

**ACT 29**  
**CRIMINAL OFFENCES ACT, 1960**

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**ACT 29**  
**CRIMINAL OFFENCES ACT, 1963**

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

PART ONE

*General Provisions*

CHAPTER ONE

*Preliminary Matters*

**1. Interpretation**

In this Act, unless the context otherwise requires,

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

“**cattle**” means the male, female, or young of an animal of the following kinds, namely, horse, ass, mule, kine, sheep, goat, or swine, and an 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;

“**citizen**” means a citizen of Ghana;

“**corporation**” does not include a corporation sole;

“**criminal offence**” has the meaning assigned to it by article 19 of the Constitution;

“**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 force, harm, constraint, or threat, used with intent to cause a person against that person’s will to do or to abstain from doing an act;

“**Engineer-in-Chief of Public Works**” includes an assistant engineer, a district or an assistant district engineer, an inspector, a sub-inspector, a foreman of works, a surveyor, an assistant surveyor, or a foreman of roads;

“**export**” means export from the Republic;

“**felony**”, “**first degree felony**” and “**second degree felony**” shall be construed in accordance with section 296 of the Criminal and Other Offences (Procedure) Act, 1960 (Act 30);

“**gaoler**” means the keeper or other officer having the charge of a prison;

“**harm**” means a bodily hurt, disease, or disorder whether permanent or temporary;

“**health officer**” includes the Chief Medical Officer, any other medical officer, and a person

appointed as health officer;

“**import**” means to import into the Republic;

“**indictable offence**” means an offence punishable on indictment;

“**judicial proceeding**” includes a civil or criminal trial, and an enquiry or investigation held by a judicial officer in pursuance of a duty or an authority;

“**jury**” includes a Justice 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 and other Offences (Procedure) Act, 1960;

“**night**” means the time between the hour of seven in the evening of a day and the hour of six in the following morning;

“**order**” includes a conviction;

“**peace officer**” means a person who is, or is acting as, a constable or special constable, or lawfully acting in aid of a constable or special constable;

“**person**”, for the purposes of a provision of this Act relating to defrauding a person or to committing a criminal offence against the property of a person, includes the Republic; and expressions referring to the “**public**” refer not only to the citizens of the Republic as a whole, but also

- (a) to the persons inhabiting or using a particular place, or a number of those persons, and
- (b) to indeterminate persons as happen to be affected by the conduct with reference to which the expressions are used;

“**public place**” includes a public way and a building, place, or conveyance to which the public are entitled or permitted to have access, without a condition of making a payment, or on condition of making a payment, and a building or place which is used for a public or religious meeting or assembly, or as an open Court; and acts are done “**publicly**”

- (a) if they are done in a public place as are likely to be seen by a person, whether that person is or is not in a public place; or
- (b) if they are done in a place, which is not a public place, but are likely to be seen by a person in a public place;

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

“**send**” includes causing or attempting in any manner to cause a thing to be received by a person;

“**summary offence**” means a criminal or any other offence punishable on summary conviction under an enactment;

“**town**” means

- (a) the area of authority of a Municipal or Urban Council;
- (b) a place to which the Towns Act applies; or
- (c) a place, whether a town or not, which the Minister may, by executive instrument, determine to be a town;

“**vehicle**” includes a cart, bicycle, tricycle, and any other carriage on wheel;

“will” when used with respect to a document, means a testamentary document, whether the document is formal or informal, complete or incomplete.

## 2. Company and its officers

(1) A company, includes a partnership or an association whether corporate or unincorporated, and whether the purposes are or are not the carrying on of a trade or business, and whether it is in the course of formation or is actually formed, or is in the course of dissolution, winding-up or liquidation.

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

(3) In relation to a company or a corporation

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

(b) “**account**” includes a book, register, balance sheet, or document in writing relating to the affairs of the company or corporation, whether those affairs are or are not the ordinary business or object of the company or corporation.

## 3. Definition of public officer

(1) The expression “**public officer**” shall be construed by reference to the definition of “public office” in article 295 of the Constitution, and for the purposes of this Act, includes a person holding an office by election or appointment under an enactment or under powers conferred by an enactment.

(2) A person acting as a minister of religion or as an ecclesiastical officer, of a denomination, is a public officer where that person performs functions in respect of the notification of intended marriage, or in respect of the solemnisation of marriage, or in respect of the making or keeping of a register or certificate of marriage, birth, baptism, death, or burial, but not in any other respect.

(3) For the purposes of this Act,

(a) “**civil office**” means a public office in the Armed Forces;

(b) “**judicial officer**” means the holder of a judicial office as defined in article 161 of the Constitution.

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

(5) The expression “**public election**” shall be construed by reference to article 49 of the Constitution, and includes an election the qualification for voting at which, or the mode of voting at which, is determined or regulated by an enactment.

## 4. General rules of construction

(1) This Act shall not be construed strictly, either as against the Republic or as against a person accused of a criminal offence, but shall be construed amply and beneficially for giving effect to the purposes of this Act.

(2) In the construction of this Act, a Court is not bound by a judicial decision or opinion on the construction of any other enactment, or of the common law, as to the definition of a criminal offence or any other offences or of an element of a criminal offence or of any other offence.

(3) The illustrations set out in this Act form part of this Act and may be used as aids to its construction, but they do not limit the generality of a provision of this Act.

## **5. Application of Part One to other offences**

Where under a provision of a law other than this Act, an offence is created, this Part shall apply, except where a contrary intention appears, to the offence as it applies to a criminal offence under this Act.

## **6. Jurisdiction of territorial waters**

*Repealed.4*

## **7. Acts done partly beyond the jurisdiction**

*Repealed.5*

## **8. Exclusion of the common law**

A person is not liable to punishment by the common law for an act.

## **9. Offences under more than one enactment**

(1) Subject to article 19 of the Constitution, where an act constitutes a criminal offence or an offence under two or more enactments, the offender is liable to be prosecuted and punished under either of the two, or any of those enactments, but the offender shall not be punished twice for the same offence, criminal or otherwise.

(2) Subsection (1) does not affect a right conferred by an enactment on a person to take disciplinary measures against the offender in respect of the act constituting the offence.

## **10. Saving for contempt of court**

This Act does not affect the power of a Court to punish a person for contempt of Court.

# CHAPTER TWO

## *General Explanations*

## **11. Intent**

(1) Where a person does an act for the purpose of causing or contributing to cause an event, that person intends to cause that event, within the meaning of this Act, although in fact, or in the belief of that person or both in fact and also in that belief, the act is unlikely to cause or to contribute to cause the event.

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

(3) A person who does an act of a kind or in a manner that, if reasonable caution and observation had been used, it would appear to that person

- (a) that the act would probably cause or contribute to cause an event, or
- (b) that there would be great risk of the act causing or contributing to cause an event,

intends, for the purposes of this section, to cause that event until it is shown that that person believed that the act would probably not cause or contribute to cause the event, or that there was not an intention to cause or contribute to it.

(4) A person who, intending to cause an event with respect to one or any of several persons or things, or to an indeterminate person or thing as may happen to be affected by the event, causes the event with respect to that person or thing, and is liable in the same manner as if the intention has been to cause the event with respect to that person or thing.

(5) A person who does an act with intent to assault, harm, kill, or cause any other event to a particular person, which act takes effect, whether completely or incompletely, against a different person, is liable to be tried and punished as if the intent had been directed against that different person.

(6) For the purposes of subsection (5), a ground of defence or extenuation is admissible on behalf of the accused person which would have been admissible if the act had taken effect against the person in respect of whom, or the thing in respect of which, the accused person intended it to take effect.

### *Illustrations*

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

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

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

**Subsection (4)** *A*, in the last illustration, is punishable as if *A* 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 *A* had purposed to hit the constable.

## **12. Negligence**

A person causes an event negligently, where, without intending to cause the event, that person causes it by a voluntary act, done without the skill and care that are reasonably necessary under the circumstances.

### *Illustrations*

- 1.** *A*, a woman who does not have 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 a necessity for so acting, is evidence of negligence, although it appears that she did her best. But if the emergency was sudden, and a properly qualified midwife or surgeon could not be procured, *A* has not acted negligently, provided she did the best she could under the circumstances.
- 2.** A chemist sells poison so made up as to be liable to be mistaken for a harmless medicine. This is evidence of negligence.
- 3.** If the law directs poisons to be sold only in bottles of a particular kind, and the chemist sells poison in a common bottle, this is evidence of negligence, even though the common bottle is labeled "Poison".

4. *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 negligent within the meaning of this section, although *A* had and used all possible skill in riding.
5. An acrobat carries a child on a tight-rope at a great height. The acrobat happens to miss a foot and the child is killed. The acrobat has acted negligently, although the acrobat had used all possible skill in rope-walking.

### 13. Causing an event

(1) A person who intentionally causes an involuntary agent to cause an event, shall be deemed to have caused the event.

(2) For the purposes of subsection (1), “**involuntary agent**” means an animal or any other thing, and also a person who is exempted from liability to punishment for causing the event, by reason of infancy, or insanity, or otherwise, under a provision of this Act.

(3) Where an event is caused by the acts of several persons acting jointly or independently, each of those persons who intentionally or negligently contributed to cause the event has, for the purposes of this Act, and, subject to subsections (4) and (5) and to the provisions of this Part with respect to abetment, caused the event; but a matter of exemption, justification, extenuation, or aggravation which exists in the case of any one of those persons shall have effect in favour of that one person, whether it exists or not in the case of any of the other persons.

(4) A person shall not be convicted of having intentionally or negligently caused an event if, irrespective of the act of that person and the acts of any of the persons acting jointly with that person, the event would not have happened but for the existence of a state of facts, or the intervention of any other event or of any other person, the probability of the existence or intervention of which other event or person the accused person did not take into consideration, and did not have a reason to take into consideration.

(5) Subsection (4) does not apply where a person is charged with having caused an event by an omission to discharge a duty for averting the event.

(6) A person beyond the jurisdiction of the Courts, who causes a voluntary agent to cause an event within the jurisdiction, shall be deemed to have caused the event within the jurisdiction.

(7) Subject to this section, and to the special provisions of a particular section of this Act, it is a question of fact whether an event is fairly and reasonably to be ascribed to a person’s act as having been caused by that act.

(8) A person shall not, by reason of anything in this section, be relieved

- (a) from a liability in respect of an attempt to cause an event; or
- (b) from a liability in respect of a negligent conduct, if the negligent conduct is punishable under this Act irrespective of whether it actually causes an event.

#### *Illustrations*

##### *Subsection (1)*

1. *A* gives poisoned sweetmeats to a child, who eats some and gives the rest to other children. *A* has poisoned the first child and the other children.
2. *A* induces a child under twelve years to steal a thing for *A*. *A* has stolen the thing.<sup>6</sup>
3. *A* induces a madman to kill himself. *A* has killed the madman.

4. *A* causes a dog to harm *B*. *A* has caused the harm to *B*.

**Subsection (3)** A railway collision is caused partly by the neglect of *A*, a station master, to signal a train; partly by the 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 (4)**

1. *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*.
2. *A*, who is a signal-man improperly leaves his post. *B*, who is a trespasser, in *A*'s absence unlawfully alters 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 or negligently caused the collision.

**Subsection (6)** *A*, in Lagos, posts a letter to *B* in Accra, borrowing money from *B* on the credit of a cargo which *A* by the letter falsely represent that *A* has shipped for *B*. *B* sends the money on the faith of the representation. *A* has defrauded *B* in Accra.

**Subsection (8)** *A* shoots from a distance at *B* who is on horseback, with the intent to maim *B*. *B*'s horse is startled by the shot and throws *B*, who is killed by the fall. Here, by reason of the rule in subsection (4), *A* cannot be convicted of having intentionally or negligently killing *B* (unless *A* expected, or had reason to expect, that *B*'s horse would be startled). But *A* is punishable for the attempt to kill *B*.

## 14. Consent

In construing a provision of this Act where it is required for a criminal act or criminal intent that an act should be done or intended to be done without a person's consent, or where it is required for a matter of justification or exemption that an act should be done with a person's consent,

- (a) a consent is void if the person giving the consent is under twelve years of age, or in the case of an act involving a sexual offence, sixteen years, or is, by reason of insanity or of immaturity, or of any other permanent or temporary incapability whether from intoxication or any other cause, unable to understand the nature or consequences of the act to which the consent is given;<sup>7</sup>
- (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 or under the exercise of an official, a parental, or any other authority; and the authority which is exercised other-wise than in good faith for the purposes for which it is allowed by law, is for the purposes of this section, a power unduly exercised;
- (d) a consent given on behalf of a person by the parent, guardian of that person, or any other person authorised by law to give or refuse consent on behalf of that person, is void if it is not given in good faith for the benefit of the person on whose behalf it is given;
- (e) a consent does not have effect if it is given by reason of a fundamental mistake of fact;
- (f) a consent is, for the purposes of this section, obtained by means of deceit or duress, or of the undue exercise of authority, or to have been given by reason of a mistake of fact, if it would have been refused but for the deceit, duress, exercise of authority, or mistake;
- (g) the exercise of authority, for the purposes of this section, is not limited to the exercise of authority by way of 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 a consent if that person did not know, and could not by the exercise of reasonable diligence have known, of the invalidity.

#### ***Illustrations***

1. A induces a person in a state of incapacity from idiocy or intoxication, or a child under twelve years of age to consent to the hair of that person being cut off by A. The consent is void.<sup>8</sup>
2. 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. The consent is void.<sup>9</sup>
3. A cruelly beats a child. It is not a defence for A that the child's father authorised the beating, or that the child's father, by the exercise of parental authority, induced the child to consent.
4. A the chairman of a company, consents to B drawing money from the company to which A knows B does not have a right. If A does not honestly believe that the action is in the interest of the company the consent is void, and B commits the criminal offence of stealing unless B has acted in good faith.
5. A induces a woman to consent to having carnal knowledge of her by personating her husband. Her consent is void.

### **15. Claim of right**

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

### **16. Fraud**

For the purposes of a provision of this Act, where a forgery, falsification, or any 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 the forgery, falsification, or the other unlawful act, a gain capable of being measured in money, or the possibility of that gain to a person at the expense or to the loss of any other person.

#### ***Illustrations***

1. A unlawfully alters B's will so as to increase or reduce the amount of the legacy left by B to C. Here A commits the criminal offence of forgery with intent to defraud although A may not have an interest in the matter.
2. A unlawfully alters the date on a bill of exchange, for the purpose of postponing the time at which A or any other person may be called upon to pay it. Since the postponement may be a gain to A or to the other person, A commits the criminal offence of forgery with intent to defraud.
3. A forges B's signature to a deed, not for the purpose of gain to A or to any other person, but for the purpose of falsely charging C with the forgery. Here A has not committed forgery with intent to defraud, but A is liable to be punished for fabricating evidence.

### **17. Meaning and use of threats**

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

- (a) a threat of criminal force or harm, or
- (b) a threat of criminal damage to property, or
- (c) a threat of libel or of slander, or

- (d) a threat that a person shall be prosecuted on a charge of having committed an offence, whether the alleged offence is punishable under this Act or under any other enactment, and whether it has or has not been committed, or
- (e) a threat that a person shall be detained.<sup>10</sup>

(2) An expression in this Act referring to a threat includes an offer to abstain from doing, or to procure any other person to abstain from doing, anything the threat of which is a threat under subsection (1).

(3) It is immaterial whether the matter of the threat 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 any other person.

(4) It is immaterial whether a threat or offer is conveyed to a 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 THREE

### *Attempts to commit Criminal Offences*

#### **18. Attempt to commit a criminal offence**

(1) A person who attempts to commit a criminal offence shall not be acquitted on the ground that the criminal offence could not be committed according to the intent

- (a) by reason of the imperfection or other condition of the means, or
- (b) by reason of the circumstances under which they are used, or
- (c) by reason of the circumstances affecting the person against whom, or the thing in respect of which the criminal offence is intended to be committed, or
- (d) by reason of the absence of that person or thing.

(2) A person who attempts to commit a criminal offence commits a criminal offence, and except as otherwise provided in this Act, is liable to be convicted and punished as if the criminal offence has been completed.

(3) Where an act amounts to a complete criminal offence, as defined by a provision of this Act, and is also an attempt to commit any other criminal offence, a person who does the act commits a criminal offence and is liable to be convicted and punished under either provision or under this section.

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

#### *Illustrations*

##### *Subsection (1)*

1. A buys poison and brings it into B's room, intending there to mix it with B's drink. A has not attempted to poison B. But if A begins to mix it with B's drink, though A afterwards desists and throws away the mixture, A commits of an attempt.
2. A points a gun, believing it to be loaded, and meaning immediately to discharge it at B. A has committed the criminal offence of an attempt, although the gun is not in fact loaded.
3. A puts A's hand into B's pocket, with the purpose of stealing. A has committed the criminal

offence of an attempt, although there is nothing in the pocket.

4. *A* performs an operation on *B* with a view to causing abortion. *A* has committed the criminal offence of an attempt, although *B* is not in fact with child.

## **19. Preparation for committing certain criminal offences**

A person who prepares or supplies, or has in possession, custody, or control, or in the possession, custody or control of any other person on behalf of that person, any instrument, materials, or means, with the intent that the instruments, materials, or means, may be used by that person, or by any other person, in committing a criminal offence by which life is likely to be endangered, or a forgery, or a felony, commits a criminal offence and is liable to punishment in like manner as if that person had attempted to commit that criminal offence.

## CHAPTER FOUR

### *Abetment and Conspiracy*

## **20. Abetment of a criminal offence**

(1) A person who, directly or indirectly, instigates, commands, counsels, procures, solicits, or in any other manner purposely aids, facilitates, encourages, or promotes, whether by a personal act or presence or otherwise, and a person who does an act for the purposes of aiding, facilitating, encouraging, or promoting the commission of a criminal offence by any other person, whether known or unknown, certain, or uncertain, commits the criminal offence of abetting that criminal offence, and of abetting the other person in respect of that criminal offence.

(2) A person who abets a criminal offence shall, if the criminal offence is actually committed in pursuance of, or during the continuance of, the abetment, be deemed to have committed that criminal offence.

(3) A person who abets a criminal offence is, if the criminal offence is not actually committed,

- (a) liable to imprisonment for life where the criminal offence abetted was punishable by death; and
- (b) in any other case the abettor is punishable in the same manner as if the criminal offence 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 dead or is otherwise not amenable to justice.

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

(6) An abettor shall have the benefit of any matter of exception, justification, or extenuation to which the abettor is entitled under this Act, although the person abetted or any other abettor is not entitled to the like benefit.

(7) A person who, within the jurisdiction of the Court, abets the doing beyond the jurisdiction of an act which, if done within the jurisdiction, would be a criminal offence, is punishable as if that person had abetted that criminal offence.

### ***Illustrations***

**Subsection (1)**

1. *A* encourages *B* to commit a murder. Here *A* commits the criminal offence of abetting murder.
2. *A* offers *B* ₵20,000 to assault *C*. Here *A* commits the criminal offence of abetting an assault on *C*.<sup>11</sup>
3. *A* and *B* are fighting unlawfully. *C* and others hinder a peace officer from stopping the fight. Here *C* and the others have committed the criminal offence of abetting the fight.

**Subsection (2)** *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 *A* had committed the unlawful entry.

**Subsection (3)** *A* unlawfully strikes *B*. *B* and others immediately set upon *A* and beat *A* so that *A* dies. Here, if the blow struck by *A* amounts to a provocation to *B*, (section 53), *B* may have committed the criminal offence of manslaughter, although the others may have committed the criminal offence of murder.

**Subsection (7)** *A* who is in Accra, incites *B* to carry a ship to sea and scuttle the ship with intent to defraud the underwriters. *A* is liable under this provision.

**21. Abetment and the commission of a different criminal offence**

(1) Where a person abets a particular criminal offence, or abets a criminal offence against or in respect of a particular person or thing and the person abetted actually commits a different criminal offence, or commits the criminal offence against or in respect of a different person or thing, or in a manner different from that which was intended by the abettor, and

- (a) it appears that the criminal offence actually committed was not a probable consequence of the endeavour to commit, nor was substantially the same as the criminal offence which the abettor intended to abet, nor was within the scope of the abetment, the abettor is punishable for abetment of the criminal offence which the abettor intended to abet in the manner provided by this Chapter with respect to the abetment of criminal offences which are not actually committed; and
- (b) in any other case, the abettor shall be deemed to have abetted the criminal offence which was actually committed, and is liable to punishment accordingly.

(2) Where a person abets a riot or unlawful assembly with the knowledge that unlawful violence is intended or is likely to be used, that person commits the criminal offence of abetting violence of the kind or degree which is committed by any other person in executing the purposes of the riot or assembly, although that person did not expressly intend to abet violence of that kind or degree.

**Illustrations**

**Subsection (1)**

1. *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* commits the criminal offence of abetting robbery, and not of murder.
2. *A* incites *B* to steal a horse. *B*, in pursuance of the incitement, gets the horse by false pretences. Here *A* commits the criminal offence of abetting the criminal offence which *B* has committed.

**Subsection (2)** *A* number of 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 of the persons, whether armed or not, who took part in or otherwise abetted the breaking open the prison, have committed the criminal offence of abetting murder, if they knew that arms were carried and were intended or likely to be used.

## **22. Duty to prevent a felony**

A person who, knowing that another person designs to commit, or is committing a felony, fails to use all reasonable means to prevent the commission or completing the felony commits a misdemeanour.

## **23. Conspiracy**

(1) Where two or more persons agree to act together with a common purpose for or in committing or abetting a criminal offence, whether with or without a previous concert or deliberation, each of them commits a conspiracy to commit or abet the criminal offence.

