

CONSOLIDATED TO 1 DECEMBER 2014

LAWS OF SEYCHELLES

CHAPTER 158

THE PENAL CODE

[1st February 1955]

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PART I – GENERAL PROVISIONS

CHAPTER I - Preliminary

Short title

1. This Act may be cited as The Penal Code and hereinafter is referred to as “this Code”.

Note: There is no section 2 in the last official (1991) edition of this Cap.

Saving of certain laws

3. Nothing in this Code shall affect-

- i. the liability, trial or punishment of a person for an offence against any law in force in Seychelles other than this Code; or
- ii. the liability of a person to be tried or punished for an offence under the provisions of any law in force in Seychelles relating to the jurisdiction of the courts of Seychelles in respect of acts done beyond the ordinary jurisdiction of such courts; or
- iii. the power of any court to punish for contempt of such court; or
- iv. the liability or trial of a person, or the punishment of a person under any sentence passed or to be passed, in respect of any act done or commenced before the commencement of this Code; or
- v. any power of the President to grant any pardon or to remit or commute in whole or in part or to respite the execution of any sentence passed or to be passed:

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

also under this Code.

CHAPTER II - Interpretation

General rule of construction

4. This Code shall be interpreted in accordance with the principle of legal interpretation obtaining in England, and expressions used in it shall be presumed, so far as is consistent with their context, and except as may be otherwise expressly provided, to be used with the meaning attaching to them in English criminal law and shall be construed in accordance therewith.

Definition of certain expressions and terms

5. In this Code, unless the context otherwise requires-

“Act” includes any orders or rules or regulations made under the authority of any Act;

“court” means a court of competent jurisdiction;

“dangerous harm” means harm endangering life;

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

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

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

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

“judicial proceeding” includes any proceeding had or taken in or before any court, tribunal, commission of inquiry or person, in which evidence may be taken on oath;

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

“local authority” means a local authority established under any Act;

“maim” means the destruction or permanent disabling of any external or internal organ, membrane or sense;

“misdemeanour” means any offence which is not a felony;

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

“night” or “night-time” means the interval between seven o’clock in the evening and half-past five o’clock in the morning;

“oath” includes affirmation or declaration;

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

“person” and “owner” and other like term when used with reference to property includes corporations of all kinds and any other association of persons capable of owning property, and also when so used includes the Republic or any person on behalf of the Republic;

“person employed in the public service” means any person holding any of the following offices or performing the duty thereof whether as a deputy or otherwise, namely:-

(a) any Civil Office the power of appointing a person to which is vested in the President or in any public commission or board; or

(b) any office to which a person is appointed or nominated by Act or statute or by election; or

(c) any civil office, the power of appointing to which or removing from which is vested in any person or persons holding an office of any kind included in either of the two last preceding paragraphs of this section; or

(d) any office of arbitrator or umpire in any proceeding or matter submitted to arbitration by order or with the sanction of any court, or in pursuance of any Act;

and the said term further includes-

(i) a Justice of the Peace;

(ii) a member of a commission of inquiry appointed under or in pursuance of any Act;

(iii) any person employed to execute any process of a court;

(iv) all persons belonging to the Defence Force;

(v) all persons in the employment of any government department;

(vi) a person acting as a minister of religion of whatsoever denomination in so far as he performs functions in respect of the notification of intending marriage or in the making or keeping of any register or certificate of marriage, birth, baptism, death or burial, but not in any other respect;

(vii) a person in the employ of a local authority;

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

“property” includes anything animate or inanimate capable of being the subject of ownership;

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

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

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

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

“statute” means an Act of Parliament and includes any orders, rules regulations, bye-laws or other subsidiary legislation made or passed under the authority of any statute;

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

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

“vessel” includes a ship, a boat and every other kind of vessel used in navigation on the sea and includes aircraft;

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

CHAPTER III - Territorial Application of this Code

Extent of jurisdiction of courts

6. The jurisdiction of the courts of Seychelles for the purpose of this Code extends to every place within Seychelles and any place over which the Republic has jurisdiction.

Offence committed partly within and partly beyond the jurisdiction

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

CHAPTER IV - General Rules as to Criminal Responsibility

Ignorance of law

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

Bona fide claim of right

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

Intention and motive

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

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

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

Mistake of fact

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

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

Presumption of sanity

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

Insanity

13. A person is not criminally responsible for an act or omission if at the time of doing the act or making the omission he is through any disease affecting his mind incapable of understanding what he is doing, or of knowing that he ought not to do the act or make the omission.

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

Intoxication

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

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

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

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

(3) Where the defence under subsection (2) is established, then in a case falling under paragraph (a) thereof the accused person shall be discharged, and in a case falling under paragraph (b) the provisions of section 13 shall apply.

(4) Intoxication shall be taken into account for the purpose of determining whether the person charged had formed any intention, specific or otherwise, in the

absence of which he would not be guilty of the offence.

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

Immature age

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

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

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

Judicial officers

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

Compulsion

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

Defence of person and property

18. Subject to any express provisions in this Code or any other law in operation in Seychelles criminal responsibility for the use of force in the defence of person or property shall be determined according to the principles of English common law.

Use of force in effecting arrest

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

Compulsion by husband

20. Repealed by Act 10/2005.

Persons not to be twice criminally responsible for same offence

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

CHAPTER V - Parties and Offences

Principal offenders

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

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

In the fourth case he may be charged with himself committing the offence or with counseling or procuring its commission.

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

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

Joint offenders

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

consequence of the prosecution of such purpose, each of them is deemed to have committed the offence.

