future issue thereof.

(2) Whenever the President is of opinion—

- (a) that there is in any newspaper, book or document which is published periodically a system of publication of matter calculated to prejudice public order or safety, or the maintenance of the services or economy of Ghana, or
- (b) that any person is likely to publish individual documents containing such matter, he may by executive instrument requiring that no future issue of the newspaper, book, or document shall

published, or, as the case may be, that no document shall be published by, or by arrangement with, the said person, unless the matter contained therein has been passed for publication in accordance with the instrument.

(3) Any person who conspires with any person to carry into execution any seditious enterprise, or publishes any seditious words or writing or utters any seditious words, or sells, offers for sale distributes or reproduces or imports any newspaper, book or document or any part thereof, or extract therefrom containing any seditious words or writing, shall be guilty of second degree felony.

(4) A person found guilty of an offence under subsection (3) shall be sentenced to imprisonment for a term not exceeding five years unless that Court finds that the offence was trivial or that there are special circumstances relating to the offence or the order which would render its application unjust.

(5) Any person who—

(a) sells, offers for sale, distributes, reproduces or imports any newspaper, book or document or any part thereof extract therefrom which is subject to an instrument under subsection (1) or which is subject to an instrument under subsection (2) contains matter which has not been passed for publication in accordance with the instrument; or

(b) being found in possession of any newspaper, book, or document or any part thereof or extract therefrom containing seditious words or writing, does not prove to the satisfaction of the Court that at the time he was found in such possession he did not know the nature of its contents; or

(c) being found in possession of any newspaper, book, or document or any part thereof or extract therefrom which has been declared by the President by order to be prohibited to be imported and does not prove to the satisfaction of the Court that it came into his possession without his knowledge or privity; shall be guilty of a misdemeanour.

(6) Any person—

(a) who obtains, receives, or otherwise acquires or has in his possession any newspaper, book, or document or any part thereof or extract therefrom which contains any seditious words or writing;

(b) to whom any newspaper, book, or document or any part thereof or extract therefrom which has been prohibited to be imported by order of the President is sent without his knowledge or privity in response to a request made before the prohibition on the importation of such newspaper, book, or document or part thereof or extract therefrom came into effect or who has such a newspaper, book, or document or part thereof or extract therefrom in his possession, power, or control 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 newspaper, book or document, or part thereof or extract therefrom coming into his possession before the prohibition order has been made, forthwith upon the coming into effect of the prohibition order or deliver up such newspaper, book, or document or part thereof or extract therefrom to the officer in charge of the nearest police station or to the nearest administrative officer and in default thereof, shall be guilty of a misdemeanour.

misdemeanour.

(7) A person who has complied with subsection (6) shall not be liable to be convicted of an offence under paragraph (b) or (c) of subsection (5).

(8) A prosecution for any of the offences defined in subsections (3), (5) and (6) shall be begun within six months after the offence is committed.

(9) A person shall not be convicted of any of the offences defined in subsections (3), (5) and (6) upon uncorroborated testimony of one witness.

(10) Any of the following officers, that is to say—

(a) any officer of the Posts and Telecommunications Department not below the rank of Assistant Controller of Posts;

(b) any officer of the Customs and Excise Department not below the rank of Collector;

(c) any police officer not below the rank of Assistant Superintendent of Police or (while on probation) Police Cadet;

(d) any other official authorised in that behalf by the Secretary,

may detain, open, and examine any package or article which he suspects to contain any newspaper, book, or document or any part thereof or extract therefrom which it is an offence under this section to print, publish, import, sell offer for sale, distribute, or possess, and during the examination may detain any person importing, distributing, or posting such package or article or in whose possession the package or article is found. If any such newspaper, book, or document or part thereof or extract therefrom is found in the 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 forthwith be arrested, and may, with the consent of the Attorney-General, be proceeded against for the commission of an offence under this section.

(11) For the purposes of this section an intention shall be taken to be seditious if it is an intention—

(a) to advocate the desirability of overthrowing the Government by unlawful means; or

(b) to bring the Government into hatred or contempt or to excite disaffection against it; or

(c) to excite the people of Ghana to attempt to procure the alteration, otherwise than by lawful means, of any other matter in Ghana as by law established; or

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

(e) to raise discontent or disaffection among the people of Ghana; or

- (f) to promote feelings of ill-will or hostility between different classes of the population of Ghana;
- (g) falsely to accuse any public officer of misconduct in the exercise of his official duties, knowing the accusation to be false or reckless whether it be true or false.

(12) An intention, not being an intention manifested in such a manner as to effect or be likely to effect the purposes mentioned in paragraph (a), of subsection (11) shall not be seditious if it is an intention—

- (a) to show that the Government has been misled or mistaken in any of their measures; or
- (b) to point out errors or defects in the Government or Constitution of Ghana as by law established in legislation or in the administration of justice, with a view to the reformation of those errors or defects; or
- (c) to persuade the people of Ghana to attempt to procure by lawful means the alteration of any matter in Ghana as by law established; or
- (d) to point out, with a view to their removal, any matters which are producing or have a tendency to produce feelings of ill-will or hostility between different classes of the population of Ghana.

(13) 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 which he so conducted himself.

(14) No proceedings shall be instituted under this section without the written consent of the Attorney General.

### **Section 183A—Limitation on Institution of Proceedings.**

Any person who with intent to bring the President into hatred, ridicule or contempt publishes any defamatory or insulting matter whether by writing, print, word of mouth or in any other manner whatsoever concerning the President shall be guilty of an offence and liable on summary conviction to a fine not exceeding one million or to imprisonment not exceeding three years or to both.

### **Section 183B—Offence and Penalty for Unqualified Persons Sitting or Voting in Parliament.**

A person who sits other than in the public galleries or in Parliament knowing or having reasonable grounds for knowing that he is not entitled to do so commits an offence and is liable on conviction to a fine not exceeding ₵200,000.00 or 30 days imprisonment or both.

### **Section 184—Insulting the National Flag and Emblem.**

Whoever does any act or utters any words or publishes any writing with intent to insult or bring into contempt or ridicule the official national flag or emblem of Ghana or any representation or pictorial reproduction of



is guilty of a misdemeanour.

### **Section 185—False Reports Injuring the Reputation of the State.**

(1) Whoever communicates to any other person, whether by word of mouth or in writing or by any means, any false statement or report which is likely to injure the credit or reputation of Ghana Government and which he knows or has reason to believe is false, shall be guilty of second degree felony.

(2) This section does not apply to any statement which is absolutely privileged under section 117.

(3) It is no defence to a charge under this section that the person charged did not know or did not have reason to believe that the statement or report was false unless he proves that, before he communicated the statement or report, he took reasonable measures to verify the accuracy of the statement or report.

(4) A citizen of Ghana may be tried and punished for an offence under this section whether committed inside or outside Ghana.

### **Section 186—Aiding or Permitting Escape of Prisoner of War.**

(1) Whoever intentionally and unlawfully aids or permits the escape of a prisoner of war shall be guilty of second degree felony.

(2) Whoever negligently and unlawfully permits the escape of a prisoner of war shall be guilty of a misdemeanour.

(3) "Escape" in this section includes the departure by a prisoner on parole beyond the limits within which he is allowed to be at large.

### **Section 187—Abetment of Mutiny or Desertion, or Assault by Sailor or Soldier or Airman.**

(1) Whoever, not being subject to military law, abets the commission of mutiny by any person subject to military law, shall be guilty of first degree felony.

(2) Whoever, not being subject to military law, abets the desertion of any person subject to such law, or the commission by any such person of any assault upon a superior officer being in the execution of his duty, shall be guilty of a misdemeanour.

### **Section 188—Abetment of Insubordination by Sailor, etc.**

Whoever, not being subject to military law, abets any act of insubordination by any person subject to military law, is guilty of a misdemeanour.

### **Section 189—Unlawful Training.**

If three or more persons meet or are together for the Purposes of military training or exercise, without the permission of the President or of some officer or person authorised by law to give such permission, each

them is guilty of a misdemeanour.

### **Section 190—Evasion of Naval, Military, or air Service.**

Whoever causes harm to himself or procures any other person to cause harm to him, for the purpose of evading any liability to perform service or duty, with the armed forces shall be guilty of a misdemeanour.

### **Section 191—Taking or Administering Unlawful Oath.**

(1) Whoever takes, or administers, or attempts, or offers to administer to any other person, any unlawful oath, shall be guilty of a misdemeanour.

(2) "Unlawful oath" in this section means any oath or engagement to commit or abet any crime, or to do any act with a design to commit any crime (including a crime punishable on indictment, whether under this Code or under any other enactment) or to prevent the discovery of any such crime, and any oath or engagement to do any act with the existence, purposes, or proceedings of any association of persons associated for any treasonable or seditious purpose.

### **Section 192—Possession of Explosives, Firearms and Ammunition Without Lawful Excuse**

(1) Notwithstanding the provisions of any other enactment, Possession of any person who has possession, custody or control without lawful excuse, the proof whereof shall be on him, any explosive, firearm or ammunition shall be guilty of first degree felony:

Provided that no prosecution shall be instituted under this section without the consent in writing of the Attorney-General.

(2) In this section—

"ammunition" means ammunition for any firearm and includes grenades, bombs and other similar missiles;

"explosive" means gunpowder, nitroglycerine, dynamite, gun-cotton, blasting powder, fulminate of mercury or of other metals, and every other substance, whether similar to the above-mentioned or not, used or manufactured with a view to producing a practical effect by explosion; and

"firearm" means any lethal barrelled weapon of any description from which any shot, bullet or other missile can be discharged or which can be adapted for the discharge of any such shot, bullet or other missile and includes any component part of any such weapon".

## **CHAPTER 2—PIRACY**

### **Section 193—Piracy.**

(1) A person commits an act of piracy if, being the owner or master of a ship, he sails the seas without authorisation from the government of any country with the object of committing depredation on the property or acts of violence against persons or if, from or by means of the ship, he commits any such

degradation or violence.

(2) A person commits an act of piracy if, being a member of the crew or a passenger of a ship, he conspires with any other person to rise against its master and officers or to seize the ship or if, in common with any other person, he engages in any act of hostility against her master and officers.