(2) A person within the jurisdiction of the Courts can be convicted of conspiracy by agreeing with another person who is beyond the jurisdiction, for the commission of abetment of a criminal offence to be committed by them or either of them, or by any other person, within or beyond the jurisdiction.

(3) For the purposes of subsection (2) as to a criminal offence to be committed beyond the jurisdiction, “**criminal offence**” means an act which, if done within the jurisdiction, would be a criminal offence under this Act or under any other enactment.

### *Illustrations*

#### *Subsection (1)*

- 1.** If a lawful assembly is violently disturbed (section 204), the persons who take part in the disturbance have committed conspiracy to disturb it, although they may not have personally committed any violence, and although they do not act in pursuance of a previous concert or deliberation.
- 2.** *A* and *B* agree together to procure *C* to commit a criminal offence. Here, *A* and *B* have both committed conspiracy to abet that criminal offence.

*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* has committed a conspiracy punishable under this Act.

## **24. Punishment for conspiracy**

(1) Where two or more persons are convicted of conspiracy for the commission or abetment of a criminal offence, each of them shall, where the criminal offence is committed, be punished for that criminal offence, or shall, where the criminal offence is not committed, be punished as if each had abetted that criminal offence.

(2) A Court having jurisdiction to try a person for a criminal offence shall have jurisdiction to try a person charged with conspiracy to commit or abet that criminal offence.

## **25. Harboursing criminal**

A person who, knowingly or having reason to believe that any other person has committed or has been convicted of a criminal offence, aids, conceals, or harbours that person, with the purpose of enabling that person to avoid lawful arrest or the execution of the sentence, commits a misdemeanour.

## *General Exemptions*

### **26. Infant incapable of committing a criminal offence**

For the purposes of the criminal law a person under twelve years of age is incapable of committing a criminal offence.<sup>12</sup>

#### ***Illustration***

*A*, aged eleven years administers poison to *B*. *A* is not criminally responsible and is considered incapable of understanding the consequences of those actions from a legal perspective.<sup>13</sup>

### **27. Special verdict in respect of an insane person**

Where a person is accused of a criminal offence, the special verdict provided by the Criminal and other Offences (Procedure) Act, 1960 (Act 30) in the case of insanity is only applicable

- (a) if that person was prevented, by reason of idiocy, imbecility, or a mental derangement or disease affecting the mind, from knowing the nature or consequences of the act in respect of which that person is accused; or
- (b) if that person did the act in respect of which that person is accused under the influence of an insane delusion of a nature that renders that person, in the opinion of the jury or of the Court, an unfit subject for punishment in respect of that act.

#### ***Illustrations***

##### **Paragraph (a)**

- 1. If a person by reason of idiocy is incapable of knowing that the act of that person will cause death, the special verdict is applicable to that case.
- 2. If a person commits homicide by reason of a paroxysm of madness which at the time makes that person incapable of considering that murder is a criminal offence, the special verdict is applicable to that 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 will 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 from these delusions, *A* kills *B*. Here the jury ought to take into account the fact that at other times *A* was subject to delusions.

### **28. Criminal liability of an intoxicated person**

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

(2) Intoxication is a defence to a criminal charge if by reason of the intoxication the person charged, at the time of the act complained of, did not know that the act was wrong or did not know what that person was doing and

- (a) the state of intoxication was caused without the consent of that person 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
  - (a) in a case falling under paragraph (a), the accused person shall be discharged, and
  - (b) in a case falling under paragraph (b), the special verdict provided for by the Criminal and Other Offences (Procedure) Act, 1960 (Act 30) in the case of insanity shall apply.
- (4) Intoxication shall be taken into account for the purpose of determining whether the person charged had formed an intention, specific or otherwise, in the absence of which the person charged would not be guilty of the criminal offence.
- (5) For the purposes of this section “**intoxication**” includes a state produced by narcotics or drugs.

## **29. Ignorance or mistake of fact or of law**

- (1) A person shall not be punished for an act which, by reason of ignorance or mistake of fact in good faith, that person believes to be lawful.
- (2) A person shall not, except as in this Act otherwise expressly provided, be exempt from liability to punishment for an act on the grounds of ignorance that the act is prohibited by law.

### ***Illustration***

**Subsection (2)** A, in self-defence against an assault, uses greater violence than is justifiable under the provisions of Chapter One of Part Two. Here A cannot claim that A did not know the violence was unlawful.

## PART TWO

### *Offences against the Person*

#### CHAPTER ONE

### *Justifiable Force and Harm*

## **30. Justification for force or harm**

- (1) For the purposes of this Act, force or harm is justifiable which is used or caused in pursuance of a matter of justification, and within the limits that are provided for in this Chapter.
- (2) In 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.

## **31. Grounds on which force or harm is justified**

Force may be justified in the case and in the manner, and subject to the conditions, provided for in this Chapter, on the grounds

- (a) of express authority given by an enactment; or
- (b) of authority to execute the lawful sentence or order of a Court; or
- (c) of the authority of an officer to keep the peace or of a Court to preserve order; or

- (d) of an authority to arrest and detain for felony; or
- (e) of an authority to arrest, detain, or search a person otherwise than for felony; or
- (f) of a necessity for the prevention of or defence against a criminal offence; or
- (g) of a necessity for defence of property or possession or for overcoming the obstruction to the exercise of lawful rights; or
- (h) of a necessity for preserving order on board a vessel; or
- (i) of an authority to correct a child, servant, or other similar person, for misconduct; or
- (j) of the consent of the person against whom the force is used.

### **32. General limits of justifiable force or harm**

Although there may exist a matter of justification for its use, force cannot be justified as having been used in pursuance of that matter

- (a) which is in excess of the limits prescribed in the section of this Chapter relating to that matter, or
- (b) which extends beyond the amount and kind of force reasonably necessary for the purpose for which force is permitted to be used.

### **33. Use of force under authority of an enactment**

A person who is authorised by an enactment to use force may justify the use of necessary force according to the terms and conditions of that authority.

### **34. Execution of sentence or order of a Court**

A person who is authorised to execute a lawful sentence or order of a Court may justify the force mentioned in the sentence or order.

### **35. Use of force for preservation of order**

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

### **36. Use of force for arrest, detention or recapture**

(1) A person who by law may, with or without a warrant or any other legal process, arrest and detain another person

- (a) may use force which is necessary for the arrest, detention, or recapture of that person, and
- (b) may, if the arrest is made in respect of a felony, kill the other person, if the other person cannot by any means otherwise be arrested, detained, or retaken.

(2) Force may be used under subsection (1) only where the other person, having notice or believing in the lawful arrest, avoids arrest by resistance or fight, or escapes or endeavours to escape from custody.

### **37. Use of force for prevention of, or defence against, criminal offence**

For the prevention of, or for personal defence, or the defence of any other person against a criminal offence, or for the suppression or dispersion of a riotous or an unlawful assembly, a person may justify

the use of force or harm which is reasonably necessary extending in case of extreme necessity even to killing.

### **38. Unlawful fights**

(1) A force used in an unlawful fight cannot be justified under a provision of this Act.

(2) A fight is an unlawful fight in which a person engages, or maintains, otherwise than solely in pursuance of a matter of justification specified in this Chapter.

### **39. Use of force for defence of property or possession**

A person may justify the use of force for the defence of property or possession, or for overcoming an obstruction to the exercise of a legal right, where

- (a) a person in actual possession of a house, land or vessel, or goods, or the servant of that person or any other person authorised by that person, may use force that 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 the servant of that person or any other person authorised by that person may use force that is reasonably necessary for removing a person who, being in or on the house, land or vessel, and having been lawfully required to depart from that place refuses to depart;
- (c) a person wrongfully takes possession of or detains goods, any other person who, as against the first mentioned person has a present right to the possession of them, may, upon refusal to deliver up the goods on demand, use force, personally or by any other person, as is reasonably necessary for recovering possession of the goods; and
- (d) a person may use force that is reasonably necessary for overcoming an obstruction or a resistance to the exercise by that person of a legal right.

### **40. Use of force for preserving order on board a vessel**

(1) The master of a vessel, or a person acting by the order of the master, may justify the use of force against any other person on board the vessel

- (a) that is necessary for suppressing a mutiny or disorder on board the vessel, whether among officers, seamen, or passengers, by which the safety of the vessel, or of a person in the vessel or about to enter or quitting it, is likely to be endangered, or
- (b) where the master is threatened to be subject to the commands of any other person.

(2) For the purposes of subsection (1), the master or the person acting under the order of the master may kill a person who commits or abets a mutiny or disorder, if the safety of the vessel, or the preservation of a person, cannot by any means be otherwise secured.

### **41. Use of force for misconduct**

(1) A blow or other force may be justified for the purpose of correction, where

- (a) a father or mother may correct his or her child,<sup>14</sup> who is under sixteen years of age, or a guardian, or a person acting as a guardian, the ward, who is under sixteen years of age, for misconduct or disobedience to a lawful command;
- (b) a master may correct the servant or apprentice, who is under sixteen years of age, for

misconduct or default in the discharge of a duty as a servant or apprentice;

- (c) *repealed*;<sup>15</sup>
- (d) a father or mother or guardian, or a person acting as a guardian of a child may delegate to any other person whom any of them entrusts, permanently or temporarily, with the governance or custody of the child or ward the authority of any of them for correction, including the power to determine in what cases correction ought to be inflicted; and the delegation shall be presumed, except where it is 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 a particular case delegate to a fit person the infliction of the correction.

(2) A correction cannot be justified which is unreasonable in kind or in degree considering the age and physical and mental condition of the person on whom it is inflicted.

(3) A correction cannot 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.

#### **42. Use of force in case of consent**

The use of force against a person may be justified on the ground of 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 grounds of consent, unless the consent is 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 purpose of medical or surgical treatment does not extend to an improper or a negligent treatment;
- (d) consent to the use of force against a person for purposes of medical or surgical treatment, or otherwise for the benefit of that person may be given against the will of that person by the father or mother or guardian or a person acting as the guardian, if that person is under eighteen years of age, or by a person lawfully having the custody of that person if that person is insane or is a prisoner in a prison or reformatory, and, when so given, cannot be revoked by that person;
- (e) where a person is intoxicated or insensible, or is from a cause unable to give or withhold consent, force is justifiable which is used, in good faith and without negligence, for the purposes of medical or surgical treatment or otherwise for the benefit of that person, unless a person authorised by that person or by law to give or refuse consent dissents from the use of that force;
- (f) a party to a fight, whether lawful or unlawful, cannot justify, on the grounds of the consent of another party, force which that party uses with intent to cause harm to the other party;
- (g) a person may revoke a consent which that party has given to the use of force against that person, and the consent when so revoked shall not have effect or justify force.<sup>16</sup>

#### **43. Use of force against a third person**

A person who, in justifiably using force against another person, is obstructed or resisted by a third person, may use force against the third person, that is reasonably necessary for overcoming the obstruction or resistance; and may, if the obstruction or resistance amounts to a criminal offence or to abetment of a criminal offence, use force in accordance with this Chapter with respect to the use of force

in case of necessity for preventing a criminal offence.

#### **44. Use of additional force for exercise of justifiable force**

A person who is authorised to use force of a particular kind against a person may further use an additional force, where it is reasonably necessary for the execution of the authority.

#### **45. Justification of person aiding another person in use of justifiable force**

A person who aids another person in a justifiable use of force is justified to the same extent and under the conditions that the other person is justified.

## CHAPTER TWO

### *Murder and Similar Offences*

#### *Murder and Manslaughter*

#### **46. Murder**

A person who commits murder is liable to suffer death.

#### **47. Definition of murder**

A person who intentionally causes the death of another person by an unlawful harm commits murder, unless the murder is reduced to manslaughter by reason of an extreme provocation, or any other matter of partial excuse, as is mentioned in section 52.

#### **48. Attempt to commit murder**

A person who attempts to commit murder commits a first degree felony.

#### **49. Attempt to commit murder by convict**

A person who, being under sentence of imprisonment for three years or more, attempts to commit murder is liable to suffer death.

#### **49A. Genocide**

(1) A person who commits genocide is liable on conviction to be sentenced to death.

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

- (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;
- (e) forcibly transfers children of the group to another group.<sup>17</sup>

## **50. Manslaughter**

A person who commits manslaughter commits a first degree felony.

## **51. Definition of manslaughter**

A person who causes the death of another person by an unlawful harm commits manslaughter, but if the harm causing the death is caused by negligence that person has not committed manslaughter unless the negligence amount to a reckless disregard for human life.

## **52. Intentional murder reduced to manslaughter**

A person who intentionally causes the death of another person by unlawful harm commits manslaughter, and not murder or attempted murder, if that person

- (a) was deprived of the power of self-control by an extreme provocation given by the other person as is mentioned in sections 53, 54, 55 and 56; or
- (b) was justified in causing harm to the other person, and, in causing harm in excess of the harm which that person was justified in causing, that person acted from a terror of immediate death or grievous harm that in fact deprived that person for the time being of the power of self-control; or
- (c) in causing the death, acted in the belief, in good faith and on reasonable grounds, of being under a legal duty to cause the death or to do the act which that person did; or
- (d) being a woman she caused the death of a child, which is a child under the age of twelve months, at a time when the balance of her mind was disturbed because she had not fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent on the birth of the child.

### ***Illustration***

**Paragraph (c)** A soldier is ordered by the commanding officer to fire on a mob, there being no necessity for the order to be given. Here, if the soldier in good faith personally believed to be bound to obey the order, the soldier did not commit murder, but committed manslaughter.

## **53. 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 on the accused person by the other person, in an unlawful fight or otherwise, which is of a kind, in respect of its violence or by reason of accompanying words, gestures, or other circumstances of insult or aggravation, that is likely to deprive a person of ordinary character and 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 attitude manifesting an intention of instantly attacking the accused person with deadly or dangerous means or in a deadly manner;
- (c) an act of adultery committed in the view of the accused person with or by the wife or the husband, or the criminal offence of unnatural carnal knowledge committed in the husband's or wife's view on the wife, or the husband, or child; and
- (d) a violent assault and battery committed in the view or presence of the accused person on the wife, husband, or child, or parent, or on any other person who is in the presence and in the

care or charge of the accused person.

#### **54. Exclusion of benefit of provocation**

(1) Despite proof on behalf of the accused person of a matter of extreme provocation, the criminal offence shall not be reduced to manslaughter if it appears

- (a) that the accused person was not in fact deprived of the power of self-control by the provocation; or
- (b) that the accused person acted wholly or partly from a previous intention to cause death or harm, or to engage in an unlawful fight, whether or not the accused person would have acted on that purpose at the time or in the manner in which the accused person did act but for the provocation; or
- (c) that, after provocation was given, and before the accused did the act which caused the harm, a time elapsed or circumstances occurred that an ordinary person might have recovered self-control; or
- (d) that the accused person acted in a manner, in respect of the instrument or means used or of the cruel or other manner in which it was used, in which an ordinary person would not, under the circumstances, have been likely to act.

(2) For the purposes of subsection (1), “**an ordinary person**” means an ordinary person of the community to which the accused belongs.

(3) Where a person, in the course of a fight, uses a deadly or dangerous means against an adversary who has not used or commenced to use a deadly or dangerous means against that person, the accused person shall be presumed to have used the means from a previous intention to cause death, although, before the actual use of the means, the accused person may have received a blow or hurt in the fight that might amount to extreme provocation.

(4) Subsection (3) applies if it appears that the accused person intended or prepared to use those means before the accused person had received a blow or hurt in the fight that might be a sufficient provocation to use means of that kind.

#### ***Illustrations***

1. **Subsection (1) (b)** *A*, who has long been seeking an occasion to fight in a deadly manner with *B*, kills *B*. Here, if the jury think that *A* engineered a situation of being in *B*'s way for the purpose of taking an opportunity which might occur to fight with *B*, the criminal offence of *A* is not reduced to manslaughter by reason of the blow which *A* received from *B*.
2. *A* receives a slight blow from a weaker man, *B*, and beats and kicks *B* to death. *A*'s criminal offence is not reduced to manslaughter.

#### **55. Mistake as to matter of provocation**

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

#### **56. Mistake as to person giving provocation**

Where a sufficient provocation is given to the accused person by one person, and the accused person kills another person under the belief, on reasonable grounds, that the provocation was given by that other person, the provocation is admissible for reducing the criminal offence to manslaughter in the same

manner as if it had been given by the person killed; but, it is not a provocation to kill a different person.

### *Suicide and Abortion*

#### **57. Abetment of suicide**

(1) A person who abets the commission of a suicide commits a first degree felony whether or not the suicide is actually committed.

(2) A person who attempts to commit suicide commits a misdemeanour.

#### **58. Abortion or miscarriage**

(1) Subject to subsection (2),

- (a) a woman who, with intent to cause abortion or miscarriage, administers to herself or consents to be administered to her a poison, drug or any other noxious thing or uses an instrument or any other means, or
- (b) a person who
  - (i) administers to a woman a poison, drug or any other noxious thing or uses an instrument or any other means with the intent to cause abortion or miscarriage of that woman, whether or not that 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 a poison, drug, an instrument or any other thing knowing that it is intended to be used or employed to cause abortion or miscarriage,

commits a criminal offence and is liable on conviction to a term of imprisonment not exceeding five years.

(2) It is not a criminal offence under subsection (1) if an abortion or a miscarriage is caused in any of the circumstances referred to in paragraph (a) or (b) of subsection (1) 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 legislative instrument made by the Minister,

- (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 the 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 the woman consents to it or if she lacks the capacity to give the 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) A person who intentionally and unlawfully causes abortion or miscarriage commits a second degree felony.<sup>18</sup>

(4) For the purposes of this section, “**abortion or miscarriage**” means the premature expulsion or

removal of conception from the uterus or womb before the period of gestation is completed.<sup>19</sup>

### **59. Explanation as to causing abortion**

*Repealed.*<sup>20</sup>

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

### **60. Causing harm to child at birth**

A person who intentionally and unlawfully causes harm to a living child during the time of its birth commits a second degree felony.

### **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, on the discovery of the concealed body of the child, harm is found to have been caused to it, the 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.

### **62. Concealment of body of child**

(1) A person who conceals the body of a child, whether the 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, commits a misdemeanour.

(2) Subsection (1) does not apply to

- (a) the case of a child of less than six months growth before its birth;
- (b) the case of intent to conceal the birth, existence or death of a child, or the manner or cause of its death, from a particular person but it is requisite that there should be an intent to conceal the body from persons generally, except persons who abet or consent to the concealment.

(3) Subsection (1) applies to the mother of the child as it applies to any other person.

#### *Illustrations*

##### *Subsection (2) (b)*

1. A woman conceals from her father or mother the body of her child. She has not committed a concealment of birth unless she intended to conceal it from persons generally.
2. A woman conceals the body of her child from all persons except a nurse who helped her in the concealment. The woman has committed a concealment of birth although she did not conceal it from her accomplice.

### **63. Explanation as to concealment of body of child**

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

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

## *Special Provisions relating to Murder*

### **64. Causing death**

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

- (a) the death of a person is caused by harm, if by reason of the harm, 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 the infancy, old age, disease, intoxication, or any other state of body or mind of that person 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 the refusal or neglect of that person to submit to or seek proper medical or surgical treatment, or but for the negligent or improper conduct or manner of living of that person, or of treating the harm, unless the person so acting was guilty of a wanton or reckless disregard of that person's own health or condition;
- (d) death is caused by harm if the death is caused by the medical or surgical treatment of the harm, unless the treatment is grossly negligent or unless the death could not have been foreseen as a likely consequence of the treatment; and
- (e) death is not caused by harm unless the death takes place within a year and a day of the harm being caused.

### **65. Abetment of murder**

The general provisions of Part One with respect to abetment are, in their application of the purposes of this Chapter, subject to the special provision, namely, that where a person commands the killing of another person, knowing that the killing will be unlawful, then, although the criminal offence of the person commanded is reduced to manslaughter, or to an attempt to commits manslaughter, by the belief of being under a legal duty to obey the command, the person giving the command commits the same criminal offence as if the person commanded had not personally believed to be under a legal duty to obey the command.

### **66. Child as the object of murder**

(1) In order that a child may be considered a person for the purposes of 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

- (a) that a circulation of blood, independent of the mother's circulation, should have commenced in the child, or
- (b) that the child should have breathed, or
- (c) that it should have been detached from the mother by severance of the umbilical cord.

(3) It is murder or manslaughter, to cause death to happen to a child after it becomes a person, within the meaning of this section, by means of harm caused to it before it became a person.

### **67. Medical or surgical treatment**

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

(2) An 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 or miscarriage, or premature delivery, or the death of the child.

## **68. Jurisdiction in certain cases of murder**

Where harm is unlawfully caused to a person within the jurisdiction of the Court, but the death as a result of the harm, occurs beyond the jurisdiction of the Court, the person who caused or abetted the causing of the harm may be tried and punished under this Act for murder or manslaughter as if the death had occurred 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 the murder or manslaughter.

## CHAPTER THREE

### *Criminal Harm to the Person*

## **69. Causing harm**

A person who intentionally and unlawfully causes harm to any other person commits a second degree felony.

### **69A. Female genital mutilation**

(1) Whoever carries out female genital mutilation and excises, infibulates or otherwise mutilates the whole or any part of the *labia minora*, *labia majora* and the clitoris of another person commits an offence and is liable on summary conviction to imprisonment for a term of not less than five years and not more than ten years.

(2) Whoever participates in or is connected with a ritual or customary activity that subjects a person to female genital mutilation commits an offence and is liable on summary conviction to imprisonment for a term of not less than five years and not more than ten years.

(3) 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 external genitalia and stitching or narrowing of the vaginal opening;

“**mutilate**” includes any other injury caused to the female genital organ for cultural or other non-therapeutic reasons;

“**concerned with**” means

(a) to send to, take to, consent to the taking to or receive at any place, any person for the performance of female genital mutilation; or

(b) to enter into an agreement whether written or oral to subject any of the parties to the agreement or any other person to the performance of female genital mutilation.<sup>21</sup>

## **70. Use of offensive weapon**

A person who intentionally and unlawfully causes harm to any other person by the use of an offensive weapon commits a first degree felony.

## **71. Exposing child to danger**

(1) A person commits a misdemeanor who unlawfully

- (a) exposes a child to danger or abandons a child under twelve years; or
- (b) exposes a physically or mentally handicapped child to danger or abandons a physically or mentally handicapped child in a manner that is likely to cause harm to the child.<sup>22</sup>

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

## **72. Negligently causing harm**

A person who negligently and unlawfully causes harm to any other person commits a misdemeanor.

## **73. Dangerous thing, negligently causing harm or danger**

A person who

- (a) being solely or partly in charge of a steam-engine, machinery, ship, boat, or dangerous thing or matter of any kind, or
- (b) having undertaken or being engaged in medical or surgical treatment of a person, or
- (c) having undertaken or being engaged in the dispensing supplying, selling, administering, or giving away of a medicine or a poisonous or dangerous matter,

negligently endangers the life of any other person, commits a misdemeanor.

## **74. Threat of harm**

A person who threatens any other person with unlawful harm, with intent to put that person in fear of unlawful harm commits a misdemeanor.

## **75. Threat of death**

A person who threatens any other person with death, with intent to put that person in fear of death, commits a second degree felony.

## **76. Definition of unlawful harm**

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

## **77. Explanation as to causing harm by omission**

A person causes harm by an omission, within the meaning of this Act, if harm is caused by that person's omission to perform a duty for preventing harm as mentioned in section 78, and not in any other case.

## **78. Duty to prevent harm to another person**

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

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

## **79. Duty to give access to the necessaries of health and life**

- (1) Where there is a duty to give access to the necessaries of health and life,
  - (a) a spouse is under a duty to give access to the necessaries of health and life to the other spouse who is actually under the control of that spouse;
  - (b) a parent is under a duty to give access to the necessaries of health and life to the parent's child actually under the control of the parent, which child is not of an age and capacity as to be able to obtain those necessaries;
  - (c) a guardian of a child is under a duty to give access to the necessaries of health and life to the child actually under the control of the guardian.<sup>23</sup>
- (2) A woman, who is delivered of a child,<sup>24</sup>
  - (a) is under a duty, so far as she is able, to summon assistance and to do any other act necessary and reasonable for preserving the child from harm by exposure, exhaustion, or otherwise by reason of its condition as a newly-born child;
  - (b) is under a duty, so far as she is able, to support and take reasonable care of the child, which is under 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 an 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 that other person 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 that other person is a servant, an apprentice or otherwise is under a duty to supply them accordingly.
- (6) Where a person under a duty expressed in this section has not the means of discharging the duty, and there is another person or public authority bound to furnish that person with the means, that person is under a duty to take reasonable steps for obtaining the means from that other person or authority.
- (7) Where a person, under a duty to supply any of the necessaries of health and life to another person, lawfully charges the wife, servant of that person, 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) For the purposes of this section, "**necessaries of health and life**" includes proper food, clothing, shelter, warmth, medical or surgical treatment, and any other matter which is reasonably necessary for the preservation of the health and life of a person.

### ***Illustration***

**Subsection (6)** The father or mother of a child who does not have the means of providing the child with food or medical attendance, is bound to seek assistance from an officer appointed to relieve the poor, but is not bound to beg from private charity.

## **80. Explanation as to office**

(1) Where, under section 78 or 79, a duty is constituted by an office, employment, agreement, or undertaking, the duty is sufficiently constituted in the case of a person

- (a) who is actually discharging the duties belonging to that office or employment, or
- (b) who is acting as if under that agreement or undertaking with respect to another person.

(2) A person is not excused from liability for failure to discharge a duty within the meaning of section 78 or 79 on the grounds that another person is also under the same duty, whether jointly or independently and whether on the same or on a different ground.

### ***Illustrations***

#### ***Subsection (1)***

1. A deputy gaoler, even though unlawfully appointed, is under the duties of a gaoler in relation to the prisoner.
2. A master is under the duties of a master in relation to the apprentice, even though the articles of apprenticeship are void.

## **81. Exceptions to causing an event**

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

- (a) a person has not caused harm to another person by omitting to supply the other person with the necessaries of health and life, unless it is proved against that person that the other person, by reason of age or physical or mental state, or by reason of control by the accused person, could not by reasonable exertion have avoided the harm;
- (b) the disease or disorder which a person suffers as the inward effect of grief, terror, or any other emotion is not harm caused by another person, although the grief, terror, or emotion has been caused by that other person whether with intent to cause harm or otherwise;
- (c) the harm which a person suffers by execution of a sentence of a Court in consequences 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, is caused by that other 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 grounds that the other person personally, by trespass, negligence, act, or omission, contributed to causing the harm.

## **82. Special provision as to medical or surgical treatment**

A person who 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, is or ought to have known to be plainly improper, is liable to punishment as if the harm had been caused negligently, within the meaning of this Act, and not otherwise.

### ***Illustration***

A surgeon, through gross negligence, amputates a limb where the necessity to amputate did not arise.

The surgeon is not liable to be convicted of having intentionally and unlawfully caused harm, but is liable to be convicted of having negligently and unlawfully caused harm.

### **83. Causing harm by hindering escape from wreck**

A person who intentionally hinders any other person from escaping from a wrecked vessel, or from lawful personal protection or from any other person against harm has, for the purposes of this Act, intentionally caused the harm which happens to that other person by reason of the hindrance.

## CHAPTER FOUR

### *Assault and Similar Offences*

### **84. Assault**

A person who unlawfully assaults another person commits a misdemeanour.

### **85. Different kinds of assault**

(1) For the purposes of section 84, “**assaults**” includes

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

(2) An assault is unlawful unless it is justified on one of the grounds mentioned in Chapter One of this Part.

### **86. Assault and battery**

(1) A person makes an assault and battery on another person, if without the other person’s consent, and with the intention of causing harm, pain, or fear, or annoyance to the other person, or of exciting the other person to anger, that person forcibly touches the other person.

(2) The application of subsection (1) 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 a touch that is likely to cause harm or pain, or is intended to be a touch that, but for the consent obtained by the deceit, would have been likely to cause harm, pain, fear or annoyance, or to excite anger;
- (b) where the proper person is insensible, unconscious, or insane, or is, by reason of infancy or any other circumstance, unable to give or refuse consent, it suffices, with respect to intention,
  - (i) that the touch is intended to cause harm, pain, fear or annoyance, or
  - (ii) that the touch is intended to be a touch that would be likely to cause harm, pain, fear, or annoyance to, or to excite the other person’s anger, if that person were able to give or refuse consent, and were not consenting;
- (c) the slightest actual touch suffices for an assault and a battery, if the intention is an intention as is required by this section;
- (d) a person is touched, within the meaning of this section, if the body is touched, or if the clothes or any other thing in contact with the body or with the clothes on the body are or is

touched, although the body is not actually touched; and

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

### *Illustrations*

#### *Subsection (1)*

1. *A* strikes *B*, or spits upon *B*, or causes a dog to bite *B*, or in any manner causes *B* to fall or be thrown on the ground. Here, if *A*'s intention was to cause harm, pain, fear or annoyance to *B*, or to excite *B*'s anger, *A* commits an assault and battery;
2. *A* puts *A*'s hand on *B*'s shoulder in order to attract the attention of *B*, but does not use unnecessary force. *A* has not committed an assault and battery.

#### *Subsection (2)*

1. *A* under false pretence of surgical treatment induces *B* to consent to harm or pain. *A* commits and assault and battery;
2. *A* kicks *B*, who is insensible. *A* commits an assault and battery even though the kick does not cause pain to be felt by *B* on *B* recovering sensibility;
3. *A* pushes *B* so as to cause *B* to fall into water. *A* commits an assault and battery although the push is so slight as not of itself to be material.

## **87. Assault without actual battery**

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

(2) The application of subsection (1) is subject to the following provisions;

- (a) it is not necessary that an actual assault and battery should be intended, or that the instruments or means by which the assault and battery is apparently intended to be made should be, or should by the person using them be believed to be, of a kind or in a condition 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 a person, an animal, or a matter to move, towards another person, although that person or the other person, animal, or matter, is not yet within a distance from the other person that an assault and battery can be made; and
- (c) an assault can be made on a person, within the meaning of this section, although that person can avoid actual assault and battery by retreating, or by consenting to do, or to abstain from doing, an act.

### *Illustrations*

#### *Subsection (2)*

1. *A* points a pistol at *B* in a manner that gives *B* reasonable grounds for fearing that *B* will be immediately shot. Here, *A* commits an assault, although *A* does not intend to fire, and although the pistol is not loaded, and although *A* knows that it is not loaded;
2. *A* at a distance of ten yards from *B* runs at *B* with apparent intention of striking *B* and

intending to put **B** in fear of an immediate beating. Here, **A** commits an assault, although **A** never comes within actual reach of **B**;

3. **A** being near **B**, lifts a stick and threatens at once to strike **B**, unless **B** immediately apologises. Here **A** has committed an assault.

### **88. Definition of, and provisions relating to, imprisonment**

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

(2) The application of subsection (1) is subject to the following provision, namely, that the detention or compulsion may be constituted, within the meaning of this section,

- (a) by force or by a physical obstruction to a person's escape, or
- (b) by creating the belief that the other person cannot depart from a place, or refuse to move or be carried in a particular direction, without overcoming force or incurring danger or harm, pain or annoyance, or
- (c) by creating the belief that the other person is under legal arrest, or
- (d) by creating the belief to the other person of immediate imprisonment if the other person does not consent to do, or to abstain from doing, an act.

#### ***Illustrations***

1. **A** detains **B** on board a ship. Here, **A** imprisons, **B** although **B** is let free within the ship; and, if **B** was prevented from leaving the ship until she sailed, **B**, is imprisoned so long as **B** necessarily or reasonably continues on board the ship, even though during a part of the time **B** would have been free if there had been a 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**.

### **88A. Cruel practices in relation to bereaved spouses**

(1) A person who compels a bereaved spouse or a relative of the spouse to undergo a custom or practice that is cruel in nature commits a misdemeanour.

(2) For the purposes of subsection (1), a custom or practice is cruel in nature if it constitutes an assault within the meaning of sections 85, 86, 87 and 88.25

## CHAPTER FIVE

### *Kidnapping, Abduction, and Similar Offences*

### **89. Kidnapping**

A person who kidnaps another person commits a second degree felony.

### **90. Definition of kidnapping**

A person commits the criminal offence of kidnapping

- (a) who unlawfully imprisons any other person, and takes that other person out of the jurisdiction of the Court, without the consent of the other person;

- (b) who unlawfully imprisons any other person within the jurisdiction of the Court, in a manner that prevents the other person from applying to a Court for release or from discovering to any other person the place of the imprisonment, or in a manner that prevents a person entitled to have access from discovering the place where the other person is imprisoned.

### **91. Abduction of child under eighteen**

A person who abducts a child under eighteen years of age commits a misdemeanour.<sup>26</sup>

### **92. Definition of abduction**

(1) A person commits the criminal offence of abduction of a child who with intent to deprive a person entitled to the possession or control of the child or with intent to cause the child to be carnally known or unnaturally carnally known by any other person

- (a) unlawfully takes the child from the lawful possession, care or charge of a person, or
- (b) detains the child and prevents the child from returning to the lawful possession, care or charge of a person.<sup>27</sup>

(2) The possession, control, care or charge of a child by a parent, guardian, or any other person continues although the child is absent from actual possession, control, care, or charge, if the absence is for a special purpose only, and is not intended by the parent, guardian, or the other person to exclude or determine the possession, control, care, or charge for the time being.

(3) A person does not commit the criminal offence of abduction by taking or detaining a child unless that person knew, or had grounds for believing that the child was in the possession, control, care, or charge of another person.

### **93. Child stealing**

A person who steals a person under fourteen years of age, whether with or without consent, commits a second degree felony.

### **94. Definition of child stealing**

(1) A person steals another person if the first mentioned person unlawfully takes or detains the other person with intent to deprive the other person of the possession or control to which any person is entitled, or with intent to steal anything on or about the body of, or with intent to cause harm to, that other person.

(2) For the purposes of subsection (1), it is not necessary to prove that the person stolen had been taken from the possession, care, or charge of a person, if it is shown that some person, other than the accused person, was entitled to the control or possession of the person stolen.

### **95. Special provisions as to child stealing and abduction**

- (1) 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 that person is persuaded, aided, or encouraged to depart or not to return;
  - (b) it is not necessary that there should be an intent permanently to deprive a person of the possession or control of the person taken or detained;
  - (c) a taking or detention is unlawful unless a person entitled to give consent to the taking or detention of the person taken or detained, for the purposes for which that person is taken or

detained, gives 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 that person, or in any other capacity, can commit stealing or abduction of that person by acts which the first mentioned person is not entitled to do for the special purpose, and cannot give consent to an act by another person which would be inconsistent with the special purpose; and
- (e) notwithstanding the general provisions of Part One of this Act with respect to mistake of law, a person does not commit the criminal offence of stealing or of abduction of another person by anything which that person does in the bona fide belief of being 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 of the taking or detention.

(2) Paragraph (e) of subsection (1) does not exempt a person from liability to punishment on the plea that that person did not know or believe, or had not the means of knowing that the age of the other person was under fourteen or eighteen years; nor exempt a person from liability to punishment as for stealing or abduction if that person took or detained the other person for an immoral purpose.<sup>28</sup>

***Illustration***

***Paragraph (e)*** A mother, believing in good faith that she has right to the custody of her child in pursuance of an agreement with the father, takes it away from the father. The mother has not committed the criminal offence of abduction, although the agreement is invalid.

**96. Abandonment of infant**

A person who is bound by law, or by virtue of an agreement or employment, to keep charge of or to maintain a child under five years of age, or who is unlawfully in possession of a child, abandons the child by leaving it at a hospital, or at the house of any other person or in any other manner, commits a misdemeanour.

CHAPTER SIX

*Sexual Offences*<sup>29</sup>

**97. Rape**

A person who commits rape commits a first degree felony and is liable on conviction to a term of imprisonment of not less than five years and not more than twenty-five years.

**98. Definition of rape**

Rape is the carnal knowledge of a female of not less than sixteen years without her consent.

**99. Evidence of carnal knowledge**

Where, on the trial of a person for a criminal offence punishable under this Act, it is necessary to prove carnal knowledge or unnatural carnal knowledge, the carnal knowledge or unnatural carnal knowledge is complete on proof of the least degree of penetration.

**100. Effect of void or voidable marriage with respect to consent**

Where a female is compelled to marry another person by duress as to make the marriage void or

voidable, the marriage does not have effect for the purpose of Part One of this Act with respect to consent.

### **101. Defilement of child under sixteen years of age**

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

(2) A person who naturally or unnaturally carnally knows a child under sixteen years of age, whether with or without the consent of the child, commits a criminal offence and is liable on summary conviction to a term of imprisonment of not less than seven years and not more than twenty-five years.

### **102. Carnal knowledge**

A person who has carnal knowledge or has unnatural carnal knowledge of an idiot, imbecile or a mental patient in or under the care of a mental hospital whether with or without the consent of that other person, in circumstance which prove that the accused knew at the time of the commission of the criminal offence that the other person has a mental incapacity commits a criminal offence and is liable on summary conviction to a term of imprisonment of not less than five or and not more than twenty-five years.

### **103. Indecent assault**

(1) A person who indecently assaults another person commits a misdemeanour and is liable on conviction to a term of imprisonment of not less than six months.

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

- (a) forcibly makes a sexual bodily contact with the other person, or
- (b) sexually violates the body of the other person,

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

### **104. Unnatural carnal knowledge**

(1) A person who has unnatural carnal knowledge

- (a) of another person of not less than sixteen years of age without the consent of that other person commits a first degree felony and is liable on conviction to a term of imprisonment of not less than five years and not more than twenty-five years; or
- (b) of another person of not less than sixteen years of age with the consent of that other person commits a misdemeanour; or
- (c) of an animal commits a misdemeanour.

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

### **105. Incest**

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

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

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

(4) A female of not less than sixteen years of age who permits a male whom she knows is her grandfather, father, brother or son to have carnal knowledge of her with her consent, commits a criminal offence and is liable on conviction to a term of imprisonment 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 an expression importing a relationship between two people applies although the relationship is not traced through lawful wedlock.

#### **106. Householder permitting defilement of a child**

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

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

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

#### **107. Procurement**

(1) A person commits a misdemeanour who

- (a) procures another person under twenty-one years of age, who is not a prostitute or of known immoral character to have carnal or unnatural carnal connection in the Republic or elsewhere with any other person; or
- (b) procures another person to become a prostitute in the Republic or elsewhere; or
- (c) procures another person to leave the Republic with the intention that the other person becomes an inmate of brothel elsewhere; or
- (d) procures another person to leave that other person’s usual place of abode which is not a brothel in the Republic with the intention that the other person becomes an inmate of a brothel in the Republic or elsewhere for prostitution; or
- (e) by threats or intimidation procures or attempts to procure another person to have carnal or unnatural carnal connection in the Republic or elsewhere; or
- (f) by false pretences or false representations procures another person who is not a prostitute or of known immoral character to have carnal or unnatural carnal connection in the Republic or elsewhere; or
- (g) applies, administers to, or causes to be taken by another person, a drug, matter or thing, with intent to stupefy or overpower that other person so as to enable any other person to have a

carnal or unnatural carnal connection with that other person.

(2) A person shall not be convicted of a criminal offence under subsection (1) on the evidence of one witness, unless the witness is corroborated in a material particular by evidence implicating the accused person.

### **108. Seduction or prostitution of a child under sixteen**

(1) A person who 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 or prostitution of that child or the commission of indecent assault on that child commits a misdemeanour.

(2) For the purposes of subsection (1), a person causes or encourages the seduction, carnal knowledge or unnatural carnal knowledge, prostitution or commission of indecent assault on a child, if that person knowingly allows the child to consort with, enter or continue in the employment of a prostitute or person of known immoral character.

### **109. Compulsion of marriage**

A person who by duress causes another person to marry against that other person's will, commit a misdemeanour.

### **110. Custody of child under sixteen years of age**

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

(2) The Court may appoint a person willing to take charge of the child under sixteen to have authority over the child until the child has attained twenty-one years of age or any other age below twenty-one directed by the Court.

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

### **111. Power to search for child detained for immoral purpose**

(1) Where it appears to the Chairman of a Regional Tribunal or a Justice that there is reasonable cause to suspect that a child is detained for immoral purposes by another person in a place within the jurisdiction, the Chairman or Justice may issue a warrant in accordance with subsections (3) and (4).

(2) The Chairman of the Tribunal or the Justice shall act on information supplied on oath by a parent, guardian, or relative of the child or may act on the information of any other person who the Chairman or Justice considers is acting in good faith in the best interests of the child.

(3) The warrant shall authorise the person named in it to search for and when found to take and detain the child in a place of safety until the child can be brought before the Chairman of the Tribunal or the Justice or any other Tribunal or Justice.

(4) The Chairman of the Tribunal or the Justice before whom the child is brought may order that the child be taken to the parents or guardian or be otherwise dealt with as circumstances permit or require.

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

(6) A child is detained for immoral purposes if the child is detained to be carnally known or unnaturally carnally known by a particular person or generally and

- (a) is under sixteen years of age, or
- (b) if not less than sixteen years and under twenty-one years of age, is detained against the will, or the will of the father, mother or any other person who has lawful care or charge of the child.

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

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

(9) Where the warrant is issued on the basis of information given by a person acting in good faith in the best interests of the child, that person may accompany the superior police officer to execute the warrant.

## CHAPTER SEVEN

### *Libel*30

#### **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.*

#### **113. Cases in which a person is guilty of libel**

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

#### **114. Definition of defamatory matter**

(1) *Matter is defamatory which imputes to a person any crime, or misconduct in any public office or which is 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, which if committed by a person within the jurisdiction of the Court, would be a felony or misdemeanour.*

#### **115. Definition of publication**

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

- (2) *It is not necessary for libel that a defamatory meaning should be directly or completely expressed;*

*and it suffices if such meaning and its application to the person alleged to be defamed, can be collected either from the alleged libel itself or from any extrinsic circumstances, or partly by the one and partly by the other means.*

#### **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.*

#### **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 proceedings; 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 of Parliament; or*
- (d) if the matter is published concerning a person subject to the discipline of the Armed Forces for the time being, and relates to his conduct as a person subject to that 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, or 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; or*
- (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 Chapter (notwithstanding any of the general provisions of Part One with respect to justifications or excuses) whether (except as mentioned in paragraph (h) of subsection (1) the matter be true or false, and whether it be or be not known or believed to be false, and whether it be or be not published in good faith.*

#### **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 in fact a fair report of anything said, done, or shown in a civil or criminal enquiry or proceeding before any Court: Provided that if the Court prohibits the publication of anything said or shown before it, on the ground that it is seditious, immoral, or blasphemous, the publication thereof shall not be privileged; or*
- (b) if the matter published 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 or in 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 proceedings, 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, painting, speech, or other work, performance, or act published, or publicly done or made, or submitted by a person to the judgment of the public, or as to the character of the person so far as it appears, therein; or*
- (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 had authority, by contrast or otherwise, over the other person, or on the character of the 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 this character so far as it appears in such conduct, to any person having authority, by contract or otherwise over that other person in respect of such conduct or matter, or having by law to enquire into or receive complaints respecting such conduct or 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.*

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

### **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 substantially greater degree or substantially otherwise than was reasonably necessary for the interest of the public or for the protection of the private right or interest in respect of which he claims to be privileged.*

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

## PART THREE

### *Offences against Rights of Property*

#### CHAPTER ONE

### *Offences involving Dishonesty*

#### *General Provisions*

#### **120. Dishonest appropriation**

(1) An appropriation of a thing is dishonest

- (a) if it is made with an intent to defraud, or
- (b) if it is made by a person without a claim of right, and with a knowledge or belief that the appropriation is without the consent of a person for whom that person is trustee or who is owner of the thing or that the appropriation would, if known to the other person, be without the consent of the other person.