(3) A master or seaman commits an act of piracy if he betrays his trust, runs away with his ship or any goods belonging to her or yields them up voluntarily to any person contrary to his duty, or conspires or conspires with or attempts to corrupt any master, officer or seaman to yield up or run away with any ship or goods or makes or endeavours to make a revolt in the ship

(4) A person belonging to a ship commits an act of piracy if, upon meeting a ship at sea or in any port, harbour or haven, he forcibly boards or enters her and, though he does not seize or carry off the ship, any goods overboard or destroys any part of the goods belonging to her.

### **Section 194—Punishment of Piracy.**

(1) A person who commits an act of piracy shall be guilty of first degree felony.

(2) A person who with, intent to commit or at the time of or immediately before or immediately after committing an act of piracy in respect of any ship, assaults, with intent to murder, any person being on board, or belonging to, the ship or injures any such person or unlawfully does any act by which the life or health of such person may be endangered shall be guilty of felony and upon conviction shall be liable to, suffer the punishment of imprisonment for life.

### **Section 195—"Hijacking and Attack on International Communications".**

(1) Whoever hijacks any aircraft commits an offence and shall be guilty of a first degree felony and liable on conviction to imprisonment of not less than five years.

(2) A person commits an offence under subsection (1) of this section where he unlawfully interferes with, damages, destroys, seizes or wrongfully exercises control of an aircraft (other than an aircraft used for military, customs or police services) or does any other unlawful act likely to jeopardize the safety of passengers or property in, or the good order and discipline on board the aircraft.

(3) Any person who attacks or destroys any international communications system, canal or submarine cable commits an offence and shall be guilty of a second degree felony and liable on conviction to imprisonment for a term of not less than two years".

## **CHAPTER 3—OFFENCES AGAINST THE PEACE**

### **Section 196—Definition of riot.**

(1) If five or more persons together in any public or private place commence or attempt to do any of the following things, namely—

(a) to execute any common purpose with violence, and without lawful authority to use such violence

for that purpose; or

(b) to execute a common purpose of obstructing or resisting the execution of any legal process or authority; or

(c) to facilitate, by force or by show of force or of numbers, the commission of any crime.

they are guilty of a riot.

(2) Persons are not guilty of a riot by reason only that they, to the number of five or more, suddenly engaged in an unlawful fight, unless five or more of them fight with a common purpose against some other persons.

### **Section 197—Definition of Violence.**

For the purposes of this Chapter "violence" means any criminal force or harm to any person, or any damage to any property, or any threat or offer of such force, harm, or mischief, or the carrying or displaying of any deadly, dangerous, or offensive instruments in such a manner as that terror is likely to be caused in any person, or such conduct as is likely to cause in any person a reasonable apprehension of criminal force, harm, or mischief to him or his property.

### **Section 198—Riot.**

Whoever takes part in a riot shall be guilty of a misdemeanour.

### **Section 199—Rioting with Weapons.**

Whoever takes part in a riot, being armed with any offensive instrument, shall be guilty of second degree felony.

### **Section 200—Provocation of Riot.**

Whoever does any act with intent to provoke a riot shall be guilty of a misdemeanour.

### **Section 201—Definition of Unlawful Assembly.**

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

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

### **Section 202—Unlawful Assembly.**

(1) Whoever takes part in an unlawful assembly shall be guilty of a misdemeanour.

(2) Whoever takes part in an unlawful assembly armed with any offensive weapon or missile shall be guilty of second degree felony.

### **Section 202A—Forcible Entry.**

(1) Whoever with violence makes an entry into any building or land, whether or not he is entitled to possession thereof, shall be guilty of a misdemeanour, unless he does so in pursuance of a warrant or other lawful authority to use such violence.

(2) Section 180 of the Criminal Procedure Code, 1960 (Act 30) (which provides for the discharge of a person accused by a District Court where a bona fide question of title to land is raised) shall not apply to an offence under this section.

### **Section 203—Challenging or Agreeing to Fight with Weapons.**

Whoever does any act with intent to provoke any other person to fight, whether in a public place or not, or who carries any deadly or dangerous instrument, and whoever agrees or offers to agree so to fight, shall be guilty of a misdemeanour.

### **Section 204—Disturbance of Lawful Assembly.**

Whoever unlawfully and with violence obstructs the assembly of any persons for any lawful purpose, or disturbs any such assembly, or with violence disperses or attempts to disperse any such assembly, shall be guilty of a misdemeanour.

### **Section 205—Assault, etc., on Public Officer.**

Whoever—

(a) assaults, obstructs, molests, or resists, or aids or incites any other person to assault, obstruct, molest, or resist any public or peace officer, or any person employed by a public or peace officer, or acting or proceeding to act in the execution of any public office or duty or in the execution of a warrant or legal process; or

(b) uses any threatening, abusive, or insulting language, or sends any threatening or insulting message, or letter, to any peace officer in respect of his duties,

shall be guilty of a misdemeanour.

### **Section 206—Carrying Offensive Weapons.**

(1) Any person who, without lawful authority the proof where, of shall lie on him, has with him in any

place any offensive weapon shall be guilty of a misdemeanour.

(2) Any person who, while present at any public meeting or at any public assembly of people or on any occasion of any public procession, has with him any offensive weapon or missile, without lawful authority, and the proof whereof shall lie on him shall be guilty of a misdemeanour.

(3) In this section "offensive missile" includes a stone or brick likely to cause harm if thrown.

(4) In this section "offensive weapon" means an article made or adapted for use for causing injury to a person or intended by the person having it with him for such use by him.

### **Section 207—Offensive Conduct Conducive to Breaches of Peace.**

Any person who in any public place or at any public meeting uses threatening, abusive or insulting words or behaviour with intent to provoke a breach of the peace or where-by a breach of the peace is likely to be occasioned, shall be guilty of a misdemeanour.

### **Section 208—Publication of False news with Intent to Cause fear and Alarm to Public.**

(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 the statement, rumour or report is false is guilty of a misdemeanour.

(2) It is no defence to a charge under subsection (1) that the person charged did not know or did not have reason to believe that the statement, rumour or report was false unless he proves that, prior to publishing the statement, rumour or report he took reasonable measures to verify the accuracy of the statement, rumour or report.

### **Section 209—Discharging Guns, etc., in Town.**

(1) Whoever in any town without lawful and necessary occasion—

(a) discharges any firearm, or

(b) being the occupier of any house, building, or yard, knowingly permits any fire-arm to be discharged therein,

shall be liable to a fine not exceeding ₦500,000.

(2) Whoever in any town without lawful and necessary occasion throws or sets fire to any firework in any public place or in any house, building, or yard shall be liable to a fine not exceeding ₦100,000.

## **CHAPTER 4—OFFENCES CONCERNING THE ADMINISTRATION OF JUSTICE**

### *Perjury and Similar Offences*

### **Section 210—Perjury.**

(1) Whoever commits perjury shall be guilty of second degree felony.

(2) Whoever commits perjury with intent to cause the conviction of any person for any crime punishable by death, shall be guilty of first degree felony.

### **Section 211—Definition of Perjury.**

A person is guilty of perjury, if in any written or verbal statement made or verified by him upon oath before any Court, or public officer, or before the President or any Committee thereof he states anything which he knows to be false in a material particular, or which he has not reason to believe to be true.

### **Section 212—Special Explanation as to Perjury.**

A person can be guilty of perjury by swearing that he believes a thing which he does not in fact believe.

### **Section 213—Fabrication of Evidence**

Whoever fabricates evidence, with intent to defeat, obstruct, or pervert the course of justice in any proceeding, shall be liable to the same penalties as if he had committed perjury in that proceeding.

### **Section 214—Definition of Fabrication.**

A person fabricates evidence if he causes any circumstance to exist, or makes a false entry in any account, or record, or makes any document containing a false statement or forges any document, with intent to mislead any public officer, judge, or juror acting in any judicial proceeding.

### **Section 215—Deceit of Court by Personation etc.**

Whoever with intent to defeat, obstruct, or pervert the course of justice, or to defraud or injure any person, or to frustrate the endeavours of justice, or to defraud or injure any person endeavours to deceive any court, or any public officer by personation, or by any false instrument, document, seal, or signature, shall be guilty of a misdemeanour.

### **Section 216—Deceit by Paper Resembling Court Process.**

Whoever knowingly delivers or causes to be delivered to any other person any paper of such character as to be calculated, by reason of the resemblance of that paper to a summons or other process of any court or tribunal, to deceive shall be guilty of a misdemeanour.

### **Section 217—Causing Witness to Disobey Summons.**

Whoever in any manner wilfully causes any person to disobey any summons, process, or order lawfully issued or made for his attendance as a witness in any judicial proceeding, or for the production by

any written or other evidence in any judicial proceeding, is guilty of a misdemeanour.

### **Section 218—Causing Person to Refrain from Giving Evidence on Criminal Trial.**

Whoever with intent to defeat, obstruct, or pervert the course of justice at the trial of any person for a crime, in any manner causes any person to refrain from giving evidence at such trial, is guilty of a misdemeanour.

### **Section 219—Disobedience to Summons as Witness.**

Whoever without reasonable excuse makes default in obeying any summons, process, or order issued or made for his attendance as a witness in any judicial proceeding or for the production by him of any written or other evidence in any judicial proceeding, is guilty of a misdemeanour.

#### *Interference with Legal Proceedings*

### **Section 220—Hindrance of Inquest.**

Whoever with intent to prevent, obstruct, or delay the taking of any inquest upon the body or touching the death of any person, or to defeat the ends of justice, buries, or in any manner conceals or disposes of the body, shall be guilty of a misdemeanour.

### **Section 221—Neglect to Hold Inquest, etc.**

(1) Whoever, being under a duty as a police officer, coroner, gaoler, peace officer, or in any other capacity to give any notice or take any measures in order to procure the holding of an inquest upon the body touching the death of any person, wilfully and without reasonable excuse fails to perform his duty shall be guilty of a misdemeanour.

(2) A prosecution for an offence under this section shall not be instituted except by the Attorney-General with his consent.