(2) It is not necessary, in order to constitute a dishonest appropriation of a thing, that the accused person should know who the owner of the thing is, but it suffices if the accused person has reason to know or believe that any other person, whether certain or uncertain, is interested in or entitled to, that thing whether as owner in that person's right or by operation of law, or in any other manner; and a person so interested in or entitled to a thing is an owner of that thing for the purposes of the provisions of this Act relating to criminal misappropriations and frauds.

(3) The general provisions of Part One with respect to consent, and with respect to the avoidance of consent by force, duress, incapacity, and otherwise, apply for the purposes of this section, except as is otherwise provided in this Chapter with respect to deceit.

#### ***Illustrations***

##### ***Subsection (1)***

1. **A**, a commercial traveller, is directed to collect moneys for the employer. If **A** is at liberty to dispose of the particular moneys which **A** collects, and is only bound to account for the balance in **A**'s hands at particular times or when called upon, **A** does not commit stealing or fraudulent breach of trust merely by spending any or all of the moneys collected by **A** unless there is an intent to defraud.
2. **A** being the guest of **B** writes a letter on **B**'s paper. Here **A** has not stolen, because, although **A** does not use the paper under a claim of right, yet **A** believes that **B**, as a reasonable person, would not object to **A** doing so.
3. **A**, during a law suit with **B** as to the right of certain goods, uses or sells some of the goods. Here **A** has not stolen because, although **A** believes that **B** would object, yet **A** acts under a

claim of right.

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

### **121. Part owners**

A person who is an owner of or interested in a thing, or in the amount, value or proceeds of that thing, jointly or in common with another person or as a member of a company, or who is owner of a thing as a trustee and also as a beneficiary of that thing, whether jointly or in common with another person or for a company of which that person is a member, can be convicted 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 that person is a member.

#### ***Illustrations***

1. A member of a partnership, or of an association or a corporation, can be convicted of stealing a thing belonging to that member and the other members of the partnership, association or corporation.
2. A servant or officer of a partnership, association, or corporation can be convicted of stealing its property, although that person is a member of it.

### **122. Acts which amount to an appropriation**

(1) An appropriation of a thing by a trustee means a dealing with the thing by the trustee, with the intent of depriving a beneficiary of the benefit of the right or interest in the thing, or in its value or proceeds, or a part of that thing.

(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 a person may be deprived of the benefit of the ownership of that thing, or of the benefit of the right or interest in the thing, or in its value or proceeds, or part of that thing.

(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 another thing to which that owner 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

- (a) is or is not a trespass or a conversion,
- (b) is or is not in any manner unlawful other than by reason of its being done with a purpose of dishonest appropriation,

and it is immaterial whether, before or at the time of doing the act, the accused person had or did not have 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 intent of appropriating part of the proceeds, A has appropriated the stock.

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

**Subsection (3)**

1. *A* is a workman paid according to the quantity of metal which *A* obtains from ore. If *A* fraudulently puts into the furnace a metal belonging to the employer instead of the ore, with the purpose of increasing *A*'s wages, *A* may be convicted of stealing the metal, although *A* does not mean to deprive the employer of it permanently.
2. *A* borrows a horse without the consent of its owners intending to keep it until it is worn out and then return it. Here *A* has committed the criminal offence of stealing the horse.

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

### 123. Subject matter of stealing

(1) The criminal offence of stealing, fraudulent breach of trust, robbery, extortion, or defrauding by false pretence can be committed in respect of a thing

- (a) whether living or dead, and whether fixed to the soil or to a building or fixture, or not so fixed, and
- (b) whether the thing is a mineral or water, gas, or electricity, or of any other nature, and
- (c) whether the value of the thing is intrinsic or for the purpose of evidence, or is of value only for a particular purpose or to a particular person, and
- (d) whether the value of the thing does or does not amount to the value of the lowest denomination of coin.

(2) For the purposes of subsection (1), a document is of value, whether it is complete or incomplete, and whether or not it is satisfied, exhausted, or cancelled.

(3) In proceedings in respect of a criminal offence mentioned in subsection (1), it is not necessary to prove ownership or value.

### *Stealing*

### 124. Stealing

(1) A person who steals commits a second degree felony.

(2) Where the Court which finds a person guilty of stealing is satisfied that on not less than two previous occasions the accused was found guilty of stealing, the Court shall order that the whole or a part of a 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) is disqualified for election to Parliament or to a 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 a State Farm or State Factory or any other public co-operative or collective enterprise specified by the Minister;

**“previous occasions”** referred to in subsection (2) may include occasions which occurred prior to the commencement of this Act.<sup>31</sup>

### 125. Definition of stealing

A person steals who dishonestly appropriates a thing of which that person is not the owner.

### **126. Consent by wife in case of stealing**

(1) Where 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 unless it is proved against the accused person that the accused person had notice that the wife did not have the authority to consent to the appropriation.

(2) Where it appears that the accused person had committed, or designed to commit, adultery with the wife, the accused person shall be deemed to have had notice, but shall not in that case be deemed to have committed the criminal offence of stealing by reason only

- (a) of the appropriation, with the consent of the wife, or
- (b) of the assistance to the wife to appropriate a wearing apparel of the wife or money or any other thing of which the wife is apparently permitted to have the disposal for her own use.

### **127. Stealing of thing found**

A person who appropriates a thing which appears to have been lost by another person has not committed the criminal offence of stealing it, unless

- (a) at the time of appropriating it, that person knows the owner of the thing or by whom it has been lost; or
- (b) the character or situation of the thing, the marks on it, or any other circumstances indicate the owner of the thing or the person by whom it has been lost; or
- (c) the character or situation of the thing, the marks on it, or any other circumstances indicate 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***

1. A finds a ring in the high road. If the ring has an owner's or maker's name or motto engraved on it, or if it is of great value, A will be convicted of stealing it if A appropriates it without making reasonable enquiry.
2. A buys an old chest at the sale of the personal effects of a deceased person. A finds a banknote in a secret drawer of the chest A commits the criminal offence of stealing if A appropriates the note, unless A had expressly bought the right to what A might find in the chest, or makes reasonable enquiry and fails to discover the owner.

### **127A. Stealing of telephone wires**

Despite section 296 of the Criminal and other Offence (Procedure) Act, 1960 (Act 30), a person who steals an underground telephone cable, or a telephone wire attached to or connected with a telephone or telephone pole, commits a criminal offence and is liable on summary conviction to a term of imprisonment of not less than five years and not more than twenty five years.<sup>32</sup>

#### ***Fraudulent Breach of Trust***

### **128. Fraudulent breach of trust**

A person who commits a fraudulent breach of trust commits a second degree felony.<sup>33</sup>

### **129. Definition of fraudulent breach of trust**

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

### **130. Explanation as to a gratuitous trustee**

Where a person, who is the owner of a thing in that person's own right and benefit, undertakes to hold or apply the thing as a trustee for another person, the first named person does not become a trustee within the meaning of the provisions of this Act relating to fraudulent breaches of trust, unless that owner has constituted the owner as a trustee by an instrument in writing executed by the owner and specifying the nature of the trust and the person to be benefited by the trust.

#### *Illustration*

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

#### *False Pretences and Other Frauds*

### **131. Defrauding by false pretence**

(1) A person who defrauds any other person by a false pretence commits a second degree felony.<sup>34</sup>

(2) A person who by means of a false pretence or by personation obtains or attempts to obtain the consent of another person to part with or transfer the ownership of a thing by a false representation of acting in accordance with the instructions, orders or a request of the President or member of the Cabinet, commits a second degree felony under subsection (1) and is liable to a term of imprisonment of not less than ten years and not more than twenty-five years despite section 296 of the Criminal and Other Offences (Procedure) Act, 1960 (Act 30).<sup>35</sup>

### **132. Definition of defrauding by false pretence**

A person defrauds by false pretences if, by means of a false pretence, or by personation that person obtains the consent of another person to part with or transfer the ownership of a thing.

### **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 the representation is false or without the belief that it is true, and made with an intent to defraud.

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

- (a) a representation may be made by written or spoken words, or by personation, or by any other conduct, sign, or means of any kind;
- (b) the expression "**a representation of the existence of a state of facts**" includes a representation as to the non-existence of a thing or a condition of things, and a representation of any right, liability, authority, ability, dignity or ground or credit or confidence as resulting from an alleged past fact or state of facts, but does not include a mere representation of an intention or a state of mind in the person making the representation, nor a mere representation or promise that anything will happen or will be done, or is likely to happen or

to be done;

- (c) a consent is not 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 paragraphs (a), (b) and (c), if the consent of a person is in fact obtained by a false pretence, it is immaterial that the pretence is of a kind that would not have an effect on the mind of a person using ordinary care and judgment.

### ***Illustrations***

#### ***Subsection (2)***

1. A goes into a shop dressed as an officer in the Army, which A is not. If A does this in order to gain credit which A would not otherwise get, A has committed the criminal offence of a false pretence, although A does not actually say that A is an officer.
2. The following pretences which are false are sufficient “false pretences” by A within the meaning of this Chapter:
  - (a) that a picture which A is selling once belonged to a particular collector;
  - (b) that a picture which A is selling was painted by a particular painter;
  - (c) that a picture which A is selling belongs to A;
  - (d) that A is entitled to a legacy under the will of a deceased relative;
  - (e) that A has an account at a particular bank; or
  - (f) that A has the authority of another person to act on that person’s behalf.
3. The following are not sufficient, although false:
  - (a) that the picture is a valuable work of A;
  - (b) that A expects to receive a legacy when a relative dies.

### **134. Personation**

(1) Personation means a false pretence or representation by a person that that person is a different person, whether that different person is living or dead or is a fictitious person.

(2) A person may commit the criminal offence of personation although that person gives or uses that person’s own name, if that is done with intent of being believed to be a different person of the same or of a similar name.

### **135. Fictitious trading**

Where a person orders, or makes a bargain for the purchase of goods or things by way of sale or exchange, and after obtaining the goods or the things, that person defaults in payment of the purchase money or in rendering the goods or things to be rendered by that person by way of an exchange, that person commits the criminal offence of defrauding or attempting to defraud by false pretences if

- (a) at the time of giving the order or making the bargain, that person intended to make that default; and
- (b) the order was given or the bargain was made with intent to defraud and not in the course of a trade carried on in good faith.

### **136. Distinction between stealing and false pretences**

(1) Where the owner of a thing, or a person having authority to part with the ownership of that thing, gives consent to the appropriation of it by the accused person, then, although the consent has been obtained by deceit, the accused person shall not be convicted of having stolen the thing, but may be convicted of the criminal offence of having defrauded by false pretences, if the acts amounted to the criminal offence.

(2) The consent to be proved by the accused person for the purposes of subsection (1), is an unconditional consent to the immediate and final appropriation of the thing by the accused person, by way of gift or barter, or of sale on credit to the accused person.

### *Illustrations*

#### *Subsection (1)*

1. *A*, intending fraudulently to appropriate a horse belonging to *B*, obtains it from *B*, under the pretence that *A* wants it for a day. Here *A*, commits the criminal offence of stealing.
2. *A*, intending to defraud *B* of a horse without paying for it induces *B* to sell and deliver it to *A* without the present payment, by a false pretence that *A* has the money for the payment at *A*'s bank. Here *A* commits the criminal offence of obtaining by false pretence but not of stealing.<sup>36</sup>

### **137. Charlatanic advertisements in newspapers**

(1) The publication in a journal or newspaper of an advertisement or a notice relating to fortunetelling, palmistry, astrology, or the use of any subtle craft, means or device, by which it is sought to deceive or impose on a member of the public, or which is calculated or is likely to deceive or impose on a member of the public, is illegal.

(2) The editor, publisher, proprietor, and the printer of a journal or newspaper in which the advertisement or notice is published commits a criminal offence and is liable to a fine not exceeding twenty-five penalty units.<sup>37</sup>

### **138. Fraud as to weights and measures**

*Repealed.*<sup>38</sup>

### **139. Improper removal of or dealing with stamps**

(1) A person commits a criminal offence and is liable to a fine not exceeding five penalty units,<sup>39</sup>

- (a) who unlawfully removes from a postal matter or telegraph form a stamp affixed or impressed on that matter or form in payment for the postage or message, whether it has been cancelled or not;
- (b) who knowingly uses or attempts to use, or sells, or buys, or otherwise procures a stamp which has been unlawfully removed;
- (c) who knowingly uses or attempts to use in payment for a postage, a stamp or a stamped envelope or card or wrapper which has been used before for a like purpose, or a stamp cut from that envelope or wrapper;
- (d) who removes or attempts to remove the cancelling marks from a stamp which has been affixed or impressed, in order that it may be used or otherwise disposed of.

(2) A person employed in the [Posts and Telecommunications Department] who does any of the acts described in subsection (1) commits a misdemeanour.

#### **140. Falsification of accounts**

(1) A clerk, a servant or a public officer, or an officer of a partnership, company or corporation commits a second degree felony who does any of the acts mentioned in paragraph (a) or (b), with intent to cause or enable a person to be defrauded, or with intent to commit or to facilitate the commission, personally or by any other person, of a criminal offence;

- (a) conceals injures, alters or falsifies a book, or an account kept by or belonging or entrusted to the employers or to the partnership, company or corporation; or corporation; or entrusted to the officer, or to which the officer has access, as an officer or omits to make a full and true entry in an account of anything which the officer is bound to enter in the account; or
- (b) publishes an account, a statement or prospectus, relating to the affairs of the partnership, company or corporation, which the officer knows to be false in a material particular.<sup>40</sup>

(2) For the purposes of subsection (1), “**officer**” means a clerk, a servant, a public officer or an officer of a partnership, company or corporation.

#### **141. Fraud in sale or mortgage of land**

A person who, in order to induce another person to become a purchaser or mortgagee of land, fraudulently conceals a document which is material to the title to the land, commits a misdemeanour.

#### **142. Fraud as to boundaries or documents**

A person commits a misdemeanour with intent to defraud who

- (a) removes, injures, alters or falsifies a boundary mark or thing serving or intended to distinguish the land or other property of that person, or of any other person, from the land or other property of any other person; or
- (b) conceals, injures, alters or falsifies a bill of lading invoice, manifest, receipt or any other document evidencing the quantity, character or condition of a property, or the receipt or disposition of or the title of a person to, a property.

#### **143. Fraud as to thing pledged or taken in execution**

A person who, secretly or by duress or deceit, and with intent to defraud, takes or obtains property from a person to whom that person has pawned, pledged, or otherwise bailed it or from a person having, by virtue of an execution, a seizure or any other process of law, the possession, custody, or control of the property, commits a misdemeanour.

#### **144. Fraud in removing goods to evade legal process**

A person who, knowing an execution, a warrant or any other process of law has been awarded or issued for the seizure of anything belonging to, or in the possession, custody, or control of, that person, removes, conceals or disposes of that thing, with intent to defeat or evade the execution, warrant, or other process, commits a misdemeanour.

#### **145. Fraud by agents**

(1) A person commits a misdemeanour who

- (a) as an agent dishonestly accepts or obtains, or agrees to accept or attempts to obtain, from any other person, for that person or for any other person, a gift or consideration as an inducement or reward for doing or forbearing to do or for having done or forborne to do, an act in

relation to the principal's affairs or business, or for showing or forbearing to show favour or disfavour to a person in relation to the principal's affairs or business; or

- (b) dishonestly gives or agrees to give or offers a gift or consideration to an agent as an inducement or reward for forbearing to do, or for having done or forborne to do, an act in relation to the principal's affairs or business, or for showing or forbearing to show favour or disfavour to a person in relation to the principal's affairs or business; or
  - (c) knowingly gives to an agent, or if an agent knowingly uses with intent to deceive the principal, a receipt, an account, or any other document in respect of which the principal is interested, and which contains a statement which is false or erroneous or defective in a material particular, and which is to the knowledge of that person intended to mislead the principal.
- (2) For the purposes of subsection (1),
- “**consideration**” includes valuable consideration of any kind;
  - “**agent**” includes a person employed by or acting for another;
  - “**principal**” includes an employer.
- (3) A civil servant or officer of a local authority is an agent within the meaning of this section.

### *Receiving*

#### **146. Dishonestly receiving property**

A person who dishonestly receives property which that person knows has been obtained or appropriated by a criminal offence punishable under this Chapter, commits a criminal offence and is liable to the same punishment as if that person had committed that criminal offence.

#### **147. Dishonestly receiving**

(1) A person commits the criminal offence of dishonestly receiving property which that person knows to have been obtained or appropriated by a criminal offence, if that person receives, buys, or assists in the disposal of the property otherwise than with a purpose to restore it to the owner.

(2) It is immaterial whether the criminal offence by which the property was obtained or appropriated was or was not committed within the jurisdiction of the Court.

(3) Where 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 criminal offence punishable under this Act, the act is, for the purposes of this section, equivalent to a criminal offence punishable under this Act.

#### **148. Possession of stolen property**

(1) Where a person charged with dishonestly receiving is proved to have had in possession or under control, anything which is reasonably suspected of having been stolen or unlawfully obtained, and that person does not give an account, to the satisfaction of the Court, as to the possession or control, the Court may presume that the thing has been stolen or unlawfully obtained, and that person may be convicted of dishonestly receiving in the absence of evidence to the contrary.

(2) The possession or control of a carrier, an agent, or a servant is, for the purposes of subsection (1), possession or control of the person who employed the carrier, agent or servant, and that person is liable accordingly.

## *Robbery and Extortion*

### **149. Robbery**

A person who commits robbery commits a first degree felony.<sup>41</sup>

### **150. Definition of robbery**

A person who steals a thing commits robbery

- (a) if in, and for the purpose of stealing the thing, that person uses force or causes harm to any other person, or
- (b) if that person uses a threat or criminal assault or harm to any other person,

with intent to prevent or overcome the resistance of the other person to the stealing of the thing.

### **151. Extortion**

(1) A person who extorts property from any other person by means of threat commits a second degree felony.

(2) When used with reference to extortion, “threat” 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*, *A* does not commit extortion, but the criminal offence of robbery.

## *Unlawful Entry*

### **152. Unlawful entry**

A person who unlawfully enters a building with the intention of committing a criminal offence in the building commits a second degree felony.

### **153. Explanation as to unlawful entry**

A person unlawfully enters a building if that person enters otherwise than in the exercise of a lawful right, or by the consent of any other person able to give the consent for the purposes for which that person enters.

### **154. Instruments intended or adapted for unlawful entry**

A person who has, without lawful excuse, the proof of which lies on that person, the possession of a tool or an implement adapted or intended for use in unlawfully entering a building commits a misdemeanour.

### **155. Being on premises for unlawful purposes**

(1) A person who is found in or about a market, wharf, jetty, or landing place, or in or about a vessel, verandah, outhouse, building, premises, passage, gateway, yard, garden or an enclosed piece of land, for an unlawful purpose, commits a misdemeanour.

- (2) For the purposes of subsection (1), the expression “**enclosed piece of land**” includes

- (a) land in respect of which a concession, within the meaning of the Concessions Act, 1962 (Act 124) is in force;
- (b) land which is held by a 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 2 of the Minerals Act, 1965 (Act 126) is in force; and
- (d) land which is vested in the President by or by virtue of an enactment, or which is Stool Land within the meaning of the Administration of Lands Act, 1962 (Act 123).<sup>42</sup>

#### **156. Definition of owner and occupier**

For the purposes of section 157, “**owner**” and “**occupier**” respectively includes a tenant or lessee, and the attorney or agent of an owner or occupier.

#### **157. Trespass**

A person who

- (a) unlawfully enters in an insulting, annoying or threatening manner on land belonging to or in the possession of any other person, or
- (b) unlawfully enters on land after having been forbidden so to do, or
- (c) unlawfully enters and remains on land after having been required to depart from that land, or
- (d) having lawfully entered on a land, acts in a manner that is insulting, annoying or threatening, or
- (e) having lawfully entered on a land, remains on that land after having been lawfully required to depart from that land,

commits a criminal offence and is liable, on the complaint of the owner or occupier of the land, to a fine not exceeding twenty-five penalty units; and the Court may order the removal from the land, by force if necessary, of a person, an animal, a structure or a thing.<sup>43</sup>

## CHAPTER TWO

### *Forgery*

#### **158. Forgery of judicial or official document**

A person who, with intent to deceive any other person, forges a judicial or an official document, commits a second degree felony.

#### **159. Forgery of other documents**

A person commits a misdemeanour who forges a document,

- (a) with intent to defraud or injure another person, or
- (b) with intent to evade the requirements of the law, or
- (c) with intent to commit, or to facilitate the commission of, a criminal offence.

### **160. Forging hall-mark on gold or silver plate or bullion**

A person who with intent to defraud, forges or counterfeits a hall-mark or mark appointed, under the authority of a law, by a corporation or public officer to denote the weight, fineness, age, or place of manufacture of gold or silver-plate or bullion, commits a misdemeanour.

### **161. Forging trade-mark**

A person commits a misdemeanour who

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

intending fraudulently to pass off, or to enable any other person fraudulently to pass off, the goods as having been lawfully marked with the trade-mark or as being of a character signified by the trade-mark.

### **162. Forgery of, and other offences relating to, stamps**

A person commits a criminal offence and is liable to a fine not exceeding fifty penalty units who

- (a) forges a stamp, whether impressed or adhesive, used for the purposes of revenue by the Government, or by a foreign country; or
- (b) without lawful excuse, the proof of which lies on that person, makes or has knowingly in possession a die or an instrument capable of making the impression of that stamp; or
- (c) fraudulently cuts, tears, or removes from a material a stamp used for the purposes of revenue by the Government, with intent that a use should be made of the stamp or of a part of the stamp; or
- (d) fraudulently mutilates a stamp to which paragraph (c) applies, with intent that a use should be made of a part of the stamp; or
- (e) fraudulently fixes or places on a material, or on a stamp to which paragraph (c) applies, a stamp or part of a stamp which, whether fraudulently or not, has been cut, torn or removed from any other material, or out of or from any other stamp; or
- (f) fraudulently erases or otherwise really or apparently removes from a stamped material a written name, sum, date, or any other matter or thing with the intent that a use should be made of the stamp on that material; or
- (g) knowingly and without lawful excuse, the proof of which lies on that person, has in possession a stamp or part of a stamp which has been fraudulently cut, torn or otherwise removed from a material, or a stamp which has been fraudulently mutilated, or a stamped material out of which a name, sum, date or any other matter or thing has been fraudulently erased, or otherwise really or apparently removed.<sup>44</sup>

### **163. Definition of trade-mark and official document**

(1) In this Chapter, “**trade-mark**” means a mark, label, ticket, or any other sign or device lawfully appropriated by a person as a means of denoting that

- (a) an article of trade, manufacture or merchandise is an article of the manufacture,

workmanship, production, or merchandise of that person, or

(b) is an article or a peculiar or particular description made or sold by a person,

and also means a mark, sign or device which, in pursuance of an enactment relating to registered designs, is to be put or placed on, or attached to, an article during the existence or continuance of a copyright or any other peculiar right.

(2) A mark, label, ticket, or any other sign or device is not lawfully appropriated by a person, within the meaning of subsection (1), unless it is of a kind and so appropriated

(a) that an injunction or other process would be granted by the Court to restrain its use by any other person without the consent of the person by whom it is appropriated, or

(b) that an action might be maintained by the last mentioned person against any other person making use of it without consent of the person by whom it is appropriated.

(3) In this Chapter, “**official document**” means a document purporting to be made, used or issued by a public officer for a purpose relating to that public office.

#### **164. Special provisions relating to forgery**

(1) A person forges a document if that person makes or alters the document, or a material part of the document, with intent to cause it to be believed

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

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

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

(2) A person who issues or uses a document which is exhausted or cancelled, with intent that it may pass or have effect as if it were not exhausted or cancelled, commits the criminal offence of forging the document.

(3) The making or alteration of a document or a part of a document by a person in the name of that person is forgery if the making or alteration is with any of the intents mentioned in subsection (1).

(4) The making or alteration of a document or a part of a document by a person in a name which is not the real name or the ordinary name of that person is forgery if the making or alteration is with any of the intents mentioned in subsection (1).

(5) For the purposes of this section,

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

(b) a word, letter, figure, mark, seal, or thing expressed on or in a document, or forming part of, or attached to, the document, and a colouring, shape, or device used in the document, which purports to indicate the person by whom, or with whose authority or consent the document or the 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 a material particular, is a material part of the document;

(c) “**alteration**” includes any cancelling, erasure, severance, interlineations, or transposition of

or in a document or of or in a material part of the document, and the addition of a material part to the document and any other act or device by which the purport, operation, or validity of the document may be affected.

(6) This section applies to the forgery of a stamp or trade-mark in the manner in which it applies to the forgery of a document.

#### *Illustrations*

1. A endorses A's name on a cheque, meaning it to pass as an endorsement by another person of the same name. Here A has committed forgery.
2. A is living under an assumed name. It is not forgery for A to execute a document in that name, unless A does so with the intent to defraud, etc.
3. A with intent to defraud, makes a promissory note in the name of an imaginary person. Here A commits forgery.

#### **165. Possession of means of forging**

A person who without lawful excuse, the proof of which lies on that person, has in possession an instrument or a thing specially contrived or adapted for the purposes of forgery commits a misdemeanour.

#### **166. Possessing forged document**

A person who with an intent mentioned in this Chapter, has in possession a document or stamp, which is forged, counterfeited, or falsified, or which that person knows is not genuine, commits a criminal offence and is liable to the like punishment as if that person had, with that intent forged, counterfeited, or falsified the document or stamp.

#### **167. Possession or doing an act with respect to document or stamp**

(1) A person possesses or does an act with respect to a document knowing it is not genuine, if that person possesses it, does an act with respect to it, knowing that it was not in fact made or altered at the time, 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 that person to have been made or altered; and it is immaterial whether the act of the person who made or altered it was or was not a criminal offence.

(2) In like manner, a person possesses or does an act with respect to a stamp, knowing it is not genuine, if that person possesses it or does an act with respect to it, knowing that it is in fact counterfeited or falsified; and it is immaterial whether the act of the person who counterfeited or falsified it was or was not a criminal offence.

#### **168. Definition of counterfeiting**

(1) A person counterfeits a stamp or mark if that person makes an imitation of the stamp or mark, or anything which is intended to pass or which may pass as that stamp or mark.

(2) A person who makes anything which is intended to serve as a specimen, or pattern or trial of a process for counterfeiting a stamp or mark, commits the criminal offence of counterfeiting, within the meaning of this Chapter, although that person does not intend that a person should be defrauded or injured by, or that a further use should be made of, the specimen or pattern.

#### **169. Uttering forged documents**

A person who, with an intent mentioned in this Chapter, utters or deals with or uses, a document, or a

stamp mentioned in this Chapter, knowing it is forged, counterfeited, or falsified, or knowing it is not genuine, commits a criminal offence and is liable to the like punishment as if that person had with that intent, forged counterfeited, or falsified the document or stamp.

#### **170. Imperfect imitation of forged document**

For the purposes of the provisions of this Act relating to the forgery, counterfeiting, falsifying, uttering, dealing with, using, or possession of a 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 a thing 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.

#### **171. Special provision as to jurisdiction**

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

### CHAPTER THREE

#### *Unlawful Damage*

#### **172. Causing unlawful damage**

(1) A person who intentionally and unlawfully causes damage to property

- (a) to a value not exceeding one million cedis or without a pecuniary value, commits a misdemeanour,<sup>45</sup>
- (b) to a value exceeding one million cedis commits a second a degree felony.

(2) A person who intentionally and unlawfully causes damage to property in a manner which causes, is likely to cause, danger to life commits a first degree felony.

(3) For the purposes of this section, “**property**” means movable or immovable property.

#### **173. Definition of damage**

For the purposes of this Act, “**damage**” includes not only damage to the matter of a thing, but also an interruption in the use of that thing, or an interference with that thing by which the thing becomes permanently or temporarily useless, or by which expense is rendered necessary in order to render the thing fit for the purposes for which it was used or maintained.<sup>46</sup>

#### **174. Explanation of unlawful damage**

(1) A person does an act or causes an event unlawfully, within the meaning of the provisions of this Act relating to unlawful damage, where that person is liable to a civil action or proceeding, or to a fine or any other punishment under an enactment,

- (a) in respect of the doing of the act causing an event, or
- (b) in respect of the consequences of the act or event, or

- (c) in which that person would be so liable if that person caused the event directly by a personal act, or
- (d) in which that person is liable to be restrained by injunction or any other proceeding from doing that act or causing that event.

(2) It is immaterial whether a person accused of a criminal offence in respect of any premises or a thing is or is not in possession or occupation of the premises or of that thing.

(3) A person who is interested jointly or in common with other persons in any premises or a thing as an owner or otherwise, or who as owner is a trustee for any other person, can commit a criminal offence punishable under the provisions referred to in subsection (1) by an act which is unlawful under this Chapter.

(4) A person who is the sole beneficial owner of any premises or a thing can commit a criminal offence punishable under the provisions referred to in subsection (1) by an act done with intent to injure or defraud a person or to cause harm to a person although the act is not otherwise unlawful.

(5) Despite anything contained in Part One as to mistake of law, a person is not liable to punishment in respect of doing a thing which that person in good faith, believes to be entitled to do.

### ***Illustrations***

***Subsection (2)*** A tenant of a house can commit a criminal offence against those provisions by setting fire to the house.

***Subsection (3)*** A person who is a joint owner or in common with other persons of a house or other property can commit a criminal offence against those provisions in respect of the injury caused by that person's criminal offence to the other joint owners or co-owners.

***Subsection (4)*** A person who intentionally sets fire to that person's own dwelling-house or ship may commit the criminal offence 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 persons is likely to be destroyed and is destroyed.

## **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 a provision of this Act relating to unlawful damage, it is not necessary that the damage to that amount should be intended or done to an individual thing of a kind mentioned in this provision, but it suffices if damage to that amount in the aggregate is intended or done to a number or collection of those things.

(2) Where different punishments are provided by a provision of this Act relating to unlawful damage, according to the 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 a lesser amount of damage was actually caused.

## **176. Poisoning or using dynamite in river**

A person commits a criminal offence and is liable to a fine not exceeding two hundred and fifty penalty units, who

- (a) throws a substance poisonous to fish into a river, stream, or lagoon, in order to poison or stupefy the fish, or
- (b) turns or obstructs a river or stream, for the purpose of taking or destroying fish, or

- (c) throws a substance poisonous to fish into a part of the sea at the mouth of a river or stream running into the sea, for the purpose of poisoning, stupefying, taking or destroying fish, or
- (d) uses dynamite or any other explosive substance to catch or destroy fish in a river, stream, or lagoon, or
- (e) uses a mode of catching fish which tends to destroy the fish in a river, stream or lagoon.

#### **177. Repairs endangering train, vessel or aircraft**

(1) A person who in constructing or repairing a vessel or an aircraft or a fitting or machinery for a vessel or an aircraft, or any engine, carriage, or apparatus to be used on or forming part of a railway, knowingly uses those materials, or so does a work, or so conceals a defect, so that the safety of the vessel or aircraft, or who may use the railway, is likely to be endangered, commits a second degree felony.

(2) A person who supplies for use on board a vessel or an aircraft a medical or surgical store or instrument, or a life-belt or an apparatus for saving life, of an inferior quality or in a condition that renders it substantially unfit for the purposes for which it is supplied or likely to endanger life, commits a misdemeanour if that person does so knowingly or negligently.

#### **178. Intentionally endangering train, vessel or aircraft**

A person who causes the safety of an engine, a carriage, or a train on a railway, or of a vessel or an aircraft, to be endangered, with intent to cause harm or danger to a person, commits a first degree felony.

#### **179. Interference with signal**

A person who unlawfully interferes with or obstructs the working of a lighthouse, beacon, buoy, signal, or any other apparatus or thing which is used or maintained for the safety of navigation, whether on the sea or on a river or any other water or in the air or for the safe working or using of a railway, commits a misdemeanour.

### CHAPTER FOUR

#### *Special Offences*<sup>47</sup>

#### **179A. Causing loss, damage or injury to property**

(1) A person who by a wilful act or omission causes loss, damage or injury to the property of a public body or an agency of the Republic commits a criminal offence.

(2) A person who in the course of a transaction or business with a public body or an agency of the Republic intentionally causes damage or loss whether economic or otherwise to that body or agency commits a criminal offence.

(3) A person commits a criminal offence through whose wilful, malicious or fraudulent action or omission

- (a) the Republic incurs a financial loss, or
- (b) the security of the Republic is endangered.

(4) In this section “**public body**” includes the Republic, the Government, a public board or corporation, a public institution and a company or any other body in which the Republic or a public corporation or other statutory body has a proprietary interest.

### **179B. Importation of explosives**

(1) A person who without lawful authority the proof of which lies on that person, imports any explosives, firearms or ammunition commits a criminal offence.

(2) For the purposes of subsection (1) explosives, firearms or ammunition have the meaning as provided under section 192.

### **179C. Using public office for profit**

A person commits a criminal offence 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 person holding a public office for the latter to corruptly or dishonestly abuse the public office for private profit or benefit.

### **179D. Penalty**

A person convicted of a criminal offence specified in this Chapter is liable to a fine of not less than two hundred and fifty penalty units or to a term of imprisonment not exceeding ten years or to both the fine and the imprisonment.

## **PART FOUR**

### *Offences against Public Order, Health and Morality*

## **CHAPTER ONE**

### *Offences against the Safety of the State*

### **180. Treason**

(1) A person who commits high treason is liable to suffer death.

(2) For the purposes of subsection (1), high treason has the meaning assigned to it by clause (3) of article 3 of the Constitution.

(3) A person who is not a citizen is not punishable under this section for anything done outside Ghana, but a citizen may be tried and punished for high treason under this section wherever committed.<sup>48</sup>

### **181. Misprision of treason**

A person who knows of the commission of high treason, or of a treason within the meaning of clause (17) of article 19 of the Constitution, and does not forthwith reveal it to the President, or to a police officer not below the rank of Inspector, commits a misprision of treason and is punishable as for a first degree felony.<sup>49</sup>

### **182. Treason felony**

A person commits a treason felony and is punishable as for a first degree felony who

- (a) prepares or endeavours to procure by unlawful means an alteration of the law or of the policies of the Government, or
- (b) prepares or endeavours to carry out by unlawful means an enterprise which usurps the executive powers of the Republic in a matter of both a public and a general nature.

**182A. Prohibition of certain organisations<sup>50</sup>**

(1) *The President if satisfied with respect to an organisation*

- (a) *that its object 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, 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, a person shall not*

- (a) *summon a meeting of members or managers of that organisation;*
- (b) *attend or cause a person to attend a meeting in the capacity of a member or manager of that organisation;*
- (c) *publish a notice or advertisement relating to that meeting;*
- (d) *invite persons to support that organisation;*
- (e) *make a contribution or loan to funds held or to be held by or for the benefit of that organisation or accept contribution or loan; or*
- (f) *give a guarantee in respect of those funds.*

(3) *A person who contravenes a provision of subsection (2) commits a criminal offence and is liable on conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding one year or to both the fine and the imprisonment.*

(4) *On an application made by the Attorney-General, the High Court may, with respect to an organisation declared under subsection (1) to be a prohibited organisation, make a just and equitable order for the winding up and dissolution of the organisation or the disposition of any of its property or assets.*

(5) *For the purposes of this section “**manager**” means, in relation to an organisation, an officer of the organisation, and a person taking part in the management or control of the organisation or holding or purporting to hold a position of management or control.<sup>51</sup>*

**183. Prohibition and importation or publication of newspaper, sedition**

(1) *Wherever the President is of opinion that the importation of a newspaper, book or document, or a newspaper, book or document would be contrary to the public interest the President may, 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 a past or future issue of the newspaper, book or document.*

(2) *Wherever the President is of opinion*

- (a) *that there is in any newspaper, book or document which is published periodically a systematic publication of matter calculated to prejudice public order or safety, or the maintenance of the public services or economy of the Republic, or*

(b) *that a person is likely to publish individual documents containing that matter,*

*the President may make an executive instrument requiring that a future issue of the newspaper, book, or document shall not be published, or, that a document shall not be published by, or by arrangement with, that person, unless the matter contained in the answer or the document has been passed for publication in accordance with the instrument.*

(3) *A person who conspires with any other person to carry into execution a seditious enterprise, or prints or publishes seditious words or writing or utters any seditious words, or sells, offers for sale, distributes, reproduces or imports a newspaper, book or document or a part of, or extract from the newspaper, book or document containing seditious words or writing, commits a second degree felony.*

(4) *A person convicted of a criminal offence under subsection (3) shall be sentenced to imprisonment for at least five years unless the 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) *A person commits a misdemeanour who*

(a) *sells, offers for sale, distributes, reproduces or imports a newspaper, book or document or a part of or an extract from a newspaper, book or document, which is subject to an instrument under subsection (1) or which, being 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 a newspaper, book, or document or a part of, or extract from a newspaper, book or document containing seditious words or writing, does not prove to the satisfaction of the Court at the time that that person was found in possession that person did not know the nature of its contents; or*

(c) *being found in possession of a newspaper, book, or document or a part of, or an extract from a newspaper, book or document which has been declared by the President by order to be prohibited to be imported, does not prove to the satisfaction of the Court that it came into that person's possession without knowledge or privy.*

(6) *A person*

(a) *who obtains, receives, or otherwise acquires or has in possession a newspaper, book, or document or a part of, or an extract from a newspaper, book or document which contains seditious words or writing, or*

(b) *to whom a newspaper, book, or document or a part of, or an extract from a newspaper, book or document which has been prohibited to be imported by order of the President is sent without the knowledge or privity of that person or in response to a request made before the prohibition on the importation of the newspaper, book, or document or part of, or extract from the newspaper, book, or document came into effect or who has a newspaper, book, or document or part of an extract from the newspaper, book, or document in 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 the person or in the case of a newspaper, book or document, or part of or extract from it coming into possession before a prohibition order has been made, forthwith on the coming into effect of the prohibition order deliver the newspaper, book, or document or a part of an extract from it to the officer in charge of the nearest police station or to the nearest administrative officer, in default of which that person commits a misdemeanour.*

(7) *A person who has complied with subsection (6) shall not be convicted of an offence under paragraph (b) or (c) of subsection (5).*

(8) *A prosecution for a criminal offence defined in subsection (3), (5) and (6) shall be commenced within six months after the offence is committed.*

(9) *A person shall not be convicted of a criminal offence defined in subsections (3), (5) and (6) on the uncorroborated testimony of one witness.*

(10) *Any of the following officers, that is to say,*

- (a) *an officer of the Posts and Telecommunications Department not below the rank of Assistant Controller of Posts,*
- (b) *an officer of the Customs and Excise Department not below the rank of Collector,*
- (c) *a 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 Minister,*

*may detain, open, and examine a package or an article which is suspected of containing a newspaper, book, or document or a part of or an extract from it 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 a person importing, distributing, or posting the package or article or in whose possession the package or article is found.*

(11) *Where a newspaper, book, or document or a part of or an extract from it 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, with the consent of the Attorney-General, proceeded against for the commission of an offence under this section.*

(12) *For the purposes of this section an intention is 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; or*
- (g) *falsely to accuse a public officer of misconduct in the exercise of official duties, knowing the accusation to be false or reckless whether it be true or false.*

(13) *An intention, which is not an intention manifested in a manner that effects or is likely to effect a purpose mentioned in paragraph (a) of subsection (12) is not 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 the Constitution as by law established or 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 a matter in Ghana as by law established; or*
- (d) *to point out, with a view to their removal, the matters which are producing or have a tendency to produce feelings of ill-will or hostility between different classes of the population*

*of Ghana.*

*(14) In determining whether the intention with which an act was done, words were spoken, or a document was published was or was not seditious, a person shall be deemed to intend the consequences which would naturally follow from the conduct of that person at the time and under the circumstances of the personal conduct of that person.*

*(15) Proceedings shall not be instituted under this section without the written consent of the Attorney-General.*

#### **183A. Limitation on institution of proceedings**

*A person who with intent to bring the President into hatred, ridicule or contempt publishes a defamatory or insulting matter whether by writing, print, word of mouth or in any other manner concerning the President commits a criminal offence and is liable on summary conviction to a fine not exceeding seven hundred and fifty penalty units or to a term of imprisonment not exceeding three years or to both the fine and the imprisonment.<sup>52</sup>*

#### **183B. Unqualified persons or voting in Parliament**

*A person who sits other than in the public gallery or votes in Parliament knowing or having reasonable grounds for knowing that that person is not entitled to do so commits a criminal offence and is liable on conviction to a fine not exceeding ten penalty units or to a term of imprisonment not exceeding thirty days or to both the fine and the imprisonment.<sup>53</sup>*

#### **184. Insulting the national flag or emblem**

*A person who does an act or utters words or publishes a writing with intent to insult or bring into contempt or ridicule the official national flag or emblem of Ghana or a representation or pictorial reproduction of the flag or emblem commits a misdemeanour.*

#### **185. False reports injuring the reputation of the State**

*(1) A person who communicates to any other person, whether by word of mouth or in writing or by any other means, a false statement or report which is likely to injure the credit or reputation of Ghana or the Government and which that person knows or has reason to believe is false, commits a second degree felony.*

*(2) Subsection (1) does not apply to a statement which is absolutely privileged under section 117.*

*(3) It is not a 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 it is proved that, before the communication of statement or report; reasonable measures were taken to verify the accuracy of the statement or report.*

*(4) A citizen may be tried and punished for an offence under this section whether committed in or outside Ghana.<sup>54</sup>*

#### **186. Aiding or permitting escape of prisoner of war**

*(1) A person who intentionally and unlawfully aids or permits the escape of a prisoner of war commits a second degree felony.*

*(2) A person who negligently and unlawfully permits the escape of a prisoner of war commits a misdemeanour.*

(3) For the purposes of this section, “**escape**” includes the departure by a prisoner on parole beyond the limits within which the prisoner is allowed to be at large.