### **Section 222—Violence Against Judges, etc, in Legal Proceeding.**

Whoever uses any violence with intent to deter any person from acting in any manner as a judge, arbitrator, umpire, assessor, juror, witness, counsel, agent, prosecutor, or party in any legal proceeding or enquiry, or from acting in execution of his duty in any judicial or official capacity, or from having recourse to any public officer, or on account of his having so acted or had recourse, shall be guilty of a misdemeanour.

### **Section 223—Disturbance of Court.**

Whoever with force, threats, or tumult, hinders, interrupts or disturbs the proceedings of any Court, or unlawfully, with force, threats, or tumult, hinders any person from entering or quitting any Court, or removes him therefrom, or detains him therein, shall be guilty of a misdemeanour.



### **Section 224—Insulting Court.**

Whoever in the presence of any Court is guilty of contempt of Court by any insulting, opprobrious or menacing acts or words, is guilty of a misdemeanour.

### **Section 225—Exciting Prejudice as to Proceeding Pending in Court.**

Whoever, pending any proceedings in any Court, publishes in writing or otherwise anything concerning any proceedings or any party thereto, with intent to excite any popular prejudice for or against any party to any proceedings, is guilty of a misdemeanour.

*Rescue, Escape, Compounding Crime, etc.*

### **Section 226—Resisting Arrest and Rescue**

(1) Whoever endeavours to resist or prevent the execution of the law—

- (a) by resisting the lawful arrest of himself or of any other person for any cause; or
- (b) by rescuing any other person from lawful custody for any cause; or
- (c) by escaping or permitting himself to be rescued from lawful custody; or
- (d) by rescuing any goods or things from any public officer or peace officer or other person having possession, custody, or care thereof under or by virtue of any lawful warrant or process,

is guilty of a misdemeanour.

(2) Where a person in lawful custody under any sentence of imprisonment escapes, the time during which he is at large shall not be taken into account in computing the term of his original sentence.

### **Section 227—Prison Officer Accessory to Breaches of Discipline**

[Repealed by NRCD 46, s. 53.]

### **Section 228—Smuggling Things into Prison, Etc.**

[Repealed by NRCD 46, s. 53.]

### **Section 229—Interference with Prisoners Outside Prison**

[Repealed by NRCD 46, s. 53.]

### **Section 230—Prison Officer Leaving Prisoner when Outside Prison, etc.**

[Repealed by NRCD 46, s. 53.]

### **Section 231—Oppression by Prison Officer**

[Repealed by NRCD 46, s. 53.]

### **Section 232—Preventing Execution of Person Sentenced to Death**

Whoever endeavours by force to prevent the executive of any person sentenced to death shall be guilty of a second degree felony.

### **Section 233—Advertising a Reward for the Return of Stolen Property, etc.**

Whoever—

(a) publicly offers a reward for the return of a property which has been stolen, and the offer includes the use of any stolen words purporting that no questions will be asked, or that the person producing the property will not be seized; or

(b) publicly offers to return to any person who may have bought or advanced money by way of ransom upon any stolen or lost property the money so paid or advanced or any other sum of money or property for the return of such property; or

(c) prints or publishes any such offer;

shall be liable to a fine not exceeding ₱500,000

### **Section 234—Compounding Crime.**

Whoever, without leave of a Court, compounds any crime shall be guilty of a misdemeanour.

### **Section 235—Definition of Compounding**

A person compounds a crime if he offers or agrees to forbear from prosecuting or giving evidence against a person on a criminal charge, in consideration of money, or of any valuable thing, or of any advantage whatsoever to himself to any other person.

## **CHAPTER 5—OFFENCES RELATING TO PUBLIC OFFICERS AND TO PUBLIC ELECTIONS**

### **Section 236—Refusal to Serve in Public Office.**

Whoever without lawful excuse refuses to serve in a public office, in which he is bound to serve, and the refusal to serve in which no penalty or punishment is provided by any enactment, is guilty of a misdemeanour.

### **Section 237—Falsely Pretending to be Public Officer or Juror, etc.**

Whoever pretends to be or acts as a public officer, juror, or to be a messenger of or to hold any authority from the President, or a Minister or a Court, not being lawfully authorised to act as such officer or juror or messenger, or not holding such authority, and in or under colour of such assumed character does or attempts to do, or procures or attempts to procure, any person to do or abstain from doing anything whatsoever is guilty of a misdemeanour, unless he shows either—

(a) that he so pretended or acted under a mistake of law or of fact; or

(b) in the case of a person acting as a public officer, that he so acted in good faith for the benefit of the public.

### **Section 238—Proof of Falsity of Pretence.**

Upon any trial for an offence under section 237, a statement purporting to be signed by a person in the name of the President, Minister or Court, declaring that the accused was not at a stated time or place a messenger of or did not hold any office or authority under the President, Minister or Court, as the case may be, and a statement purporting to be signed by the Chairman of the Civil Service Council declaring that the accused was not a civil servant and a statement purporting to be signed in the name of any local or statutory authority, declaring that he was not an officer of that authority shall, without further proof, be prima facie evidence of the matters so declared.

### **Section 239—Corruption, etc. of and by Public officer, or Juror.**

(1) Every public officer or juror who commits corruption, or wilful oppression, or extortion, in respect of the duties of his office, shall be guilty of a misdemeanour.

(2) Whoever corrupts any person in respect of any duties as a public officer or juror shall be guilty of a misdemeanour.

### **Section 240—Explanation as to Corruption by Public Officer, etc.**

A public officer, juror, or voter is guilty of corruption in respect of the duties of his office or vote, if he directly or indirectly agrees or offers to permit his conduct as such officer, juror, or voter to be influenced by the promise, or prospect of any valuable consideration to be received by him, or by any other person, from any person whomsoever.

### **Section 241—Explanation as to Corruption of Public Officer, etc.**

A person is guilty of corrupting a public officer, juror, or voter in respect of the duties of his office or in respect of his vote, if he endeavours directly or indirectly to influence the conduct of such public officer or voter in respect of the duties of his office or in respect of his vote, by the gift, promise, or prospect of any valuable consideration to be received by such public officer, juror, or voter, or by other person, from any person whomsoever.

### **Section 242—Special Explanation as to Corruption of and by Public Officer, etc.**

It is immaterial, for the purposes of section 240 or 241, that the person respecting whose conduct, endeavour, agreement, or offer therein mentioned is made is not yet at the time of the making of such endeavour, agreement, or offer, such a public officer, juror, or voter, if the endeavour, agreement, or offer is made in the expectation that he will or may become or act as such officer, juror, or voter.

#### **Section 243—Corrupt Agreement for Lawful Consideration, etc.**

It is immaterial, for the purposes of section 240, 241 or 242, whether the act to be done by a person is in consideration or in pursuance of any such gift, promise, prospect, agreement or offer as therein mentioned, if the act is done in any manner criminal or wrongful otherwise than by reason of the provisions of the said sections.

#### **Section 244—Acceptance of Bribe by Public Officer, etc., After Doing Act.**

If, after a person has done any act as a public officer, juror, or voter, he secretly accepts, or agrees or offers to accept, or secretly to accept for himself or for any other person, any valuable consideration on account of such act, he shall be presumed, until the contrary is shown, to have been guilty of corruption, within the meaning of Chapter, in respect of that act before the doing thereof.

#### **Section 245—Promise of bribe to Public Officer, etc. After act Done.**

If, after a public officer, juror, or voter has done any act as such officer, juror, or voter, any other person secretly agrees or offers to give to or procure for him or any other person any valuable consideration on account of such act, the person so agreeing or offering shall be presumed, until the contrary is shown, to have been guilty of having, before the doing of such act, corrupted such public officer, juror, or voter in respect of such act.

#### **Section 246—Explanation as to Oppression.**

A public officer or juror is guilty of wilful oppression in respect of the duties of his office if he wilfully commits any excess or abuse of his authority, to the injury of the public or of any person.

#### **Section 247—Explanation as to Extortion.**

A public officer is guilty of extortion who, under colour of his office, demands or obtains from any person, whether for purposes or for himself or any other person any money or valuable consideration which he knows that he is not lawfully authorised to demand or obtain, or at a time at which he knows that he is not lawfully authorised to demand obtain the same.

#### **Section 248—Making False Declaration, etc., for Officer or Voting.**

Whoever, in order that he may obtain or be qualified to act in any public office or to vote at any election makes, signs, publishes, or uses any declaration, statement or oath, required by law in any such case, or any certificate or testimonial as to his conduct or services, or as to any other matter which is material for the obtaining by him of such office, or for his qualification to act in such office or to vote at any election, shall, if he does so, knowing that the declaration, statement, oath, certificate, or testimonial is

in any material particular, be guilty of a misdemeanour.

#### **Section 249—Giving of False Certificate by Public Officer.**

Every public officer who, being bound or authorised as such officer to attest or certify, by writing or otherwise, any document or matter, or that an event has or has not happened, attests, or certifies, any document or matter knowing it to be false in any material particular, or attests that such event has happened or has not happened, as the case may be, without knowing or having reason to believe that it has happened or has not happened as the case may be, according to his attestation or certificate, shall be guilty of a misdemeanour.

#### **Section 250—Destruction, etc., of Document by Public Officer.**

Every public officer who intentionally and unlawfully destroys, injures, falsifies, or conceals any document which is in his possession, custody, or control, or to which he has access by virtue of his office, shall be guilty of a misdemeanour.

#### **Section 251—Deceiving a Public Officer**

Whoever with intent to defeat, obstruct, or pervert the course of justice, or the due execution of the law, or to evade the requirements of the law or to defraud or injure a person, or to obtain or assist in or facilitate the obtaining of any passport, instrument, concession, appointment, permission or other privilege or advantage, or endeavours to deceive or to overreach any public officer acting in the execution of any public office or duty, by personation, or by any false instrument, document, seal, signature, or by any false statement, declaration, or assurance, whether written or verbal or by any written or verbal statement, declaration, or assurance, which the person making such statement, declaration, or assurance did not have good reason to believe to be true, is guilty of misdemeanour.