#### **187. Abetment of mutiny or desertion or assault**

(1) A person who is not subject to military law, and who abets the commission of a mutiny by a person subject to military law, commits a first degree felony.

(2) A person who is not subject to military law, and who abets the desertion of a person subject to military law, or the commission by that person of an assault on a superior officer where the superior officer is discharging an official duty, commits a misdemeanour.

#### **188. Abetment of insubordination by sailor**

A person who is not subject to military law, and who abets an act of insubordination by a person subject to military law, commits a misdemeanour.

#### **189. Unlawful training**

Where three or more persons meet or are together for the purposes of military training or exercise, without the permission of the President or of an officer or a person authorised by law to give the permission, each of them commits a misdemeanour.

#### **190. Evasion of military service**

A person who causes a personal harm or procures any other person to cause harm to that person, for the purpose of evading a liability to perform service or duty with the Armed Forces, commits a misdemeanour.

#### **191. Unlawful oath**

(1) A person who takes or administers or attempts or offers to administer to any other person an unlawful oath commits a misdemeanour.

(2) For the purposes of subsection (1), “**unlawful oath**” means an oath or engagement

- (a) to commit or abet a criminal offence, or
- (b) to conceal a design to commit a criminal offence including a criminal offence punishable on indictment, whether under this Act or under any other enactment, or
- (c) to prevent the discovery of a criminal offence, or
- (d) to conceal the existence, purposes or proceedings of an association of persons associated for a treasonable seditious purpose.

#### **192. Possession of explosives, firearms and ammunition**

(1) Despite the provisions of any other enactment, a person who has in possession, custody or control, without lawful excuse, the proof of which lies on that person, an explosive, a firearm or an ammunition commits a first degree felony.

(2) A prosecution under subsection (1) shall not be instituted without the consent in writing of the Attorney-General.

(3) For the purposes of subsection (1),

“**ammunition**” includes ammunition for a firearm, and grenades, bombs and any other similar missiles;

“**explosive**” means gunpowder, nitro-glycerine, 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;

“**firearm**” includes a lethal barrelled weapon from which a shot, bullet or any other missile can be discharged or which can be adapted for the discharge of a shot, bullet or any other missile, and a component part of that weapon.<sup>55</sup>

## CHAPTER TWO

### *Piracy*

#### **193. Piracy**

- (1) A person commits an act of piracy who, as the owner or master of a ship,
  - (a) sails the seas in that ship without authorisation from the government of a country with the object of committing depredations on property or acts of violence against persons, or
  - (b) commits an act of depredation or violence from or by means of the ship.
- (2) A person commits an act of piracy who, as a member of the crew or a passenger of a ship,
  - (a) conspires with any other person to rise against its master and officers or to seize the ship, or
  - (b) in common with any other person, engages in an act of hostility against her master and officers.
- (3) A master or seaman commits an act of piracy if the master or seaman
  - (a) betrays the trust reposed in any of them, runs away with the ship or goods belonging to the ship or yields them up voluntarily to a person contrary to duty, or
  - (b) conspires or combines with or attempts to corrupt a master, an officer or a seaman to yield up or run away with a ship or goods, or
  - (c) makes or endeavours to make a revolt in the ship.
- (4) A person belonging to a ship commits an act of piracy if that person on meeting a ship at sea or in any port, harbour or haven, forcibly boards or enters the ship and, though that person does not seize or carry off the ship, throws overboard or destroys a part of the goods belonging to that ship.

#### **194. Punishment of piracy**

- (1) A person who commits an act of piracy commits a 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 a ship, assaults, with intent to murder, a person who is on board, or belonging to, the ship or injures the person or unlawfully does an act by which the life of that person may be endangered, commits a felony and is liable on conviction to suffer death.

#### **195. Hijacking and attack on international communications**

- (1) A person who hijacks an aircraft commits a first degree felony and is liable on conviction to a term of imprisonment of not less than five years.

(2) A person commits a criminal offence under subsection (1), where that person unlawfully interferes with, damages, destroys, seizes or wrongfully exercises control of an aircraft, other than an aircraft used in military, customs or police services, or does any other unlawful act likely to jeopardise the safety of persons or property in, or the good order and discipline on board the aircraft.

(3) A person who attacks or destroys an international communications system, a canal or submarine cable commits a second degree felony and is liable on conviction to a term of imprisonment of not less than two years.<sup>56</sup>

## CHAPTER THREE

### *Offences against the Peace*

#### **196. Definition of riot**

(1) Five or more persons together in a public or private place commit the criminal offence of a riot where they commence or attempt

- (a) to execute a common purpose with violence, and without lawful authority to use that violence for that purpose; or
- (b) to execute a common purpose of obstructing or resisting the execution of a legal process or authority; or
- (c) to facilitate, by force or by show of force or of numbers, the commission of a criminal offence.

(2) A person shall not be convicted of a riot only because that person in common with the others to the number of five or more, suddenly engage in an unlawful fight, unless five or more of them fight with a common purpose against any other person.

#### **197. Definition of violence**

For the purposes of this Chapter, “**violence**” means

- (a) a criminal force or harm to a person, or
- (b) a criminal damage to property, or of a threat or an offer of that force, harm, or mischief, or
- (c) the carrying or use of deadly, dangerous, or offensive instruments in a manner likely to cause harm to a person, or
- (d) a conduct that is likely to cause, in a person, a reasonable fear of criminal force, harm, or mischief to that person or the property of that person.

#### **198. Riot**

A person who takes part in a riot commits a misdemeanour.

#### **199. Rioting with weapons**

A person who takes part in a riot, who is armed with an offensive instrument, commits a second degree felony.

#### **200. Provocation of riot**

A person who does an act with intent to provoke a riot commits a misdemeanour.

### **201. Definition of unlawful assembly**

(1) For the purposes of this Chapter, there is an unlawful assembly when three or more persons assemble with intent to commit an offence, or having assembled with an intent to carry out a common purpose, conduct themselves in a manner likely to cause persons in the neighbourhood reasonably to fear that the persons so assembled will commit a breach of the peace, or will by the assembly needlessly and without a reasonable occasion provoke other persons to commit a breach of the peace.

(2) It is immaterial that the original assembling was lawful if, having assembled, they conduct themselves with a common purpose in that manner.

### **202. Unlawful assembly**

(1) A person who takes part in an unlawful assembly commits a misdemeanour.

(2) A person who takes part in an unlawful assembly armed with an offensive weapon or missile commits a second degree felony.

### **202A. Forcible entry**

(1) A person who, with violence makes an entry into a building or land, whether or not that person is entitled to the possession of the building or the land, commits a misdemeanour, unless the entry is in pursuance of a warrant or other lawful authority to use that violence.

(2) Section 180 of the Criminal and Other Offences (Procedure) Act, 1960 (Act 30) (which provides for the discharge of an accused by a District Court where a bona fide question of title to land is raised) shall not apply to a criminal offence under subsection (1).<sup>57</sup>

### **203. Fighting with weapons**

A person commits a misdemeanour who

- (a) does an act with intent to provoke any other person to fight, whether in a public place or not, with a deadly or dangerous instrument, and
- (b) agrees or offers to agree so to fight.

### **204. Disturbance of lawful assembly**

A person who unlawfully and with violence obstructs the assembly of any persons who are assembled for a lawful purpose, or disturbs that assembly, or with violence disperses or attempts to disperse that assembly, commits a misdemeanour.

### **205. Assault on public officer**

A person commits a misdemeanour who

- (a) assaults, obstructs, molests, or resists, or aids or incites any other person to assault, obstruct, molest, or resist a public or peace officer, or a person employed by a public or peace officer, acting or proceeding to act in the execution of a warrant or legal process; or
- (b) uses a threatening, abusive or insulting language, or sends a threatening or insulting message, or letter, to a peace officer in respect of the duties of the officer.

## **206. Carrying offensive weapons**

(1) A person who, without lawful authority the proof of which lies on that person, has in a public place an offensive weapon commits a misdemeanour.

(2) A person who, while present at a public meeting or at a public assembly of people or on the occasion of a public procession, has an offensive weapon or missile, without lawful authority, the proof of which lies on that person, commits a misdemeanour.

(3) For the purposes of this section.

(a) “**offensive missile**” includes a stone or a brick likely to cause harm if thrown;

(b) “**offensive weapon**” means an article made or adapted for use for causing injury to the person or intended by the person having it for that use by that person.

## **207. Offensive conduct conducive to breaches of the peace**

A person who in a public place or at a public meeting uses threatening, abusive or insulting words or behaviour with intent to provoke a breach of the peace or by which a breach of the peace is likely to be occasioned, commits a misdemeanour.

## **208. Publication of false news**

(1) A person who publishes or reproduces a 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 commits a misdemeanour.

(2) It is not a 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 it is proved that, prior to the publication, that person took reasonable measures to verify the accuracy of the statement, rumour or report.

## **209. Discharging guns in town**

(1) A person commits a criminal offence and is liable to a fine not exceeding twenty five penalty units who in a town without lawful and necessary occasion

(a) discharges a firearm, or

(b) being the occupier of a house, building, or yard, knowingly permits a fire-arm to be discharged from that place.<sup>58</sup>

(2) A person who in a town, without lawful and necessary occasion, throws or sets fire to a firework in a public place or in a house, building or yard, commits a criminal offence and is liable to a fine not exceeding five penalty units.<sup>59</sup>

## CHAPTER FOUR

### *Offences concerning the Administration of Justice*

#### *Perjury and Similar Offences*

## **210. Perjury**

(1) A person who commits perjury commits a second degree felony.

(2) A person who commits perjury with intent to cause the conviction of any other person for a criminal offence punishable with death, commits a first degree felony.

**211. Definition of perjury**

A person commits perjury, if in a written or verbal statement made or verified by that person on oath before a Court, or a public officer, or before the President or before a commission or committee states anything knowing that the statement is false in a material particular, or which that person does not have a reason to believe is true.

**212. Special explanation as to perjury**

A person may commit perjury by swearing that that person believes a thing which that person does not in fact believe.

**213. Fabrication of evidence**

A person who fabricates evidence, with intent to defeat, obstruct, or pervert the course of justice in a proceeding, commits a criminal offence and is liable to the same penalties as if that person had committed perjury in that proceeding.

**214. Definition of fabrication**

A person fabricates evidence if that person causes a circumstance to exist, or makes a false entry in a book, an account, or a record, or makes a document containing a false statement or forges a document, with intent to mislead a public officer, judge or juror acting in a judicial proceeding.

**215. Deceit of Court by personation**

A person who with intent to defeat, obstruct, or pervert the course of justice, or to defraud or injure a person endeavours to deceive a Court, or a judicial officer by personation, or by a false instrument, document, seal, or signature, commits a misdemeanour.

**216. Deceit by paper resembling Court process**

A person who knowingly delivers or causes to be delivered to any other person a paper of a character calculated, by reason of the resemblance of that paper to a summons or other process of a Court or tribunal, to deceive commits a misdemeanour.

**217. Causing witness to disobey summons**

A person who wilfully causes any other person to disobey any summons, process or order lawfully issued or made for the attendance of that other person as a witness in a judicial proceeding, or for the production by that person of a written order or other evidence in a judicial proceeding, commits a misdemeanour.

**218. Causing person to refrain from giving evidence**

A person who with intent to defeat, obstruct, or pervert the course of justice at the trial of a person for a criminal offence, causes any other person to refrain from giving evidence at the trial, commits a misdemeanour.

**219. Disobedience to summons as witness**

A person who without reasonable excuse defaults in obeying any summons, process or order lawfully issued or made for the attendance of that person as a witness in a judicial proceeding or for the production by that person of a written or any other evidence in a judicial proceeding, commits a misdemeanour.

### *Interference with Legal Proceedings*

#### **220. Hindrance of inquest**

A person who with intent to prevent, obstruct or delay the taking of an inquest on the body or touching the death of a person, or to defeat the ends of justice, buries or conceals or disposes of the body, commits a misdemeanour.

#### **221. Neglect to hold inquest**

(1) A person who is under a duty as a police officer, coroner, gaoler, peace officer, or in any other capacity, to give notice or take measures in order to procure the holding of an inquest on the body or touching the death of a person, wilfully and without reasonable excuse fails to perform the duty commits a misdemeanour.

(2) *Omitted.*<sup>60</sup>

#### **222. Violence in legal proceedings**

A person commits a misdemeanour who uses violence with intent to deter a person

- (a) from acting as a judge, arbitrator, umpire, assessor, juror, witness, counsel, agent, prosecutor, or party in a legal proceeding or enquiry, or
- (b) from acting in execution of a duty in a judicial or an official capacity, or
- (c) from having recourse to a Court or public officer, or on account of that person having so acted or had recourse.

#### **223. Disturbance of Court**

A person commits a misdemeanour who with force, threats, or tumult, hinders, interrupts or disturbs the proceedings of a Court, or wilfully and unlawfully, with force, threat or tumult, hinders a person from entering or quitting a Court, or removes or detains that person in the Court.

#### **224. Insulting Court**

A person commits a misdemeanour who in the presence of a Court commits a contempt of court by an insulting, opprobrious or menacing acts or words.

#### **225. Exciting prejudice as to legal proceeding**

A person commits a misdemeanour who, pending proceedings in a Court, publishes in writing or otherwise anything concerning the proceedings or a party to the proceedings, with intent to excite popular prejudice for or against a party to the proceedings.

### *Rescue, Escape, Compounding Crime*

#### **226. Resisting arrest and rescue**

- (1) A person commits a misdemeanour who endeavours to resist or prevent the execution of the law,
- (a) by resisting lawful arrest or the lawful arrest of any other person, or
  - (b) by rescuing any other person from lawful custody, or
  - (c) by escaping personally or permitting to be rescued by any other person from lawful custody, or
  - (d) by rescuing goods or things from a public officer or peace officer or any other person having the possession, custody, or care of the goods or other things under or by virtue of a lawful warrant or process.

(2) Where a person in lawful custody under a sentence of imprisonment escapes, the time during which that person is at large shall not be taken into account in computing the term of the original sentence.

### **227. Breaches of prison discipline**

*Repealed.61*

### **228. Smuggling things into prisons**

*Repealed.62*

### **229. Interference with prisoners outside prisons**

*Repealed.63*

### **230. Prison officer leaving prisoner when outside prison**

*Repealed.64*

### **230A. Aiding escape**

A prison officer who directly or indirectly aids, encourages, induces or facilitates the escape of a person in lawful custody commits a second degree felony.<sup>65</sup>

### **231. Oppression by prison officer**

*Repealed.66*

### **232. Preventing the death penalty**

A person who endeavours by force to prevent the execution of a person sentenced to death commits a second degree felony.

### **233. Advertising reward for the return of stolen property**

A person commits a criminal offence and is liable to a fine not exceeding twenty-five penalty units who

- (a) publicly offers a reward for the return of property which has been stolen, and the offer makes use of words purporting that questions will not be asked, or that the person producing the property will not be seized, or
- (b) publicly offers to return to a person who may have bought or advanced money by way of

loan on a stolen or lost property the money so paid or advanced or any other sum of money or reward for the return of the property, or

- (c) prints or publishes that offer.<sup>67</sup>

#### **234. Compounding crime**

A person who, without leave of a Court, compounds a criminal offence commits a misdemeanour.

#### **235. Definition of compounding**

A person compounds a criminal offence if that person offers or agrees to forbear from prosecuting or giving evidence against a person on a criminal charge, in consideration of money, or of a valuable thing, or of a personal advantage or an advantage to any other person.

### CHAPTER FIVE

#### *Offences relating to Public Officers and to Public Elections*

#### **236. Refusal to serve in public office**

A person who, without lawful excuse, refuses to serve in a public office in which that person is bound to serve, and for the refusal to serve in which a penalty or punishment is not provided by an enactment, commits a misdemeanour.

#### **237. Falsely pretending to be public officer or juror**

A person who pretends to be or acts as a public officer, juror, or to be a messenger of or to hold an authority from the President, or a Minister or a Court, and who is not lawfully authorised to act in that capacity, or not holding that authority, and in or under colour of the assumed character does or attempts to do, or procures or attempts to procure, any other person to do or abstain from doing an act commits a misdemeanour, unless that person shows

- (a) that the pretence or the act was under a mistake of law or of fact; or
- (b) in the case of a person acting as a public officer, that the pretence or the act was in good faith for the public benefit.

#### **238. Proof of falsity of pretence**

On a trial for a criminal offence under section 237,

- (a) 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 period a messenger of or did not hold an office or authority under the President, Minister or Court, and
- (b) a statement purporting to be signed by the Chairman of the Civil Service Council declaring that the accused was not a civil servant, and
- (c) a statement purporting to be signed in the name of a local or any other statutory authority, declaring that the accused was not an officer of that authority,

is, without further proof, prima facie evidence of the matters so declared.

#### **239. Corruption of and by public officer or juror**

(1) A public officer or juror who commits corruption, or wilful oppression, or extortion, in respect of the duties of office, commits a misdemeanour.

(2) A person who corrupts any other person in respect of a duty as a public officer or juror commits a misdemeanour.

#### **240. Explanation as to corruption by public officers**

A public officer, juror, or voter commits corruption in respect of the duties of office or the vote, if the public officer, juror or voter directly or indirectly, agrees or offers to permit the conduct of that person as a public officer, juror, or voter to be influenced by the gift, promise or prospect of a valuable consideration to be received by that person, or by any other person, from any other person.

#### **241. Explanation as to corruption of public officer**

A person commits the criminal offence of corrupting a public officer, juror, or voter in respect of the duties of office or in respect of the vote, if that person endeavours, directly or indirectly, to influence the conduct of the public officer, juror or voter in respect of the duties of office or in respect of the vote, by the gift, promise or prospect of a valuable consideration to be received by the public officer, juror, or voter, or by any other person, from any other person.

#### **242. Special explanation as to corruption of and by public officer**

It is immaterial, for the purposes of section 240 or 241, that the person respecting whose conduct the endeavour, agreement or offer is made is not yet at the time of the making of the endeavour, agreement or offer, a public officer, juror, or voter, if the endeavour, agreement, or offer, a public officer, juror, or voter, if the endeavour, agreement, or offer is made in the expectation that that person will or may become or act as a public officer, a juror, or a voter.

#### **243. Corrupt agreement for lawful consideration**

It is immaterial, for the purposes of section 240, 241 or 242, whether the act to be done by a person in consideration or in pursuance of the gift, promise, prospect, agreement or offer is criminal or wrongful otherwise than by reason of the provisions of any of those sections.

#### **244. Acceptance of bribe by public officer, after doing act**

Where, after a person has done an act as a public officer, juror, or voter that person secretly accepts, or agrees or offers secretly to accept for personal gain or for any other person, a valuable consideration on account of the act, that person shall be presumed, until the contrary is shown, to have acted corruptly, within the meaning of this Chapter, in respect of that act before the doing of the act.

#### **245. Promise of bribe to public officer, after act done**

Where, after a public officer, juror, or voter has done an act as an officer, a juror or voter, any other person secretly agrees or offers to give or to procure for that person or any other person a valuable consideration on account of that act, the person so agreeing or offering shall be presumed, until the contrary is shown, to have corrupted, before the doing of the act, that public officer, juror, or voter, in respect of that act.

#### **246. Explanation as to oppression**

A public officer or juror commits the criminal offence of wilful oppression in respect of the duties of office if that officer wilfully commits an excess or abuse of authority, to the injury of the public or of any

other person.

#### **247. Explanation as to extortion**

A public officer commits extortion who, under colour of office, demands or obtains from a person, whether for public purposes or for personal gain, or for any other person money or valuable consideration which the public officer knows is not lawfully authorised or at a time at which the public officer knows is not lawfully authorised to demand or to obtain that money or valuable consideration.<sup>68</sup>

#### **248. False declaration for office or voting**

A person who, in order to obtain or be qualified to act in a public office or to vote at a public election makes, signs, publishes or uses a declaration, statement or an oath, required by law or a certificate or testimonial regarding conduct or services, or as to any other matter which is material for obtaining that office, or for the qualification to act in that office or to vote at the election, commits a misdemeanour if that person knows that the declaration, statement, oath, certificate or testimonial is false in a material particular.

#### **249. False certificate by public officer**

A public officer commits a misdemeanour who, being bound or authorised as a public officer to attest or certify, by writing or otherwise, a document or matter, or that an event has or has not happened, and

- (a) attests or certifies the document or matter knowing it to be false in a material particular, or
- (b) attests that the event has happened or has not happened, without knowing or having reason to believe that it has happened or has not happened, according to the attestation or certificate.

#### **250. Destruction of document by public officer**

A public officer who intentionally and unlawfully destroys, injures, falsifies or conceals a document which is in the possession, custody, or control of the public officer or to which the public officer has access by virtue of office, commits a misdemeanour.

#### **251. Deceiving a public officer**

A person commits a misdemeanour who, with intent to defeat, obstruct, or prevent the course of justice, or the due execution of the law, or 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 any other privilege or advantage, endeavours to deceive or to overreach a public officer acting in the execution of a public office or duty,

- (a) by personation, or by a false instrument, document, seal, signature, or
- (b) by a false statement, declaration or assurance, whether written or verbal or by a written or verbal statement, declaration or assurance which the person making the statement, declaration or assurance did not have good reason to believe to be true.

#### **252. Accepting or giving bribe to influence public officer or juror**

(1) A person who accepts, or agrees or offers to accept, a valuable consideration, under pretence or colour of having unduly influenced, or of agreeing or being able so to influence, any other person in respect of functions as a public officer or juror, commits a misdemeanour.

(2) A person who gives, or agrees or offers to give, to a public officer a valuable consideration for the

grant to that person or to any other person of a benefit or an advantage, or for the exercise of influence in favour of that person or any other person commits a misdemeanour.

**253. Corrupt promise by judicial officer or juror**

A person who, otherwise than in the due execution of duties as a judicial officer or juror, makes or offers to make an agreement with any other person as to the judgment or verdict which that person will or will not give as a judicial officer or juror in a pending or future proceeding, commits a misdemeanour.

**254. Corrupt selection of juror**

A person who, with a purpose of procuring an undue advantage or disadvantage to a party to a judicial proceeding, procures for that person, or for any other person to be summoned, impaneled or sworn as a juror in the proceeding, or endeavours to prevent any other person from being summoned, impanelled or sworn as a juror in that proceeding, commits a misdemeanour.

**255. Prevention of election by force**

A person who attempts to prevent, obstruct or disturb a public election by a kind of force, violence, or threat or by an act which is a criminal offence punishable under this Act, commits a misdemeanour.

**256. Corruption, intimidation, and personation in respect of election**

A person who acts in a manner that amounts to corruption, intimidation or personation in respect of a public election, commits a misdemeanour, and shall not, during seven years from the date of the conviction, vote at a public election and shall not hold a public office in respect of which the election was held, or a public office of the same nature.

**257. Definition of intimidation**

A person does an act of intimidation at a public election if that person endeavours to influence the conduct of a voter in respect of the election by a threat of an evil consequence to be caused to the voter or to any other person, on account of the conduct as a voter.

**258. Falsification of return at election**

A person who, as a public officer charged with the counting of votes or the making of a return at a public election, wilfully falsifies the account of the votes or makes a false return commits a second degree felony.

**259. Explanation as to an election**

A person shall not be relieved from liability to punishment under this Chapter by reason of an irregularity or informality in the proceedings at, or preliminary or subsequent to, an election.

**260. Withholding of public money by public officer**

Where a public officer who is bound in that capacity to pay or account for money or valuable things, or to produce or give up documents or any other things, fails as in duty bound to pay or account for, or to produce or give up, to any other officer or person lawfully demanding the same, commits a misdemeanour.

**261. Definition of valuable consideration**

In this Chapter, “**valuable consideration**” includes money, money’s worth or valuable thing, and an office or a dignity, and a forbearance to demand money, or money’s worth, or a valuable thing, and a private advantage of any kind.

## CHAPTER SIX

### *Bigamy and Similar Offences*

#### **262. Bigamy**

A person who commits bigamy commits a misdemeanour.

#### **263. Definition of and special provision as to bigamy**

(1) A person commits bigamy who, knowing that a marriage subsists between that person and another person, goes through the ceremony of marriage, whether in Ghana or elsewhere, with any other person.

(2) A person shall not be convicted of bigamy or of an offence under section 264

(a) if at the time of the subsequent marriage the former wife or the former husband has been continually absent from that person for seven years, and has not been heard of by that person as being alive within that time, and

(b) if before the subsequent marriage that person informs the other party to the marriage of the facts of the case so far as they are known to that person.

(3) On proof by the accused person of the continued absence and information, the prosecutor has the onus to prove that the former wife or husband has been so heard of.

#### **264. Marriage to a person previously married**

A person who, being unmarried, goes through the ceremony of marriage, whether in Ghana or elsewhere, with another person whom that person knows to be married to another person commits a misdemeanour, whether the other party to the ceremony does or does not have the guilty knowledge as to be convicted of bigamy.

#### **265. Marriages under customary law**

(1) A person shall not be convicted 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 convicted of bigamy or of an offence under section 264 if, having contracted a monogamous marriage that person marries or purports to marry any other person under customary law, or if, being married to a person by customary law, goes through a monogamous ceremony of marriage with any other person.

#### **266. Fictitious marriage**

A person who, whether in Ghana or elsewhere, goes through the ceremony of marriage, or a ceremony which that person represents to be a ceremony of marriage knowing that the marriage is void and that the other person believes it to be valid, commits a misdemeanour.

#### **267. Personation in marriage**

A person who personates any other person in marriage, or marries under a false name or description, with intent to deceive the other party to the marriage, commits a misdemeanour.

**268. Unlawfully performing marriage ceremony**

A person who is not duly qualified so to do who performs or witnesses as a marriage officer the ceremony of marriage, or knowing that any of the matters required by law for the validity of a marriage has not happened or been performed, so that the marriage is void or unlawful, commits a misdemeanour.

**269. Making false declaration for marriage**

A person who in a declaration, certification, licence, document, or statement required by law to be made or issued for the purpose of a marriage, declares, enters, certifies or states a material matter which that person knows to be false, commits a misdemeanour.

**270. False pretence of impediment to marriage**

A person who endeavours to prevent a marriage by pretence

- (a) that the consent of that person is required by law, or
- (b) that a person whose consent is so required does not consent, or
- (c) that there is a legal impediment to performing the marriage,

commits a misdemeanour, if that person does so knowing that the pretence is false or without having reason to believe that it is true.

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

A person who, being under a duty to fill up the certificate of a marriage performed by that person, or the counterfoil of it, or to transmit the certificate to the Registrar of Marriages, wilfully fails to perform that duty, commits a criminal offence and is liable to a fine not exceeding twenty-five penalty units.<sup>69</sup>

**272. Mode of proving marriage or divorce**

(1) Where, for the purposes of this Chapter, it is requisite to prove a former marriage of a person, it is requisite and sufficient to prove a marriage irrespective of the place of celebration of the marriage, which would be admitted by the Court as a valid marriage for the purposes of a civil proceeding, or for the purposes of the administration or distribution of the effects of a person on the death of that person.

(2) Where a person accused of bigamy puts up a defence on the grounds of a divorce from a former wife or husband, that divorce, and no other shall be deemed sufficient as would be admitted by the Court as a valid divorce from the bond of marriage.

CHAPTER SEVEN

*Offences against Public Morals*

*Brothels, Prostitution*

**273. Allowing persons under age to be in brothels**

A person who, having the custody, charge or care of a child under the age of sixteen years, allows that

child to reside in or frequent a brothel commits a misdemeanour.<sup>70</sup>

#### **274. Persons trading in prostitution**

- (1) A person commits a misdemeanour 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 a manner as to aid, abet or compel the prostitution with any other person or generally.
- (2) The Chairman of a Regional Tribunal or a Justice who is satisfied by evidence upon oath
  - (a) that there is a reason to suspect that any premises or part of that premises is used for the purposes of prostitution, and
  - (b) that a person residing in or frequenting the premises is living wholly or in part on the earnings of a prostitute,

may issue a warrant authorising a police officer to enter and search the premises and to arrest that 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 a manner which shows that person as aiding, abetting or compelling the prostitution with any other person or generally, that person, for the purposes of this Chapter, is knowingly living on the earnings of prostitution unless the Court is satisfied to the contrary.<sup>71</sup>

#### **275. Soliciting or importuning for immoral purposes**

A person commits a misdemeanour who in a public place or in sight of a public place persistently solicits or importunes

- (a) to obtain clients for a prostitute, or
- (b) for any other immoral purposes.<sup>72</sup>

#### **276. Soliciting or importuning by prostitutes**

(1) A person who persistently solicits or importunes in a public place or in sight of a public place for the purpose of prostitution commits a criminal offence and is liable to a fine not exceeding twenty-five penalty units and for a second or subsequent offence shall be dealt with as for a misdemeanour.<sup>73</sup>

(2) A person shall not be arrested for a criminal offence under subsection (1) 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 or the remanding in custody or on bail of a person charged with an offence although the consent has not been obtained.<sup>74</sup>

#### **277. Keeping a brothel**

A person commits a misdemeanour who

- (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 premises, knowingly permits the premises or a part of the premises to be used as a brothel or for the purposes of habitual prostitution; or
- (c) being the lessor or landlord of any premises or the agent of the lessor or landlord, lets the

premises or a part of the premises, with the knowledge that the premises or that part is to be used as a brothel, or is wilfully a party to the continued use of the premises or a part of the premises as a brothel.<sup>75</sup>

## **278. Gross indecency**

A person who publicly and wilfully does a grossly indecent act commits a misdemeanour.

## **278A. Immoral or indecent customs or practices, bereaved spouses**

A person who compels a bereaved spouse or a relative of that spouse to undergo a custom or practice that is immoral or grossly indecent in nature commits a misdemeanour.<sup>76</sup>

## **279. Definitions**

For the purposes of 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 that person’s body commonly for acts of lewdness for payment although there is no act or offer of an act or ordinary sexual connection.<sup>77</sup>

## *Obscenity*

## **280. Publication or sale of obscene material**

A person who publishes or offers for sale an obscene book, writing or representation, commits a misdemeanour.

### *Illustrations*

1. **A** publishes a book for the use of physicians or surgeons, or for persons seeking medical or surgical information. Whatever may be the subject with which the book deals, if they are treated with as much decency as the subject admits, **A** has not committed a criminal offence.
2. **B** publishes extracts from the book mentioned in the last illustration, arranged or printed in a manner that gives unnecessary prominence to indecent matters. If the Court or jury is of the opinion that the publication is calculated unnecessarily and improperly to excite passion, or to corrupt morals, **B** ought to be convicted.

## **281. Further offences relating to obscenity**

(1) A person commits a misdemeanour 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 one or more obscene writings, drawings, prints, paintings, printed matter, pictures, posters, emblems, photographs, cinematograph films, or any other obscene objects; or
- (b) for any of the purposes mentioned in paragraph (a), imports, conveys, or exports, or causes to be imported, conveyed, or exported, any of those obscene matters or things, or puts any of them into circulation; or
- (c) carries on or takes part in a business, whether public or private, concerned with any of those obscene matters or things, or deals in any of those matters or things, 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 with a view to assist in that punishable circulation or traffic that a person is engaged in any of those punishable acts, or advertises or makes known how or from whom any of those obscene matters or things can be procured either directly or indirectly.

(2) The Chairman of a Regional Tribunal or a Justice may, on application made for the purposes by or on behalf of the Inspector General of Police, order the destruction of any of the obscene matters or things mentioned in subsection (1) which, the Chairman or Justice, is satisfied has or have been or is or are being made, deposited or used for any of the purposes referred to in subsection (1).

### **282. Indecent inscriptions**

A person who affixes to, or inscribes on, a place or thing so as to be visible from a public place, or affixes to, or inscribes on, a public urinal, or delivers to a person in a public place, or exhibits to public view from a building, a picture or printed or written matter of an indecent or obscene nature, commits a criminal offence and is liable to a fine not exceeding twenty-five penalty units.<sup>78</sup>

### **283. Getting others to do the acts punishable under section 282**

A person who gives or delivers to any other person a picture or printed or written matter mentioned in section 282 with the intent that it be affixed, inscribed, delivered or exhibited as mentioned in that section commits a criminal offence and is liable to a fine not exceeding twenty-five penalty units.<sup>79</sup>

### **284. Advertisements as to venereal disease declared indecent**

(1) An advertisement relating to venereal disease, nervous debility, or any other complaint or infirmity arising from or relating to sexual intercourse, and an advertisement claiming aphrodisiac properties for a preparation is, for the purposes of this Act, of an indecent or obscene nature.

(2) Subsection (1) does not apply to an advertisement relating to venereal disease published by or with the authority of the Minister responsible for Health.

## CHAPTER EIGHT

### *Public Nuisance*

### *Hindering Burials*

### **285. Hindering burial of dead body**

A person who unlawfully hinders the burial of the dead body of a person, or without lawful authority disinters, dissects or harms the dead body of a person, or being under a duty to cause the dead body of a person to be buried, fails to perform that duty commits a misdemeanour.

### *Unwholesome Food*

### **286. Selling unwholesome food**

A person who sells, or prepares or offers for sale, as being fit for consumption as food or drink, a thing which that person knows or has reason to believe that it is in a condition of putrefaction, adulteration, or

other cause, as to be likely to be noxious to health, commits a misdemeanour.

### *Noxious Trade*

#### **287. Carrying on of noxious trade, interference with public rights**

A person who, without lawful authority or excuse, the proof of which lies on that person,

- (a) carries on a noxious, an offensive, or a noisy business at a place, or causes or permits a noxious or an offensive matter to be collected or continue at a place, or so keeps animals at a 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 the public, or as to cause material interruption to the public in their lawful business or occupations, or as to materially affect the value of their property, or
- (b) so makes, keeps or uses an explosive matter, or a collection of water, or any other dangerous or destructive thing, or a building, an excavation, open pit, or any other structure, work or place, or so keeps an animal or permits to be at large, as to cause danger or harm or damage to the persons or property of the public, or a well, spring, or reservoir, so as to deprive the public of the benefit of it, or
- (c) corrupts or fouls the water of a public well, tank, spring reservoir, or place used or intended for supplying water to the public or for fish culture,

commits a criminal offence and is liable to a fine not exceeding twenty-five penalty units and for a continuance or repetition of that criminal offence, commits a misdemeanour.<sup>80</sup>

#### **288. Explanation as to carrying on of noxious trade**

As regards the nuisance of carrying on a noxious, offensive, or noisy business, at a place, or of causing or permitting noxious or offensive matter to be collected or continue at a place, or of keeping animals at a place as mentioned in this Chapter,

- (a) “**business**” includes not only a trade, manufacture, work, business, or an occupation carried on for gain, but also a continued or frequent repetition of an act or series of acts of any kind; and
- (b) it is necessary, in order that a person may be punishable in respect of that nuisance, that the prejudice or danger caused by it should extend to persons inhabiting or occupying, under separate tenancies, not less than three houses or other tenements.

#### **289. Explanation as to obstruction of public way**

(1) A person shall not be convicted, within the meaning of this Chapter, of obstructing the public use of a public way or work by reason only of that person being a party to a meeting or an assembly assembled in, or on or near a public way or work, unless the purposes of the assembly are or include the obstruction of the public by force or threats or show of force.

(2) For the purpose of subsection (1), “**obstruction**” of the public use of a public way or work includes the making or using of a fetish or charm for the purposes of preventing a person from using that way or work.

### *Drunken, Riotous and Disorderly Conduct*

## **290. Habitual drunkenness**

A person who, having been thrice convicted under an enactment for having been drunk and behaving violently or indecently or in a disorderly manner is, within one year from the first conviction, found drunk in a public place, commits a misdemeanour.

## **291. Drunk or disorderly**

(1) A person who is drunk, riotous, quarrelsome or disorderly in a place licensed for the sale of intoxicating liquors, or kept for public refreshment, resort or entertainment, and fails to leave that place on being requested to do so by the owner, manager, occupier or the agent or servant of that owner, manager or agent or by a police officer, commits a misdemeanour.

(2) A police officer shall on the demand of the owner, manager, occupier, agent or servant assist in expelling the drunken, riotous, quarrelsome or disorderly person from that place.<sup>81</sup>

## **292. Penalty for harbouring thieves**

(1) A person commits a misdemeanour who occupies or keeps a lodging-house, public-house, or any other house or place where intoxicating liquors are sold, or a place of public entertainment or public resort, and

- (a) knowingly lodges or knowingly harbours thieves or reputed thieves, or prostitutes or knowingly permits or knowingly suffers them to meet or assemble in it, or
- (b) knowingly permits or allows drunkenness or any other disorderly conduct in it, or
- (c) knowingly allows the deposit of property in it having reasonable cause for believing it to be stolen.

(2) A licence for the sale of an intoxicating liquor, or for keeping a place of public entertainment or public resort, which has been granted to the occupier or keeper of those premises or place, may be forfeited by the Court on the occupier's keeper's first conviction of a criminal offence under subsection (1).

(3) On a second conviction for that criminal offence the licence shall be forfeited, and that person is disqualified for a period of two years from receiving that licence.

(4) Where two convictions under this section have taken place within a period of three years in respect of the same premises, whether the persons convicted were or were not the same, the Court shall direct that for a period not exceeding one year from the date of the last of those convictions that type of licence shall not be granted to a person in respect of those premises.

(5) A licence granted in contravention of this section is void.

(6) The holder of a licence who is brought before a Court in pursuance of this section, shall produce the licence for examination; and, if the licence is forfeited, the holder shall deliver it up.

(7) A holder who wilfully neglects to produce the licence as required under subsection (6) is, in addition to any other penalty, liable to a fine not exceeding ten penalty units.<sup>82</sup>

## *Drumming and Firing Guns*

## **293. Using houses, in town for drumming**

(1) An occupier of a house, building, yard, or any other place situate in a town, who without a licence in writing from a district assembly permits persons to assemble and beat or play or dance in it to a drum,

gong, tom-tom, or any other similar instrument of music, commits a criminal offence and is liable to a fine not exceeding five penalty units.<sup>83</sup>

(2) A police officer may enter that house, building, yard, or other place where those persons have assembled, and warn them to depart and may seize and carry away the drums, gongs, tom-toms or other instruments, which shall be forfeited.

(3) A person who, after being warned, does not depart forthwith, except the persons actually dwelling in the house or building, commits a criminal offence and may be arrested, without warrant, by a police officer or person acting in aid of the police officer and that person is liable to a fine not exceeding two hundred and fifty penalty units.<sup>84</sup>

#### **294. Drumming near Court during sitting**

A person who during the sitting of a Court, and after being warned by a police officer or an officer of the Court to desist, beats or plays a drum, gong, tom-tom, or any other instrument, or makes a loud noise of any kind within a radius of three hundred yards from the place where the sitting is held, commits a criminal offence and is liable to a fine not exceeding five penalty units.<sup>85</sup>

#### **295. Drumming with intent to challenge or insult**

A person who 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, commits a criminal offence and is liable to a fine not exceeding twenty-five penalty units.<sup>86</sup>

### *Nuisances and Obstructions*

#### **296. Throwing rubbish in street**

A person commits a criminal offence and is liable to a fine not exceeding ten penalty units who<sup>87</sup>

- (a) in a town place, causes or permits to be placed, a carrion, filth, dirt, refuse, or rubbish, or any other offensive or otherwise unwholesome matter, on a street, yard, an enclosure, or open space, except at a place set apart by the local authority or the health officer for that purpose; or
- (b) in a town does an act which constitutes a nuisance in a public place or an open space, or in a space which is an appurtenance of or adjoins a dwelling-house; or
- (c) wilfully defaces a lawful public notice, or removes the notice from a place where it is lawfully affixed; or
- (d) without the consent of the owner or occupier of it affixes or attempts to affix a placard, paper, or thing on a building, wall, fence, pillar, or post, or writes on, soils, or marks the building, wall, fence, pillar or post; or
- (e) *repealed*;<sup>88</sup>
- (f) unlawfully releases cattle lawfully impounded, or pulls down, damages, or destroys the pound where cattle are lawfully impounded; or
- (g) in a town wilfully or wantonly, and after being warned to desist, makes a loud or an unseemly noise in a manner that causes or is liable to cause annoyance or disturbance of a person; or<sup>89</sup>
- (h) in a town, without a licence in writing from the Minister or a local authority beats or plays a drum, gong, tom-tom, or any other similar instrument of music between eight o'clock at

night and six in the morning; or

- (i) in a town throws or discharges a stone or any other missile in or into a public place; or
- (j) is drunk and is disorderly or behaves violently or indecently in a prison or Court or public place; or
- (k) behaves irreverently or indecently in a church, chapel, mosque, or any other place appropriated for religious worship; or
- (l) disturbs or molests a minister of religion while celebrating a religious rite or office in a public place, or a person assisting or attending at the celebration of that rite or office; or
- (m) behaves irreverently or indecently or insultingly at or near a funeral or in a near a public burial ground during the burial of a body; or
- (n) wantonly extinguishes the light of, or destroys or damages, a street lamp; or
- (o) wilfully obstructs or impedes or delays a person employed in the working of a telegraph or in the delivery of a telegram, in the execution of that duty; or
- (p) by obstructing a public way, wilfully prevents or hinders the free passage of any other person or of a vehicle; or
- (q) without the consent of the local authority or the Ghana Highway Authority, places or leaves a thing in a public way to the obstruction, danger or annoyance of users of that public way; or<sup>90</sup>
- (r) being the occupier of a land or building situate in a town, does not clear and keep free from dirt, underbush, underwood, weeds, high grass, rubbish, rags, broken bottles, refuse, and an offensive matter, filling up the holes with stones, gravels or other like materials, the streets or roads, at the front-back, and sides of it, with the drains, gutters, and channels on it; and, if the building is unoccupied, the owner shall for this purpose be deemed the occupier; but where there are two lots of land contiguous to a street, road, drain, gutter, or channel, and facing each other, the occupier of each lot is responsible for keeping clean only the half of the street or road, and the drain, gutter, or channel nearest to the occupier's lot; or
- (s) in a town wilfully or negligently causes or permits a vehicle, or a thing carried by the vehicle, or cattle, to damage a drain, ditch, or trench, at the side of a street, or a bridge, or a part of it respectively; or
- (t) in a town, without the written consent of the local authority or the Ghana Highway Authority, wilfully displaces or takes up or damages the pavement, stones, or material of a public way, or attempts to change or obstruct an outer course; or<sup>91</sup>
- (u) assembles with other persons in a public place, or in an open space near a public place, for an idle, a vicious, or a disorderly purpose, or otherwise than in the regular performance, or in pursuance, of a lawful calling or object, to the annoyance or obstruction of a passenger or person frequenting the public place, or of a person living in the neighbourhood of the public place or open space and does not move away when required by a constable; or
- (v) suffers to be at large or unmuzzled, a ferocious dog of which that person is the owner or has the charge, or sets on or urges a dog to attack or put in fear any other person or cattle; or
- (w) after public notice given by a person having authority in that behalf directing dogs or other animals to be confined on account of suspicion of rabies, suffers a dog or an animal specified in the notice to be at large during the time mentioned in that notice; or
- (x) being called upon by an officer of a local authority, or of the Ghana Highway Authority or a

constable, to give aid of extinguishing or staying the progress of a fire, refuses or neglects to give that aid of which that person is capable; or

- (y) wilfully and indecently exposes the body of that person in a public place or in the public's view, or exposes the body of that person in a place with intent to insult any other person; or<sup>92</sup>
- (z) in a town for which there is a public slaughter-house appointed by or under an enactment, slaughters cattle or dresses the carcass for human consumption, within the limits of which the slaughter-house is appointed, except in that slaughter-house, unless by the licence of the district assembly.