#### **Section 252—Accepting or Giving Bribe to Influence Public Officer or Juror.**

(1) Whoever accepts, or agrees or offers to accept any valuable consideration, under pretence or colour of duty, having unduly influenced, or of agreeing or being able so to influence, any person in respect of his functions as a public officer or juror, is guilty of a misdemeanour

(2) Whoever gives, or agrees or offers to give to any public officer any valuable consideration for the benefit of himself or to any other person of any benefit or advantage or for the exercise of influence in favour of himself or any other person is' guilty of a misdemeanour.

#### **Section 253—Corrupt Promise by Judicial Officer or Juror.**

Whoever, otherwise than in the due execution of his duties as a judicial officer or juror, makes or offers to make any agreement with any person as to the judgment or verdict which he will or will not give as a judicial officer or juror in any pending or future proceeding, is guilty of a misdemeanour.

#### **Section 254—Corrupt Selection of Juror.**

Whoever, with a purpose of procuring any undue advantage or disadvantage to any party to any proceeding, procures himself, or any other person to be summoned, empanelled, or sworn as a juror in such proceeding, or endeavours to prevent any other person from being, summoned, impanelled; or as a juror in such proceeding, is guilty of a misdemeanour.

#### **Section 255—Prevention etc. of Election by Force, etc.**

Whoever attempts to prevent, obstruct, or disturb any public election by any kind of force, violence, threats, or by any act which is a crime punishable under this Code, shall be guilty of a misdemeanour.

#### **Section 256—Corruption Intimidation, and Personation in Respect of Election.**

Whoever is guilty of corruption, intimidation, or personation in respect of a public election, shall be guilty of a misdemeanour, and shall, during seven years from the date of his conviction, be incapable of voting in any public election and of holding the public office in respect of which the election was held, or any public office of the same nature.

#### **Section 257—Definition of Intimidation.**

A person is guilty of intimidation at a public election if he endeavours to influence the conduct of any voter in respect of such election by a threat of any evil consequence to be caused to him or to any other person on account of his conduct as such voter.

#### **Section 258—Falsification of Return at Election.**

Whoever, being a public officer charged with the counting of votes or the making of a return at any election, wilfully falsifies the account of such votes or makes a false return shall be guilty of second degree felony.

#### **Section 259—Explanation as to an Election.**

No person shall be relieved from any liability to punishment under this Chapter by reason of any irregularity or informality in the proceedings at or preliminary or subsequent to an election.

#### **Section 260—Withholding of Public Money, etc., by Public Officer.**

If any public officer who is bound as such officer to pay or account for any money or valuable things, or to produce or give up any documents or other things, fails to pay or account for, or to produce or give up the same according to his duty to any other officer or person lawfully demanding the same, he shall be guilty of a misdemeanour.

#### **Section 261—Definition of Valuable Consideration.**

In this Chapter, "valuable consideration" includes any money, money's worth, or valuable thing, any office or dignity and any forbearance to demand money, or money's worth, or any valuable thing, a

private advantage of whatsoever kind.

## CHAPTER 6—BIGAMY AND SIMILAR OFFICERS

### **Section 262—Bigamy.**

Whoever commits bigamy shall be guilty of a misdemeanour.

### **Section 263—Definition of and Special Provision as to bigamy.**

(1) A person commits bigamy who, knowing that a marriage subsists between him or her and any person, goes through the ceremony of marriage, whether in Ghana or elsewhere, with some other person.

(2) A person is not guilty of bigamy or an offence under section 264 if at the time of the subsequent marriage his former wife or her former husband has been continually absent from him or her for seven years, and he or she has not been heard of by him or her as being alive within that time and if before the subsequent marriage he or she informs the other party thereto of the facts of the case so far as they are known to him or her.

(3) Upon proof by the accused person of such continued absence and information, it shall lie upon the prosecutor to prove that the former wife or husband has been so heard of.

### **Section 264—Marriage with a Person Previously Married.**

Whoever, being unmarried, goes through the ceremony of marriage, whether in Ghana or elsewhere, with a person whom he or she knows to be married to another person is guilty of a misdemeanour, whether or not the other party to the ceremony has or has not such guilty knowledge as to be guilty of bigamy.

### **Section 265—Marriages under Customary Law.**

(1) A person is not guilty of bigamy or of an offence under section 264 if the marriage in respect of which the act was committed, and the former marriage, were both contracts under customary law.

(2) A person may be guilty of bigamy or of an offence under section 264 if, having contracted a monogamous marriage with any person, he marries or purports to marry any other person under customary law, or if, being married to any person by customary law, he goes through a monogamous ceremony of marriage with any other person.

### **Section 266—Fictitious Marriages.**

Whoever, whether in Ghana or elsewhere, goes through the ceremony of marriage, or any ceremony which he or she represents to be a ceremony of marriage, knowing that the marriage is void on any ground, and that the other person believes it to be valid, shall be guilty of a misdemeanour.

### **Section 267—Personation in Marriages.**

Whoever personates any other person in marriage, or marries under a false name or description, with

to deceive the other party to the marriage, shall be guilty of a misdemeanour.

**Section 268—Unlawfully Performing Marriage Ceremony.**

Whoever performs or witnesses as a marriage officer the ceremony of marriage, knowing that he is not qualified so to do or that any of the matters required by law for the validity of such marriage have not happened or been performed, so that the marriage is void or unlawful on any ground, shall be guilty of a misdemeanour.

**Section 269—Making false Declaration, etc., for Marriage.**

Whoever in any declaration, certificate, licence, document, or statement required by law to be made or issued for the purposes of a marriage, declares, enters, certifies, or states any material matter which he knows to be false, shall be guilty of a misdemeanour.

**Section 270—False Pretence of Impediment to Marriage.**

Whoever endeavours to prevent a marriage by pretence that his consent thereto is required by law, or that any person whose consent is so required does not consent, or that there is any legal impediment to the performing of such marriage, shall, if he does so knowing that such pretence is false or without any reasonable cause to believe that it is true, be guilty of a misdemeanour.

**Section 271—Wilful Neglect of Duty to fill up to Transmit Certificate of Marriage.**

Whoever, being under a duty to fill up the certificate of a marriage performed by him, or the court or officer thereof, or to transmit the same to the Registrar of Marriages, wilfully fails to perform such duty, shall be liable to a fine not exceeding ₪500,000.00.

**Section 272—Mode of Proving Marriage or Divorce.**

(1) Where, for the purposes of this Chapter, it is requisite to prove a former marriage of any person, the production of a certificate of divorce or a decree of nullity shall be requisite and sufficient to prove a marriage, wheresoever and howsoever celebrated, which was lawfully and solemnly contracted and admitted by the Court as a valid marriage for the purposes of any civil proceeding, or for the purposes of the administration or distribution of the effects of a person upon his decease.

(2) In like manner, where a person accused of bigamy defends himself or herself on the ground of a divorce or decree of nullity from a former wife or husband, any such divorce (and no other) shall be deemed sufficient as well as admitted by the Court as a valid divorce from the bond of marriage.

**CHAPTER 7—OFFENCES AGAINST PUBLIC MORALS**

*Brothels, Prostitution, etc.*

**Section 273—Allowing Persons under Sixteen to be in Brothels.**

Whoever, having the custody, charge or care of a child under the age of sixteen years, allows that child to be



reside in or frequent a brothel shall be guilty of a misdemeanour.

### **Section 274—Persons Trading in Prostitution.**

(1) Any person who—

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

(b) is proved to have, for the purposes of gain, exercised control, direction or influence over the movements of a prostitute in such manner as to aid, abet or compel the prostitution with any person or generally,

shall be guilty of a misdemeanour.

(2) Any Chairman of a Tribunal or a Judge who is satisfied by evidence upon oath that there is reason to suspect that any premises or part thereof is used for the purposes of prostitution and that any person residing in or frequenting the premises is living wholly or in part on the earnings of any prostitute may issue a warrant under his hand authorising a police officer to enter and search the premises and to arrest any person.

(3) Where a person is proved to live with or to be habitually in the company of a prostitute or is proved to have exercised control, direction or influence over the movement of a prostitute and in each such case in such manner as to show that he is aiding, abetting or compelling the prostitution with any other person or generally, he shall, unless he satisfies the Court to the contrary, be deemed to be knowingly living wholly or in part on the earnings of prostitution.

### **Section 275—Soliciting or Importuning for Immoral Purposes**

Any person who in any public place or in sight of any public place persistently solicits or importunes—

(a) to obtain clients for any prostitute; or

(b) for any other immoral purpose,

shall be guilty of a misdemeanour.

### **Section 276—Soliciting or Importuning by Prostitute.**

(1) Any person who persistently solicits or importunes in any public place or in sight of any public place for the purpose of prostitution shall be liable for a first offence to a fine not exceeding "€500,000" and for a second or subsequent offence shall be guilty of a misdemeanour.

(2) A person shall not be tried for an offence in this section without the consent of a superior police officer but this shall not prevent the arrest, or the issue of a warrant for the arrest, of a person in respect of an offence by a police officer or the remanding in custody or on bail of any person charged with an offence notwithstanding

such consent has not been obtained.

### **Section 277—Keeping a Brothel.**

Whoever—

(a) keeps or manages or assists in the management of a brothel; or

(b) being a tenant, lessee or occupier or person in charge of any premises, knowingly permits any premises or any part thereof to be used as a brothel or for the purposes of habitual prostitution;

(c) being the lessor or landlord of any premises or the agent of such lessor or landlord, permits any premises or any part thereof with the knowledge that the said premises or such person thereon are to be used as a brothel, or is wilfully a party to the continued use of such premises or any part thereof as a brothel,

shall be guilty of a misdemeanour.

### **Section 278—Gross Indecency.**

Whoever publicly and wilfully commits any grossly indecent act is guilty of a misdemeanour.

### **Section 278A—Immoral or Indecent Customs or practices in relations to bereaved Spouses, etc.**

Whoever compels a bereaved spouse or a relative of such spouse to undergo any custom or practice which is immoral or grossly indecent in nature shall be guilty of a misdemeanour.

### **Section 279—Definitions.**

In this Chapter—

"brothel" means any premises or room or set of rooms in any premises kept for purposes of prostitution;

"prostitution" includes the offering by a person of his body commonly for acts of lewdness for purposes of prostitution, although there is no act or offer of an act of ordinary sexual connexion.