### **297. Rubbish in front of premises**

(1) Where a criminal offence punishable under paragraph (a) of section 296 is committed and the offender has not been identified or discovered, the fact of a carrion or a substance mentioned in that subsection being found in front of any premises is prima facie evidence of its having been placed there by the occupier of the premises.

(2) A person found committing a criminal offence punishable under paragraphs (a) to (o), of section 296 may be taken into custody without warrant by a peace officer, or a health officer, or by the owner or occupier of the property on which or with respect to which the criminal offence is committed, or by the servant or any other person authorised by the owner or occupier, and may be detained until delivered into the custody of a constable, who shall take that person, as soon as conveniently may be, before the Chairman of a Tribunal or a Justice.

(3) A prosecution for a criminal offence under section 296 shall be commenced within one year from the time when the criminal offence was committed.

(4) A dog in respect of which a criminal offence punishable under paragraph (u) or (v) of section 296 has been committed may be destroyed by order of the Court.

### **298. Disturbing the peace in a public place**

A person commits a criminal offence and is liable to a fine not exceeding ten penalty units who in a public place, or in a place within sight or hearing of persons who are in that place

- (a) disturbs the peace by fighting or quarrelling with any other person, or by making a loud or an unseemly noise, or
- (b) abets an unlawful fight, or uses or applies to any other person who is in that public place or within sight or hearing of it, a violent or abusive term of reproach, or
- (c) sings a profane, an indecent, or obscene song, or
- (d) exposes defamatory or insulting writing or object, or with the intention of annoying or irritating any other person, sings a scurrilous or an abusive song or words, whether a particular person is addressed or not, or does an act which is riotous, indecent, disorderly, insulting behaviour, to the obstruction or annoyance of a passenger or person in the public place.<sup>93</sup>

## CHAPTER NINE

### *Offences Relating to Animals*

### **299. Taking and using cattle, without consent of owner**

A person commits a criminal offence and is liable to a fine not exceeding five penalty units who intentionally and unlawfully catches, takes or drives, or attempts to catch, take or drive, cattle from or out of a pasture, an enclosure, a stable or any other place,

- (a) for the purpose of riding the animal, or of using it in the carrying of a load or burden or in the drawing of a cart or carriage, or
- (b) for the purpose of sorting it loose or of driving it about, or
- (c) 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 a probable claim or pretence of title.<sup>94</sup>

### **300. Stray cattle**

(1) Where in a town, cattle are found at large in a public place without a person in charge of the cattle, a peace officer or health officer may seize and impound the cattle in a common pound, and may detain them until the owner pays to the Accountant-General's Department a sum of money equivalent to the expenses of keeping them at rates not exceeding one penalty unit a day for each head of swine, sheep, or goats and two penalty units a day for each head of other cattle.<sup>95</sup>

(2) Where the expenses are not paid within four days after impounding, the pound keeper, or any other person appointed by the health officer for the purpose, may sell the cattle, after giving six days' notice of the sale or of the notice having been left at the dwelling-house of the owner if known.

(3) Where the owner is not known, the notice shall be conspicuously posted in a usual place for the posting of public notices in the town where the cattle were seized.

(4) The proceeds of the sale, after deducting the expenses, shall be paid to the Accountant-General, and be paid to the owner of the cattle on demand made not later than twelve months after the sale.

(5) The owner and a person required to be in charge of cattle which are found at large in a public place without a person in charge of the cattle commits a criminal offence and is liable to a fine not exceeding five penalty units.<sup>96</sup>

(6) This section so far as regards sheep and goats applies only to the towns of Aburi, Accra, Agona Swedru, Akim-Oda, Axim, Bekwai, Bibiani, Bolgatanga, Cape Coast, Christianborg, Dunkwa, Elmina, Ho, Hohoe, Keta, Kibi, Koforidua, Kumasi, Mampong-Ashanti, Nsawam, Obuasi, Saltpond, Sekondi-Takoradi, Sunyani, Tamale, Tarkwa, Tema, Wa, Winneba and Yendi, and to any other town directed by the Minister by executive instrument.

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

(1) A person who in a public place, rides, drives, or otherwise makes use of a horse, mule, or an ass affected with farcy or glanders knowing it to be so affected, and the owner of the horse, mule, or ass, who permits it to be at large in a public place commits a criminal offence and is liable to a fine not exceeding five penalty units.<sup>97</sup>

(2) The horse, mule, or ass may be destroyed and the carcass disposed of by order of the Chairman of a Regional Tribunal or a Justice.

### **302. Destruction of dog or other animal suspected to be rabid**

(1) A police officer may destroy a dog, or any other animal at large, which the officer has reasonable cause to suspect is in a rabid state, or which has been bitten by a dog or any other animal which the

officer has reasonable cause to suspect is in a rabid state, or may seize and detain the animal and hand it over to a health officer.

(2) The owner or person in charge of a dog or any other animal who knowingly suffers it to be at large in a rabid state, or if the dog or the other animal is confined, 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 of having been bitten by a dog or any other animal in a rabid state, commits a criminal offence and is liable to a fine not exceeding twenty-five penalty units.<sup>98</sup>

### **303. Cruelty to animals**

(1) A person commits the criminal offence of cruelty and is liable to a fine not exceeding twenty-five penalty units, who<sup>99</sup>

- (a) cruelly beats, kicks, ill-treats, over-loads, tortures, infuriates, or terrifies an animal, or causes or procures, or being the owner, permits an animal to be so used; or
- (b) by wantonly or unreasonably doing or omitting to do an act, or causing or procuring the commission or omission of an act, causes unnecessary suffering, or being the owner, permits unnecessary suffering, to be caused to an animal; or
- (c) conveys or carries, or being the owner, permits to be conveyed or carried an animal in a manner or position that would cause the animal unnecessary suffering; or
- (d) drives an animal in harness, or when drawing a vehicle, which is in a condition that would cause the animal unnecessary suffering, or being the owner, permits the animal to be so driven; or
- (e) subjects, or causes or procures, or being the owner, permits to be subjected, an animal to an operation which is performed without due care or humanity.

(2) An owner commits the criminal offence of permitting cruelty if the owner 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 an act in the course of the destruction, or the preparation for destruction, of an animal as food for human consumption, unless the destruction or the preparation was accompanied by the infliction of unnecessary suffering; or
- (b) to the coursing or hunting of a captive animal unless the animal is liberated in an injured, mutilated 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.

### **304. Prosecution of medical practitioners and veterinary surgeons**

In accordance with clause (3) of article 88 of the Constitution, a prosecution shall not be instituted under section 303 without the consent of the Attorney-General against

- (a) a registered medical practitioner or a duly qualified veterinary surgeon or a person acting under the direction of that medical practitioner or veterinary surgeon in respect of the commission or omission of an act in the course of an operation, experiment, or a test performed on an animal for the purposes for scientific research or medical or veterinary treatment; or
- (b) a veterinary authority, as defined in the Diseases of Animals Act, 1961 (Act 83) or a person

acting under the direction of that authority in respect of the commission or omission of an act in the course of the seizure, detention, or destruction of an animal purporting to be effected for the purposes of the Disease of Animals Act, 1961 (Act 83).

### **305. Destruction of animal**

(1) Where the owner of an animal is convicted of the criminal offence of cruelty under section 303, the Court may, considering that it would be cruel to keep the animal alive, order the destruction of the animal, and assign the animal to a suitable person for that purpose.

(2) The reasonable expenses incurred in destroying the animal may be ordered by the Court to be paid by the owner, and is recoverable in like manner as a fine.

### **306. Court may deprive ownership**

(1) Where the owner of an animal is convicted of cruelty or of permitting cruelty to an animal, the Court may, in addition to any other punishment, deprive the owner of the ownership of the animal, and may make any other order as to the disposal of the animal.

(2) An order shall not be made under subsection (1), unless it is shown by evidence as to a previous connection, or 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.

### **307. Taking charge of animal**

(1) Where a person in charge of an animal has committed, or is reasonably suspected of having committed, a criminal offence under section 303 or against a by-law made by a local authority with respect to the control, management and treatment of animals, a police officer, or a person or class of persons authorised in that behalf by the Minister, may take charge of the animal for the purpose of the examination of the animal.

(2) Where there is a criminal proceeding as a result of subsection (1), the animal shall be deposited in a place of a safe custody until the termination of the proceeding or until the Court directs the animal to be delivered to the person in charge of the animal or to the owner.

(3) In the event of a conviction in respect of the animal, the Court may order that the cost of the examination and detention, including the cost of veterinary treatment, shall be paid by the owner, and the cost may be recovered as a fine.

### **308. Destruction of stray dogs**

(1) Subject to subsection (2), a police officer, health officer or a person authorised by the Minister may seize a stray dog found at large and to bring it before a Magistrate, who may direct that the dog be returned to its owner, if the owner can be found or if the owner cannot be found, that it be destroyed and assign it to a suitable person for that purpose, or may make any other appropriate order.

(2) Subject to subsection (3), subsection (1) applies to

- (a) the towns of Accra, Cape Coast, Sekondi-Takoradi and Kumasi;
- (b) the towns and places to which the Towns Act applies;
- (c) any other towns, places, districts and areas that the Minister may by executive instrument, direct.

(3) The Minister may, by executive instrument, direct that subsection (1) shall apply throughout the Republic.

### 309. Destruction of aged or neglected animals

(1) A veterinary officer, or a person or a member of a class of persons authorised by the Minister may seize an animal which, in the opinion of the veterinary officer or that person or that member is suffering, or is likely immediately to suffer sickness or neglect by reason of old age.

(2) On the seizure being made, the veterinary officer, or other person shall forthwith furnish a Magistrate with a written report on the matter, embodying in the report the recommendations of the veterinary officer or of that person.

(3) The Magistrate may direct that the owner of the animal, if the owner can be found, be given notice to show cause why the animal should not be destroyed.

(4) Where the owner fails to show sufficient cause why the animal should not be destroyed, or where the owner cannot be found, the Magistrate may direct that the animal be destroyed, and accordingly may assign it to a suitable person, or may make any other appropriate order.

### 310. Interpretation

In this Chapter

“**animal**” means a domestic or captive animal;

“**captive animal**” means an animal, which is not a domestic animal, of any kind or species, including a bird, fish, or reptile, which is in captivity, or confinement, or which is maimed, pinioned or subjected to an appliance or a contrivance for the purpose of hindering or preventing its escape from captivity or confinement;

“**domestic animal**” means an animal which is tamed or which has been or is being sufficiently tamed to serve a purpose for the use of a person.

## CHAPTER TEN

### *Miscellaneous Offences*

#### *Taking Liquor on Ship*

### 311. Taking liquor on board State ship

(1) A person commits a criminal offence and is liable to a fine not exceeding five penalty units,

- (a) who brings on board a ship of the Republic a spirituous or fermented liquor without the previous consent of the officer commanding the ship, or
- (b) who approaches or hovers about the ship for the purposes of bringing the liquor on board without that consent, or of giving or selling the liquor to an officer, a seaman, or marine in the service of the Republic without that consent, or of assisting the officer, seaman or marine to be improperly absent from the ship.<sup>100</sup>

(2) An officer in the service of the Republic, or a warrant or petty officer of the Navy, or non-commissioned officer of Marines may, with or without seamen or persons under the officer's command, search a ship or boat hovering about or approaching, or which may have hovered about or approached, a ship of the Republic and may seize the liquor found on her, which shall be forfeited to the Republic.

(3) An officer or a warrant or petty or non-commissioned officer, or a constable, may without warrant

arrest and detain a person found committing a criminal offence under this section, and take that person before a Magistrate or a Justice to be dealt with according to law.

### *Letters, Telegrams*

#### **312. Letter written for illiterate person**

(1) A person who writes a letter or petition at the request or in the name of an illiterate person shall write on the letter or petition that person's name and address.

(2) The writing of the name and address on the letter or petition implies a statement

- (a) that the letter or petition was written on the instructions of the illiterate person, and
- (b) that the letter or petition conveys neither more nor less than the meaning intended by the illiterate, and
- (c) if it is or purports to be signed or executed by that person that it was read over and explained to the illiterate person who fully understood its contents before it was signed or executed, and
- (d) that the mark or signature is that of the illiterate person.

(3) Where the name and address of the writer is not written on the letter or petition, or if the statement implied is in a material particular untrue, the writer commits a criminal offence and is liable to a fine not exceeding twenty-five penalty units.<sup>101</sup>

(4) For the purposes of this section, “**name**” means the full, true, and proper country name where a person has a country name; otherwise a person's true and proper surname and the Christian name.

#### **313. Sending false telegram**

A person who commits either of the following acts, with intent to aggrieve or annoy any other person, is liable to a fine not exceeding fifteen penalty units, that is to say,

- (a) knowingly sends a false telegram to any other person, or
- (b) signs the name of any other person to a petition, prospectus, or testimonial, knowing that there is no authority for so doing.

#### **313A. Issue of false cheque**

(1) A person who

- (a) without reasonable excuse, the proof of which lies on that person, issues a cheque drawn on a bank with which that person does not have an account, or
- (b) issues a cheque in respect of an account with a bank when that person does not have a reasonable ground, the proof of which lies on that person, 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 a cheque previously issued by that person,

commits a criminal offence and is liable to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment; not exceeding twelve months or to both the fine and the imprisonment, and in the case of a subsequent criminal offence to a fine not exceeding one thousand penalty units or to a term of imprisonment not exceeding five years.<sup>102</sup>

(2) A person shall not be convicted of a criminal offence by virtue of subsection (1) (b) 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 a criminal offence by virtue of subsection (1) (c), the Court may, 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 a bank complying with the order is not liable to a claim in respect of that act.

(4) In this section,

- (a) the words “**cheque**” and “**issue**” have the meaning respectively assigned to them in sections 72 and 97 of the Bills of Exchange Act, 1961 (Act 55);
- (b) a reference to the issue of a cheque includes a reference to the issue of a cheque to the Republic.<sup>103</sup>

### *Slave Dealing*

#### **314. Slave dealing**

(1) A person commits a second degree felony who

- (a) deals or trades in, buys, sells, barterers, transfers, or takes a slave; or
- (b) deals or trades in, buys, sells, barterers, transfers, or takes another person in order that the other person may be held or treated as a slave; or
- (c) places or receives a person in servitude as a pledge or security for debt, whether then due and owing or to be incurred or contingent, whether under the name of a pawn or by any other name by which the other person may be called; or
- (d) conveys a person, or induces a person to come, to the Republic to be dealt with as a slave or traded in, bought, sold, bartered as a slave, or become a slave, or be placed in servitude as a pledge or security for a debt; or
- (e) conveys or sends a person, or induces a person to go out of the Republic to be dealt with as a slave or traded in, bought, sold, bartered, transferred as slave or become a slave, or be placed in servitude as a pledge or security for a debt; or
- (f) enters into a contract or an agreement with or without consideration for doing any of the acts or accomplishing any of the purposes mentioned in paragraphs (a) to (e); or
- (g) by any species of coercion or restraint otherwise than in accordance with the Labour Act, compels or attempts to compel the service of a person.

(2) This section does not apply to a coercion that may lawfully be exercised by virtue of a contract of service between free persons, or by virtue of the rights of parents and other rights, which are not contrary to law, arising out of the family relations customarily used and observed in the Republic.

#### **314A. Prohibition of customary servitude**

(1) A person who

- (a) sends to, or receives at a place, any other person, or
- (b) participates in or is concerned in a ritual or customary activity in respect of any other person,

with the purpose of subjecting the other person to a form of ritual or customary servitude, or a form of

forced labour related to a customary ritual, commits a criminal offence and is liable to a term of imprisonment not less than three years.

(2) In this section, “**concerned in**” means

- (a) to send to, take to, consent to the taking to or receive at a place, a person for the performance of the customary ritual; or
- (b) to enter into an agreement whether written or oral to subject to any of the parties to the agreement or any other person to the performance of the customary ritual; or
- (c) to be present at an activity connected with or related to the performance of the customary ritual.<sup>104</sup>

### *Trial by Ordeal*

#### **315. Trial by ordeal**

(1) The trial by the ordeal of sasswood, eserepbean, or any other poison, boiling oil, fire, immersion in water, or exposure to the attacks of crocodiles or any other wild animals, or by an ordeal which is likely to result in the death of, or bodily injury to, a party to the proceeding is unlawful.

(2) A person who directs or controls or presides at a trial by ordeal which is unlawful commits a second degree felony.

#### **316. Present at, or making poison for, trial by ordeal**

A person commits a misdemeanour who

- (a) is present at or takes part in a trial by ordeal which is unlawful, or
- (b) makes, sells or assists or takes part in making or selling, or has in possession for sale or use, a poison or thing which is intended to be used for the purpose of a trial by ordeal which is unlawful.

### *Unlawful Exportation of Cocoa*

#### **317. Smuggling and other evasion**

(1) A person who

- (a) imports or is concerned in importing prohibited or restricted goods, contrary to the prohibition or restriction, whether the goods are unloaded or not, or
- (b) unloads or is concerned in unloading prohibited goods or restricted goods imported contrary to the prohibition or restriction, or
- (c) exports or is concerned in exporting prohibited or restricted goods, contrary to the prohibition or restriction, or
- (d) with intent to defraud the Republic of a duty, knowingly harbours, keeps or conceals or knowingly permits or suffers or causes or procures to be harboured, kept or concealed prohibited, restricted, uncustomed or excisable goods, or
- (e) with intent to defraud the Republic of a duty, knowingly acquires possession of or is knowingly concerned in carrying, removing, depositing or concealing prohibited, restricted, uncustomed or excisable goods, or

- (f) is knowingly concerned in a 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 an order made under the Customs, Excise and Preventive Service (Management) Law, 1993 (P.N.D.C.L. 330), or
- (i) without lawful authority, the proof of which lies on that person, sells, receives or deseals sealed cocoa knowing it to belong to the Ghana Cocoa Board or to 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 a false declaration about cocoa,

commits a misdemeanour and is liable on summary conviction to a term of imprisonment of not less than five years and not exceeding ten years, or to a fine not less than two hundred and fifty penalty units and not exceeding five thousand penalty units or to both the fine and to the imprisonment, and the goods in respect of which the criminal offence has been committed shall be forfeited.<sup>105</sup>

(2) A person who commits an act referred to in subsection (1) is, whether or not that person is prosecuted under that subsection, liable to a civil penalty under the Customs, Excise and Preventive Service (Management) Act, 1993<sup>106</sup> and the civil penalty may be enforced and recovered although a prosecution has not been brought under subsection (1).

(3) The civil penalty shall not be exacted where a fine imposed under subsection (1) equals or exceeds treble the value of the goods in respect of which the criminal offence was committed.

(4) In this section, “**prohibited or restricted goods**” means goods the importation or exportation of which is prohibited or restricted by law.<sup>107</sup>

### **317A. Smuggling of gold, diamond**

(1) Although there is a law to the contrary, a person who

- (a) without lawful authority, the proof of which lies on that person, exports or attempts to export gold or diamond, or
- (b) conceals or carries away from the Republic gold or diamond with intent to evade an enactment relating to the export of gold or diamond,

commits a criminal offence and is liable on conviction to a sentence of death, and the gold or diamond, in respect of which the criminal offence was committed shall be forfeited to the Republic.

(2) The President may, by legislative instrument, apply subsection (1) to any other minerals specified in the instrument.

(3) For the purposes of this section

“**diamond**” means a rough and uncut diamond of Ghanaian origin; “**gold**” includes gold bullion, retorted gold, gold ore, gold amalgam, gold alloy, precipitates containing gold, slag, concentrates, tailings and residues, and gold dust but not the articles manufactured of gold and in reasonable quantities the proof of which lies on the person alleging reasonableness.<sup>108</sup>

*Consequential*

**318. Repeals**

(1) Each of the following enactments shall cease to apply in Ghana:

<i>United Kingdom Statutes</i>						
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:

<i>Statutes of Ghana</i>						
Cap.				9		The Criminal Code.
Cap.				39	The Peace Preservation Ordinance.	
Cap.				42	Section 11 of the Unlicensed Guides (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 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) An instrument made under an enactment hereby repealed shall continue in force notwithstanding the repeal and shall be deemed to have been made under the corresponding provision of this Act.

(4) Despite any other enactment, a person shall not, after the commencement of this Act, be charged with a criminal offence under an enactment hereby repealed or declared as not being in force in the Republic, but a person who has been so charged before the commencement of this Act, may be proceeded against as though the enactment had not been repealed or declared as not being in force.

### **319. Commencement and operation**

(1) This Act shall come into force on the first day of February, 1961.

(2) Subject to clause (5) of article 19 of the Constitution, this Act applies to acts committed before its commencement in like manner as they apply to acts committed after its commencement.

(3) It is a defence for a person charged with a criminal offence under this Act 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 criminal offence.

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