*Obscenity*

### **Section 280—Publication or Sale of Obscene Book, etc.**

Whoever publishes or offers for sale any obscene book, writing, or representation, shall be guilty of a misdemeanour.

*Illustrations*

(a) A. publishes a book for the use of physicians or surgeons, or of persons seeking medical or surgical advice;

information. Whatever may be the subjects with which the book deals, if they are treated with as much decency as the subject admits, A. is not guilty of an offence against this section.

(b) B. publishes extracts from the book mentioned in the last illustration, arranged or printed in such a manner as to give unnecessary prominence to indecent matters. If the Court or jury think that such publication is calculated to be unnecessarily and improperly to excite passion, or to corrupt morals, B. ought to be convicted.

### **Section 281—Further Offences Relating to Obscenity.**

(1) Any person who—

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

(b) for any of the purposes above mentioned, imports, conveys, or exports, or causes to be imported, conveyed, or exported, any of the said obscene matters or things, or in any manner whatsoever introduces any of them into circulation; or

(c) carries on or takes part in any business, whether public or private, concerned with any of the said obscene matters or things, or deals in any of the said matters or things in any manner whatsoever, or distributes any of them or exhibits any of them publicly; or makes a business of lending any of them; or

(d) advertises or makes known by any means whatsoever, with a view to assist in the said punishable acts, or circulation or traffic, that a person is engaged in any of the above punishable acts, or advertises or makes known how or from whom any of the said obscene matters or things can be procured, directly or indirectly,

shall be guilty of a misdemeanour.

(2) A Chairman of a Tribunal or a Judge may, on application being made to him for the purposes by or on behalf of the Commissioner of Police, order to be destroyed any of the obscene matters or things mentioned in subsection (1) which he, the Chairman or Judge, is satisfied has or have been or is or are being deposited, or used for any of the purposes referred to in the said subsection.

### **Section 282—Indecent Inscriptions.**

Whoever affixes to or inscribes on any place or thing so as to be visible from any public place, or affixes or inscribes on any public urinal, or delivers to any person in a public place, or exhibits to public view in any building, any picture or printed or written matter of an indecent or obscene nature, shall be liable to a fine not exceeding ₦500,000.

### **Section 283—Persons Sending Others to do the Acts Punishable under Section 282.**

Whoever gives or delivers to any other person any picture or printed or written matter mentioned in s. 282 with the intent that it be affixed, inscribed, delivered, or exhibited as therein mentioned, shall be liable to a fine not exceeding c\$500,000.

### **Section 284—Advertisements as to Syphilis, etc., Declared Indecent.**

(1) Any advertisement relating to venereal disease, nervous debility, or other complaint or infirmity arising from or relating to sexual intercourse and any advertisement claiming for any preparation aphrodisiac properties, shall be deemed to be of an indecent or obscene nature.

(2) This section does not apply to any advertisement relating to venereal disease published by or with the authority of the Minister responsible for Health.

## **CHAPTER 8—PUBLIC NUISANCE**

### *Hindering Burials, etc.*

### **Section 285—Hindering Burial of Dead Body, etc.**

Whoever unlawfully hinders the burial of the dead body of any person, or without lawful authority or excuse on behalf disinters, dissects, or harms the dead body of any person, or being under a duty to cause the dead body of any person to be buried, fails to perform that duty, is guilty of a misdemeanour.

### *Unwholesome Food*

### **Section 286—Selling, etc. Unwholesome Food.**

Whoever sells, or prepares or offers for sale, as being fit for consumption as food or drink, anything which he knows or has reason to believe to be in such a condition from putrefaction, adulteration, or other cause as to be likely to be noxious to health is guilty of a misdemeanour.

### *Noxious Trade, etc.*

### **Section 287—Carrying on of Noxious Trade, and other interference with Public Rights.**

Whoever, without lawful authority or excuse (the proof whereof shall lie on him) commits any of the following nuisances, namely—

(a) carries on any noxious, offensive, or noisy business at any place, or causes or permits any noxious or offensive matter to be collected or continue at any place, or so keeps any animals or things at any place, as to impair or endanger the health of the public inhabiting or using the neighbourhood of that place, or as to cause material damage to the lands, crops, cattle, or goods of such public, or so causes or permits any material interruption to such public in their lawful business or occupations, or as to materially affect the value of their property; or

(b) so makes, keeps, or uses any explosive matter, or any collection of water, or any other dangerous

or destructive thing, or any building, excavation, open pit, or other structure, work or place keeps any animal or permits to be at large, as to cause danger of harm or damage to the person or property of the public; or any well, spring, or reservoir, so as to deprive the public of the use thereof; or

(c) corrupts or fouls the water of any public well, tank, spring, reservoir, or place used or intended for supplying water to man or for fish culture,

shall be liable to a fine not exceeding ₱500,000 and shall, upon conviction for a continuance or repetition of any such offence, be guilty of a misdemeanour.

### **Section 288—Explanation as to Carrying on of Noxious Trade, etc.**

The following provisions shall have effect with respect to the nuisance of carrying on a noxious, offensive or noisy business, at any place, or of causing or permitting noxious or offensive matter to be collected or deposited at any place, or of continuing to continue at any place, or of keeping animals at any place as mentioned in this Chapter, namely—

(a) "business" includes not only any trade, manufacture, work, business, or occupation carried on for profit or gain, but also any continued or frequent repetition of any act or series of acts of any kind; and

(b) it is necessary, in order that a person may be punishable in respect of any such nuisance, that the injury, prejudice or danger caused thereby should extend to persons inhabiting or occupying, under separate tenancies, not less than three houses or other tenements.

### **Section 289—Explanation as to Obstruction of Public Way.**

(1) A person shall not be guilty, within the meaning of this Chapter, of obstructing the public use of a public way or work by reason only of his being a party to any meeting or assembly assembled in, or near any public way or work, unless the purposes of such assembly are or include the obstruction of the public by force or threats or show of force.

(2) "Obstruction" of the public use of a public way or work includes the making or using of any force or charm for the purpose of preventing any person from using such way or work.

### *Drunken, Riotous, and Disorderly Conduct*

### **Section 290—Habitual Drunkenness.**

Whoever, having been thrice convicted under the provisions of any enactment for having been drunk or behaving violently or indecently or in a disorderly manner is, within one year from the first conviction, drunk, in any public place, shall be guilty of a misdemeanor.

### **Section 291—Being Drunk or Disorderly.**

(1) Whoever is drunk, riotous, quarrelsome or disorderly in any drunk place licensed for the sale of intoxicating liquors or kept for public refreshment, resort or entertainment, and fails to leave such place

being requested to do so by the owner, manager, occupier, or his agent or servant, or by any police officer, shall be guilty of a misdemeanour.

(2) Every police officer shall on the demand of the owner, manager, occupier, agent or servant as aforesaid expell any such drunken, riotous, quarrelsome or disorderly person from any such place.

### **Section 292—Penalty for Harboursing Thieves, etc.**

(1) Every person who occupies or keeps any lodging-house, public-house, or other house or place where intoxicating liquors are sold, or any place of public entertainment or public resort, and knowingly lodges or knowingly harbours thieves or reputed thieves, or prostitutes or knowingly permits or knowingly suffers to meet or assemble therein, or knowingly permits or allows drunkenness or other disorderly conduct to take place or knowingly allows the deposit of property therein having reasonable cause for believing it to be stolen shall be guilty of a misdemeanour.

(2) Any licence for the sale of any intoxicating liquor, or for keeping any place of public entertainment or public resort, which has been granted to the occupier or keeper of any such house or place as aforesaid may in the discretion of the Court be forfeited on the occupier's or keeper's first conviction of an offence under this section; and on his second conviction for such an offence his licence shall be forfeited, and he shall be disqualified for a period of two years from receiving any such licence. Further, where two or more convictions under this section have taken place within a period of three years in respect of the same premises, whether the person convicted were or were not the same, the Court shall direct that for a term not exceeding one year from the date of the last of such convictions no such licence as aforesaid shall be granted to any person whatever in respect of such premises; and any licence granted in contravention of this section shall be void.

(3) Every holder of a licence as aforesaid who is brought before a Court in pursuance of this section shall produce his licence for examination; and, if the licence is forfeited, he shall deliver it up altogether; and if he wilfully neglects or refuses to produce his licence he shall in addition to any other penalty be liable to a fine not exceeding ₦200,000.00.

*Drumming and Firing Guns, Etc.*

### **Section 293—Allowing Houses, etc., in Town to be used for Drumming.**

(1) Every occupier of any house, building, yard, or other place situate in any town, who without a licence in writing from a district assembly permits any persons to assemble and beat or play or dance therein on any drum, gong, tom-tom or other similar instrument of music, shall be liable to a fine not exceeding ₦100,000.00.

(2) A Police Officer may enter any such house, building, yard, or other place where any persons may be assembled, and warn them to depart and seize and carry away all such drums, gongs, tom-toms or other instruments, which shall be forfeited.

(3) Whoever, after being so warned, does not depart forthwith (except the persons actually dwelling in the house or building), may be apprehended, without warrant, by any Police Officer or person acting in his aid.

and shall be liable to a fine not exceeding ₦50,000.00.

**Section 294—Drumming etc., near Court during Sitting.**

Whoever during the sitting of a Court, and after being warned by a Police Officer or officer of the Court to desist, beats or plays any drum, gong, tom-tom, or other instrument, or makes any loud noise of any kind within a radius of three hundred yards from the place where such sitting is held shall be liable to a fine not exceeding ₦100,000.00.

**Section 295—Drumming with Intent to Challenge or Insult.**

Whoever beats a drum with intent to challenge or provoke any other person to commit a breach of the peace, or with intent to insult or annoy any other person, shall be liable to a fine not exceeding ₦500,000.00.

*Nuisances and Obstructions in Streets, and the like*

**Section 296—Throwing Rubbish in Street.**

Whoever does any of the following acts shall be liable to a fine not exceeding ₦200,000 namely—

(1) in any town places, or causes or permits to be placed, any carrion, filth, dirt, refuse, or rubbish, or any offensive or otherwise unwholesome matter, on any street, yard, enclosure, or open space, except in such places as may be set apart by the local authority or the health officer for that purpose; or

*Nuisances.*

(2) in any town commits a nuisance in any public place or open space, or in any place being the appurtenance of or adjoining a dwelling-house; or

*Defacing Public Notices.*

(3) wilfully defaces any public lawful notice, or removes the same from any place where it is lawfully displayed; or

*Defacing building, etc.*

(4) without the consent of the owner or occupier thereof affixes or attempts to affix any placard, poster, or other thing on any building, wall, fence, pillar, or post, or writes upon, soils, or marks any such building, wall, fence, pillar, or post; or

(5) Repealed by NRCD 311.

*Pound breach.*

(6) unlawfully releases any cattle lawfully impounded, or pulls down, damages, or destroys the pound or any part thereof;

any cattle are lawfully impounded; or

*Causing Noise in Town.*

(7) in any town wilfully or wantonly, and after being warned to desist, makes any loud or unseemly howsoever caused to the annoyance or disturbance of any person; or

*Drumming, etc., in Town at Night.*

(8) in any town, without a licence in writing from the Minister or a local authority beats or plays any gong, tom-tom, or other similar instrument of music between eight o'clock at night and six in the morning;

*Throwing Stones, etc.*

(9) in any town throws or discharges any stone or other missile in or into any public place; or

*Behaving violently in Prison, etc.*

(10) is drunk and is disorderly or behaves violently or indecently in any prison or Court or public place;

*Behaving irreverently in place of Worship.*

(11) behaves irreverently or indecently in any church, chapel, mosque, or other place appropriated for religious worship; or

*Disturbing Public Worship.*

(12) disturbs or molests any minister of religion while celebrating any religious rite or office in any place, or any person assisting or attending at the celebration of such rite or office; or

*Disturbing Funeral.*

(13) behaves irreverently or indecently or insultingly at or near any funeral or in or near any public ground during the burial of a body; or

*Extinguishing or damaging Street Lamp.*

(14) wantonly extinguishes the light of, or destroys or damages, any street lamp; or

*Obstructing Working of Telegraph.*

(15) wilfully obstructs or impedes or delays any person employed in the working of a telegraph or the delivery of a telegram, in the execution of his duty; or

*Obstructing Public Way.*



(16) by obstructing any public way, wilfully prevents or hinders the free passage of any other person or any vehicle; or

*Impediments in public way.*

(17) without the consent of the local authority or the Ghana Highway Authority, places or leaves anything on any public way to the obstruction, danger or annoyance of users of that public way; or

*Not keeping roadway clear.*

(18) being the occupier of any land or building situate in a town, does not clear and keep free from underbush, underwood, weeds, high grass, rubbish, rags, broken bottles, refuse, and all offensive materials (filling up all holes with stones, gravel, or other like materials), the streets or roads, at the front-back and sides thereof, with the drains, gutters, and channels thereon; and, if any such building is unoccupied, the owner shall for this purpose be deemed the occupier: Provided that when there are two lots or buildings contiguous to any street, road, drain, gutter, or channel, and facing each other, the occupier of each lot or building shall be responsible for keeping clean only the half of the street or road, and the drain, gutter, or channel nearest to his lot; or

*Injuring drain by cart or cattle.*

(19) in any town wilfully or negligently causes or permits any vehicle, or anything carried thereby, or any cart, or any cattle, to injure any drain, ditch, or trench, at the side of any street, or any bridge, or any part thereof, respectively; or

*Injuring roadway, etc.*

(20) in any town, without the written consent of the local authority or the Ghana Highway Authority, displaces or takes up or injures the pavement, stones, or material of any public way, or attempts to do so, or obstruct any water-course; or

*Assembling for idle, etc., purpose, and not dispersing when required.*

(21) assembles with other persons in any public place, or in any open space near a public place, for any idle, vicious, or disorderly purpose, or otherwise than in the regular performance or in pursuance of some lawful calling or object, to the annoyance or obstruction of any passenger or person frequenting such public place, or of any person living in the neighbourhood thereof, and does not move away when required to do so by a constable; or

*Allowing ferocious dog at large.*

(22) suffers to be at large, unmuzzled, any ferocious dog of which he is the owner or has the charge, or on or urges any dog to attack or put in fear any person or cattle; or

*Allowing dogs to be at large after notice.*

(23) after public notice given by any person having authority in that behalf directing dogs or other animals to be confined on account of suspicion of rabies, suffers any dog or animal specified in such notice to be at large during the time mentioned in such notice; or

*Not helping to put out Fire when called upon.*

(24) being called upon by any officer of a local authority, constable, or Ghana Highway Authority, to give aid of extinguishing or staying the progress of a fire, refuses or neglects to give such aid according to his duty; or

*Indecent exposure of person.*

(25) wilfully and indecently exposes his person in any public place or in view thereof, or exposes his person in any place with intent to insult any person; or

*Where Slaughter-house provided, Slaughtering cattle elsewhere.*

(26) in any town for which there is a public slaughter-house appointed by or under any enactment slaughters any cattle or dresses any carcass for the food of man, within the limits of which such slaughter-house is appointed, except in such slaughter-house, unless by the licence of the district assembly.

*Section 297—Rubbish, etc., found in front of premises deemed to have been thrown there by occupier.*

(1) Where an offence has been committed punishable under paragraph (1) of section 296 and the offender has not been identified or discovered, the fact of any carrion or other substance mentioned in that subsection being found in front of any premises shall be prima facie evidence of its having been placed there by the occupier of the premises.

*Arrest of certain offenders.*

(2) Any person found committing an offence punishable under paragraphs (1) to (15) of section 296 may be taken into custody without warrant by any peace officer or health officer or by the owner or occupier of the property on which or with respect to which the offence is committed, or by his servant or any other person authorised by him, and may be detained until he can be delivered into the custody of a constable, who may take him, as soon as conveniently may be, before a Chairman of a Tribunal or a Judge.

*Limitation of time for Prosecution.*

(3) Every prosecution for an offence under section 296 shall be commenced within one year from the date when the offence was committed.

*Destruction of Ferocious dog.*

(4) Any dog in respect of which an offence punishable under paragraph (22) or (23) of section 296 has been committed may be destroyed by order of the Court.

## **Section 298—Acts tending to disturb the peace in a public place.**

Whoever in any public place, or in any place within sight or hearing of persons then being in a public place, disturbs the peace by fighting or quarrelling with any other person, or by making any loud or unseemly noise, or abets an unlawful fight, or uses or applies to any other person then being in such public place or within sight or hearing thereof, any violent or abusive term of reproach, or sings any profane, indecent, or obscene song, or exposes any defamatory or insulting writing or object, or with the intention of annoying or insulting any other person, sings any scurrilous or abusive song or words, whether any person be particularly named or addressed therein or not or is guilty of any riotous, indecent, disorderly, insulting behaviour, obstruction or annoyance of any passenger or person in such public place, shall be liable to a fine not exceeding ₵200,000.00.

## **CHAPTER 9—OFFENCES RELATING TO ANIMALS**

### **Section 299—Taking and using Cattle, etc., without Consent of Owner.**

Whoever intentionally and unlawfully catches, takes, or drives, or attempts to catch, take, or drive, any animal from or out of any pasture, enclosure, stable, or other place, for the purpose of riding such an animal, or using it in the carrying of any load or burden or in the drawing of any cart or carriage, or for the purpose of sorting it loose or of driving it about, or for any other unlawful and mischievous purpose, without the consent of the owner or of the person entrusted with the charge of the animal, and without having any probable ground or pretence of title, thereto, shall be liable to a fine not exceeding ₵100,000.00.

### **Section 300—Stray Cattle.**

(1) If in any town, any cattle are found at large in any public place without any person in charge thereof, a peace officer or health officer may seize and impound the cattle in any common pound, and may detain them until the owner pays to the Accountant-General's Department a sum equivalent to the expenses of keeping them at rates not exceeding ₵1,000.00 a day for each head of swine, sheep, or goats, and ₵2,000.00 a day for each head of other cattle.

(2) If the said expenses are not paid within four days after impounding, the pound keeper, or other person appointed by the health officer for the purpose, may sell any such cattle; but previous to the sale, six days notice thereof shall be given or left at the dwelling-house of the owner if he is known, or, if not, the notice shall be conspicuously posted in some usual place for the posting of public notices in the town in which the cattle were seized; and the proceeds of the sale, after deducting the expenses, shall be paid to the Accountant-General, and be paid by him on demand made not later than twelve months after the sale to the owner of the cattle.

(3) The owner and any person required to be in charge of any cattle which are found at large in any public place without any person in charge thereof shall be guilty of an offence and liable to a fine not exceeding ₵100,000.00.

(4) This section so far as regards sheep and goats shall apply only to the towns of Aburi, Accra, Akyem, Swedru, Akim-Oda, Axim, Bekwai, Bibiani, Bolgatanga, Cape Coast, Christiansborg, Dunkwa, Elmina, Hohoe, Keta, Kibi, Koforidua, Kumasi, Mampong-Ashanti, Nsawam, Obuasi, Saltpond, Sekondi-Takoradi.

Sunyani, Tamale, Tarkwa, Tema, Wa, Winneba and Yendi, and to such other towns as the Minister may by executive instrument direct.

### **Section 301—Using Horse, etc., with Farcy or Glanders in Public Way, etc.**

(1) Whoever rides, drives, or otherwise makes use of any horse, mule, or ass affected with farcy or glanders, knowing it to be so affected, in any public place, and every owner of any such horse, mule, or ass who permits it to be at large in any public place shall be liable to a fine not exceeding ₵100,000.00.

(2) The horse, mule, or ass may be destroyed and the carcass disposed of by order of a Chairman of a Municipal Tribunal or a Judge.

### **Section 302—Destruction of dog or other Animal suspected to be rabid and penalty on owner.**

(1) A Police Officer may destroy any dog, or any other animal at large, which he has reasonable cause to suspect to be in a rabid state, or which has been bitten by any dog or other animal which he has reasonable cause to suspect to be in a rabid state, or may seize and detain the animal and hand it over to a Police Officer.

(2) If the owner or person in charge of any dog or other animal knowingly suffers it to be at large in a rabid state; or if any dog or animal is confined, and the owner or person in charge of it does not destroy it, or cause it to be destroyed, after it has shown evident and distinct symptoms of being in a rabid state, or having been bitten by any dog or other animal in a rabid state; the owner or person shall be liable to a fine not exceeding ₵500,000.00.

### **Section 303—Cruelty to Animals.**

(1) Any person who—

(a) cruelly beats, kicks, ill-treats, over-loads, tortures, infuriates, or terrifies any animal, or causes any animal to be so used, or procures, or being the owner, permits any animal to be so used; or

(b) by wantonly or unreasonably doing or omitting to do any act, or causing or procuring the commission or omission of any act, causes any unnecessary suffering, or being the owner, permits any unnecessary suffering, to be caused to any animal; or

(c) conveys or carries, or being the owner, permits to be conveyed or carried any animal in any manner or position as to cause the animal unnecessary suffering; or

(d) drives any animal in harness, or when drawing a vehicle, which is in such a condition as to cause the animal unnecessary suffering, or being the owner, permits any such animal to be so driven; or

(e) subjects, or causes or procures, or being the owner, permits, to be subjected, any animal to any operation which is performed without due care or humanity,

is guilty of the offence of cruelty and is liable to a fine not exceeding ₱500,000.00.

(2) An owner is guilty of the offence of permitting cruelty if he fails to exercise reasonable care and supervision in respect of the protection of the animal from an act of cruelty indicated in subsection (1).

(3) This section does not apply—

(a) to the commission or omission of any act in the course of the destruction, or the preparation for destruction, of any animal as food for mankind, unless the destruction or such preparation was accompanied by the infliction of unnecessary suffering; or

(b) to the coursing or hunting of any captive animal unless the animal is liberated in an unharmed, unmaimed, unbruised, uncut, unbleeding, unstarved, unthirsted, unmutilated or exhausted condition; but a captive animal shall not, for the purposes of this section, be deemed to be coursed or hunted before it is liberated for the purpose of being coursed or hunted, or after it has been recaptured, or if it is under control.

### **Section 304—Prosecution of Medical Practitioners and Veterinary Surgeons.**

No prosecution shall be instituted under section 303 without the consent of the Attorney-General against

(a) any registered medical practitioner or any duly qualified veterinary surgeon or any person acting under the direction of any such medical practitioner or veterinary surgeon in respect of the commission or omission of any act in the course of any operation, experiment, or test performed on any animal for the purposes for scientific research or medical or veterinary treatment; or

(b) any veterinary authority (as defined in section 2 of the Diseases of Animals Ordinance) or any person acting under the direction of that authority in respect of the commission or omission of any act in the course of the seizure, detention, or destruction of any animal purporting to be effected for the purposes of the Diseases of Animals Ordinance.

### **Section 305—Court may order destruction of Animal.**

When the owner of any animal is convicted of an offence of cruelty under section 303, the Court may, if the Court is satisfied that it would be cruel to keep the animal alive, direct that the animal be destroyed or may assign the animal to a suitable person for that purpose. Any reasonable expenses incurred in destroying the animal may be ordered by the Court to be paid by the owner, and shall be recoverable in like manner as a fine.

### **Section 306—Court may deprive person of ownership.**

(1) If the owner of any animal is guilty of cruelty or of permitting cruelty to any animal, the Court upon conviction thereof, may if it thinks fit, in addition to any other punishment deprive him of the ownership of the animal, and may make such order as to the disposal of the animal as the Court thinks fit.

(2) No order shall be made under this section, unless it is shown by evidence as to a previous conviction of the owner as to the character of the owner, or otherwise, that the animal, if left with the owner, is likely to be exposed to

further cruelty.

### **Section 307—Power of Police to take charge of Animal.**

When a person in charge of an animal has committed, or is reasonably suspected of having committed, an offence against section 303 or against any bye-laws made by a local authority with respect to the management and treatment of animals, a police officer, or any person or class of persons authorised in that behalf by the Minister, may take charge of the animal for the purpose of the examination thereof, and if criminal proceedings follow, deposit the animal in a place of safe custody until the termination of the proceedings or until the Court directs the animal to be delivered to the person in charge thereof or to the owner. In the event of a conviction in respect of the animal, the Court may order that the cost of examination and detention, including the cost of any veterinary treatment, shall be paid by the owner, and the cost may be recovered in like manner as a fine.

### **Section 308—Destruction of stray dogs.**

(1) Subject to subsection (2), a police officer, health officer or person authorised in that behalf by the Minister may seize any stray dog found at large and to bring it before a Chairman of a Tribunal or a Judge, who may direct that the dog be returned to its owner, if he can be found or if he cannot be found, that it be destroyed and assign it to a suitable person for that purpose, or he may make such other order as he thinks fit.

(2) Subject to subsection (3), subsection (1) shall only apply—

- (a) the towns of Accra, Cape Coast, Sekondi-Takoradi and Kumasi;
- (b) all towns and places to which the Towns Ordinance applies;
- (c) such other towns, places, districts and areas as the Minister may by executive instrument from time to time direct.

(3) The Minister may by executive instrument direct that subsection (1) shall apply throughout the Republic.

### **Section 309—Destruction of Aged or Neglected Animals.**

A Veterinary Officer, or any person or class of persons authorised in that behalf by the Minister may seize any animal which, in the opinion of the Veterinary Officer or person or member of a class of persons authorised as aforesaid, is suffering, or is likely immediately to suffer, by reason of old age, sickness or neglect. Upon such seizure being made, the Veterinary Officer, or other person shall forthwith furnish a report to the Chairman of a Tribunal or a Judge with a written report on the matter, embodying in the report his recommendation as he may consider fit. The Chairman of a Tribunal or a Judge may direct that the owner of the animal, if he can be found be given notice to show why the animal should not be destroyed. Where the owner fails to show sufficient cause why the animal should not be destroyed, or where he cannot be found, the Chairman of a Tribunal or a Judge may direct that the animal be destroyed, and for this purpose may assign it to a suitable person, or he may make such other order as he thinks fit.

## **Section 310—Interpretation.**

In this Chapter—

"animal" means any domestic or captive animal;

"domestic animal" means any animal or bird which is tamed or which has been or is being sufficiently tamed to serve some purpose for the use of man;

"Captive animal" means any animal (not being a domestic animal) of whatsoever kind or species, including any bird, fish, or reptile, which is in captivity, or confinement, or which is maimed, mutilated, or subjected to any appliance or contrivance for the purpose of hindering or preventing its escape from captivity or confinement.

## **CHAPTER 10—MISCELLANEOUS OFFENCES**

### *Taking liquor on Ship*

#### **Section 311—Taking liquor on Board State Ship.**

(1) Whoever brings on board any State ship any spirituous or fermented liquor without the previous consent of the officer commanding the ship, or approaches or hovers about any such ship for the purpose of bringing on board any such liquor on board without such consent, or of giving or selling any such liquor to any officer, seaman, or marine in the service of the Republic without such consent or of assisting any such officer, seaman, or marine to improperly absent himself from his ship, shall be liable to a fine not exceeding ₱100,000.00.

(2) Any officer in the service of the Republic, or any warrant or petty officer of the navy, or any commissioned officer of marines may, with or without seamen or persons under his command, search any ship or boat hovering about or approaching, or which may have hovered about or approached, any State ship, and may seize any such liquor found thereon, and such liquor shall be forfeited to the Republic.

(3) Any such officer or warrant or petty or non-commissioned officer, or any constable, may without warrant arrest and detain any person found committing an offence under this section, and take him before the Chairman of a Community Tribunal or a Judge to be dealt with according to law.

### *Letters, Telegrams, etc.*

#### **Section 312—Letters written for illiterate person to be Signed, etc., by Writer.**

(1) Whoever writes a letter or petition at the request or in the name of an illiterate person shall write thereon his own name and address; and his doing so shall imply a statement by him that he was instructed to write the letter or petition by the illiterate person, and that it conveys neither more nor less than the message intended by that person, and (if it is or purports to be signed or executed by him) that it was so signed or executed, explained to him and that he fully understood the contents thereof before he signed or executed it, and that he placed thereon the mark or signature. If the writer does not write his own name and address on such letter or petition (having done so) the statement implied as aforesaid is in any particular untrue, he shall be liable to a fine not exceeding ₱100,000.00.

exceeding ₱500,000.00.

(2) "Own name" means full, true, and proper country name where a person has a country name; other person's true and proper surname and his Christian name if any.

### **Section 313—Sending False Telegram, etc.**

Whoever commits either of the following acts, with intent to aggrieve or annoy any person, shall be liable to a fine not exceeding ₱200,000.00, that is to say—

(a) knowingly sends any false telegram to any person; or

(b) signs the name of any other person to any petition, prospectus, or testimonial, knowing that he has no authority for so doing.

### **ISSUE OF FALSE CHEQUES**

#### **Section 313A—Issue of false cheques.**

(1) Any person who—

(a) without reasonable excuse proof of which shall be on him issues any cheques drawn on an account with which he has no account; or

(b) issues any cheque in respect of any account with any bank when he has no reasonable grounds (proof of which shall be on him) to believe that there are funds or adequate funds in the account to pay the amount specified on the cheque within the normal course of banking business; or

(c) with intent to defraud stops or countermands any cheque previously issued by him,

shall be guilty of an offence and liable on first offence to a fine not exceeding ₱5 million or twelve months imprisonment or both and in the case of any subsequent offence to a fine not exceeding ₱20 million or a term of imprisonment not exceeding five years.

(2) No person shall be guilty of an offence by virtue of subsection (1) (b) of this section in respect of a cheque which is presented for payment later than three months after the date specified on the cheque for payment.

(3) Where a person is convicted of an offence by virtue of subsection (1) (c) of this section the Court if satisfied that there are adequate funds in the account of that person in respect of which the cheque in question was issued to meet the amount specified on the cheque, order the bank in question to honour the cheque, and any bank complying with such an order shall not be liable to any claim in respect of such cheque.

(4) In this section—

(a) the words "cheque" and "issue" shall have the same meaning as they have respectively in



sections 72 and 97 of the Bills of Exchange Act, 1961 (Act 55);

(b) a reference to the issue of a cheque shall be deemed to include a reference to the issue of a cheque to the Republic.

### *Slave-Dealing*

#### **Section 314—Slave-Dealing.**

(1) Whoever—

(a) deals or trades in, buys, sells, barter, transfers, or takes any slave; or

(b) deals or trades in, buys, sells, barter, transfers, or takes any person in order that that person may be held or treated as a slave; or

(c) places or receives any person in servitude as a pledge or security for debt, whether then due or to be incurred or contingent, whether under the name of a pawn or by whatever other name that person may be called; or

(d) conveys any person, or induces any person to come, to Ghana in order that such person may be dealt or traded in, bought, sold, bartered, or become a slave, or be placed in servitude as a pledge or security for debt; or

(e) conveys or sends any person, or induces any person to go out of Ghana in order that that person may be dealt or traded in, bought, sold, bartered, transferred, or become a slave, or be placed in servitude as a pledge or security for debt; or

(f) enters into any contract or agreement with or without consideration for doing any of the things mentioned in the foregoing paragraphs or for accomplishing any of the aforementioned purposes; or

(g) by any species of coercion or restraint otherwise than in accordance with the Labour Code, compels or attempts to compel the service of any person,

shall be guilty of second degree felony.

(2) This section does not apply to any such coercion as may lawfully be exercised by virtue of contract of service between free persons, or by virtue of the rights of parents and other rights, not being contrary to public policy arising out of the family relations customarily used and observed in Ghana.

#### **Section 314A—Prohibition of Customary Servitude.**

(1) Whoever—

(a) sends to or receives at any place any person; or

(b) participates in or is concerned in any ritual or customary activity in respect of any person with a purpose of subjecting that person to any form of ritual or customary servitude or any form of forced labour related to a customary ritual commits an offence and shall be liable on conviction to imprisonment for a term not less than three years.

(2) In this section "to be concerned in" means—

(a) to send to, take to, consent to the taking to or receive at any place any person for the performance of the customary ritual; or

(b) to enter into any agreement whether written or oral to subject any of the parties to the agreement or any other person to the performance of the customary ritual; or

(c) to be present at any activity connected with or related to the performance of the customary ritual.

### *Trial by Ordeal*

#### **Section 315—Unlawful Trial by Ordeal.**

(1) The trial by the ordeal of sasswood, eserepbean, or other poison, boiling oil, fire, immersion in water, exposure to the attacks of crocodiles or other wild animals, or by any ordeal which is likely to result in the death of or bodily injury to any party to the proceeding is unlawful.

(2) Any person who directs or controls or presides at any trial by ordeal which is unlawful shall be guilty of a second degree felony.

#### **Section 316—Penalty for being present at, or making Poison for, Unlawful Trial by Ordeal.**

Any person who—

(a) is present at or takes part in any trial by ordeal which is unlawful; or

(b) makes, sells, or assists or takes part in making or selling, or has in his possession for sale, any poison or thing which is intended to be used for the purpose of any trial by ordeal which is unlawful,

shall be guilty of misdemeanor.

### *Unlawful Exportation of Cocoa*

#### **Section 317—Smuggling and other evasions.**

(1) If any person—

(a) imports or is concerned in importing any prohibited or restricted goods, contrary to such prohibition,

or restriction, whether they are unloaded or not; or

(b) unloads or is concerned in unloading any prohibited goods or any restricted goods in contravention of such prohibition or restriction; or

(c) exports or is concerned in exporting any prohibited or restricted goods, contrary to such prohibition or restriction; or

(d) with intent to defraud the Republic of any duty, knowingly harbours, keeps or conceals, knowingly permits or suffers or causes or procures to be harboured, kept or concealed any prohibited, restricted, uncustomed or excisable goods; or

(e) with intent to defraud the Republic of any duty, knowingly acquires possession of or is in actual possession of, or knowingly concerned in carrying, removing, depositing or concealing any prohibited, restricted, uncustomed or excisable goods; or

(f) is in any way knowingly concerned in any fraudulent evasion or attempt at evasion of any customs or excise duties; or

(g) exports or attempts to export cocoa contrary to the Customs, Excise and Preventive Service (Management) Law, 1993 (P.N.D.C.L. 330) (which relates to the exportation of restricted or prohibited goods); or

(h) exports or attempts to export uncustomed cocoa contrary to any order made under the Customs, Excise and Preventive Service (Management) Law, 1993 (P.N.D.C.L. 330); or

(i) without lawful authority, proof of which shall lie on him, sells, receives or deseals sealed cocoa, knowing it to belong to the Ghana Cocoa Board or any of its licensed buying agents or any other person; or

(j) with intent to defraud the Ghana Cocoa Board or any of its licensed buying agents or any other person makes any false declaration about cocoa,

he shall be guilty of an offence and liable on summary conviction to imprisonment for a term of not less than five years and not exceeding ten years or to a fine of not less than ₵5 million and not exceeding ₵100 million or both, and all goods in respect of which the offence has been committed shall be forfeited.

(2) A person who commits any of the acts referred to in subsection (1) shall, whether or not he is prosecuted under the Customs, Excise and Preventive Service (Management) Law, 1993 (P.N.D.C.L. 330), and such civil penalty may be enforced and recovered notwithstanding that no prosecution has been brought under subsection (1) of this section:

Provided that no such civil penalty shall be exacted where a fine imposed under subsection (1) is or exceeds treble the value of the goods in respect of which the offence was committed.

(3) In this section, "prohibited or restricted goods" means any goods whose importation or exportation

prohibited or restricted by law.

**Section 317A—Smuggling of Gold, Diamond, etc.**

(1) Notwithstanding any law to the contrary any person who—

(a) without lawful authority proof of which shall be on him exports or attempts to export any gold or diamond; or

(b) conceals or carries away from Ghana any gold or diamond with intent to evade any enactment relating to the export of gold or diamond,

shall be liable on conviction to a sentence of death, and any gold, or diamond, in respect of which the offence has been committed shall be forfeited to the Republic.

(2) The President may by Legislative Instrument apply the provisions of subsection (1) of this section to other minerals as may be specified in the Instrument.

(3) For the purpose of this section—

"diamond" means any rough and uncut diamond of Ghanaian origin;

"gold" means gold bullion, retorted gold, gold ore, gold amalgam, gold alloy, precipitates containing gold, slag, concentrates, tailings and residues, and gold dust but not including articles manufactured from gold and in reasonable quantities proof of which shall be on the person alleging reasonable grounds for believing that they contain gold.

**PART V—CONSEQUENTIAL**

**Section 318—Repeals.**

(1) Each of the following enactments shall cease to apply in Ghana:

*United Kingdom Statutes*

28 Hen. 8, c. 15.. .. . (Piracy, 1536).

23 Chas. 2, c. 11 .. .. . (Piracy, 1670).

11 Will. 3, c. 7 .. .. . (Piracy, 1698).

4 Geo. 1, c. 11 .. .. . (Piracy, 1717).

8 Geo. 1, c. 24 .. .. . (Piracy, 1721).

18 (Geo. 2, c. 30 .. .. . (Piracy, 1744).

7 Will. 4 & 1 Vic., c. 88	..	..	..	(Piracy, 1837).
1 & 2 Geo. 5, c. 28 .. ..	..	..	..	(Official Secrets Act, 1911).
10 & 11 Geo. 5, c. 75	..	..	..	(Official Secrets Act, 1920).

(2) Each of the following enactments is hereby repealed:

*Statutes of Ghana*

Cap. 9	..	..	..	..	..	The Criminal Code.
Cap. 39	..	..	..	..	..	The Peace Preservation Ordinance.
Cap. 42	..	..	..	..	..	Section 11 of the Unlicensed Gudies (Prohibition) Ordinance.
Cap. 62	..	..	..	..	..	The Official Secrets (Northern Region) Ordinance.
Cap. 74	..	..	..	..	..	Sections, 6 and 7 of the Undesirable Advertisements Ordinance.
Cap. 107	..	..	..	..	..	Reaffirmation of the Abolition of Slavery Ordinance.
Cap. 108	..	..	..	..	..	Slaves' Emancipation Ordinance.
Cap. 109	..	..	..	..	..	Slave-Dealing Ordinance.
No. 33 of 1956	..	..	..	..	..	The Criminal Code (Amendment) Ordinance, 1956.
No. 23 (Ord.) of 1957	..	..	..	..	..	The Criminal Code (Amendment) Ordinance 1957.
No. 37 of 1959	..	..	..	..	..	The Offences Against the State (False Reports) Act, 1959.

No. 39 of 1959 .. .. .	The Criminal Code (Amendment) Act, 1959.
No. 64 of 1959 .. .. .	The Sedition Act, 1959.
No. 73 of 1959 .. .. .	The Treason Act, 1959.
No. 78 of 1959 .. .. .	Section 47 of the National Assembly Act, 1959.
Act 5 .. .. .	The Criminal Code (Amendment) Act, 1960.

(3) Any instrument made under any enactment hereby repealed shall continue in force notwithstanding repeal and shall be deemed to have been under the corresponding provision of this Code.

(4) Notwithstanding any enactment, no person shall, after the commencement of the Code, be charged with any crime under any enactment hereby repealed or declared to be no longer in force in Ghana but a person who has been so charged before the commencement of the Code, may be proceeded against though the enactment had not been repealed or declared to be no longer in force.

**Section 319—Commencement and Operation of the Code.**

(1) This Code shall come into force on the first day of February, 1961.

(2) The provisions of this Code shall apply to acts committed before its commencement in like manner as they apply to acts committed after its commencement:

Provided that it shall be a defence for a person charged with any crime under this Code in respect of an act committed before its commencement to show that at the time when the act was committed it did not constitute a crime.

THE CRIMINAL CODE (REPEAL OF CRIMINAL LIBEL AND SEDITIOUS LAWS) (AMENDMENT) ACT, 2001 (ACT 602).