Counselling to commit an offence

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

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

CHAPTER VI - Punishments

Different kinds of punishment

25. The following punishments may be inflicted by a court-

- (a) Repealed
- (b) Fine.
- (c) Payment of compensation.
- (d) Finding security to keep the peace and be of good behaviour.
- (e) Liability to police supervision.
- (f) Forfeiture.
- (g) Any other punishment provided by this Code or by any other law or Act.

Imprisonment

26. (1) A person liable to imprisonment for life or any other period may be sentenced for any shorter term.

(2) A person liable to imprisonment may be sentenced to pay a fine in addition to or instead of imprisonment.

Minimum sentence

27. (1) Notwithstanding Section 26 and any other written law and subject to subsection (2), a person who is convicted of an offence in Chapter XXVI, Chapter XXVIII or Chapter XXIX shall-

(a) where the offence is punishable with imprisonment for 7 years or more but not more than 8 years and –

(i) it is the first conviction of the person for such an offence, be sentenced to imprisonment for a period of not less than 5 years; or

(ii) the person had within 5 years prior to the date of the conviction, been convicted of the same or a similar offence, be sentenced to imprisonment for a period of not less than 10 years.

(b) where the offence is punishable with imprisonment for more than 8 years but not more than 10 years and -

(i) it is the first conviction of the person for such an offence, be sentenced to imprisonment for a period of not less than 8 years; or

(ii) the person had within 5 years prior to the date of conviction, been convicted of the same or a similar offence, be sentenced to imprisonment for a period of not less than 12 years.

(c) where the offence is punishable with imprisonment for more than 10 years or with imprisonment for life and -

(i) it is the first conviction of the person for such an offence, be sentenced to imprisonment for a period of not less than 15 years; or

(ii) the person had, within five years prior to the date of the conviction, been convicted of the same or of a similar offence, be sentenced to imprisonment for not less than 25 years.

(2) A court shall not impose the minimum mandatory sentence provided under section 27(1)(a)(i), 27(1)(b)(i) and 27(1)(c)(i) if the Court is satisfied that –

(a) the person did not use or threaten violence or was not in possession of dangerous weapons or did not aid and abet the commission of the offence, and

(b) the offence did not result in the death of, or serious bodily injury to, another person,

(c) the offence did not consist in, include or involve stealing from another person,

(d) the offence did not consist in, include or involve breaking into or entering into a building, dwelling house, vessel or vehicle.

(3) For the purposes of subsection (1) “similar offence” means an offence falling within the same Chapter as the offence for which the person is being sentenced.

(4) An offence referred to in subsection (1) shall be deemed to be an “excepted offence” for the purposes of section 282 of the Criminal Procedure Code.

Section 27 amended by Act 5 of 2012 with effect from 6 August 2012

Fines

28. Where a fine is imposed under any law, then in the absence of express provisions relating to such fine in such law the following provisions shall apply:-

(a) where no sum is expressed to which the fine may extend, the amount of the fine which may be imposed is unlimited, but shall not be excessive;

(b) in the case of an offence punishable with a fine or a term of imprisonment, the imposition of a fine or a term of imprisonment shall be a matter for the discretion of the court;

(c) in the case of an offence punishable with imprisonment as well as a fine in which the offender is sentenced to a fine with or without imprisonment and in every case of an offence punishable with fine only in which the offender is sentenced to a fine, the court passing sentence may, in its discretion-

(i) direct by its sentence that in default of payment of a fine the offender shall suffer imprisonment for a certain term, which imprisonment shall be in addition to any other imprisonment to which he may have been sentenced or to which he may be liable under a commutation of sentence; and also

(ii) issue a warrant for the levy of the amount on the immovable and movable property of the offender by distress and sale under warrant:

Provided that if the sentence directs that in default of payment of the fine the offender shall be imprisoned, and if such offender has undergone the whole of such imprisonment in default, no court shall issue a distress warrant unless for special reasons to be recorded in writing it considers it necessary to do so.

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

Forfeiture

29. When any person is convicted of an offence under any of the following sections, namely, sections 91, 92, 93, 11, 112 and 374, the court may, in addition to or in lieu of any penalty which may be imposed, order the forfeiture to the Republic of any property which has passed in connection with the commission of the offence of, if such property cannot be forfeited or cannot be found, of such sum as the court shall assess as the value of the property; and any property or sum so forfeited shall be dealt with in such manner as the President may direct. Payment of any sum so ordered to be forfeited may be enforced in the same manner and subject to the same incidents as in the case of the payment of a fine.

Compensation

30. Any person who is convicted of an offence may be adjudged to make compensation to any person injured by his offence. Any such compensation may be either in addition to or in substitution for any other punishment.

Compensation for owner deprived of property

30A.(1) Notwithstanding section 30 and any other written law to the contrary, where a person is convicted of an offence under Chapter XXVI, Chapter XXVIII or Chapter XXIX the court shall, in addition to the sentence prescribed for the offence, order the person to compensate the owner or property who has been deprived of the property as a result of the commission of that offence.

(2) The court shall make a compensation order under this section when-

(a) it is proved at the trial that the owner has not been able to recover the property of which the owner has been deprived; or

(b) the uncontroverted facts of the case as disclosed by the prosecution after the accused pleads guilty reveal that the owner has not been able to recover the property of which the owner has been deprived.

(3) The amount of compensation ordered to be paid under this section shall be not less than the market value of the property at the time the owner was deprived thereof and the burden of proving such value shall lie on the prosecution.

(4) Where the person ordered to pay compensation is sentenced to imprisonment the compensation order shall take effect at the expiry of the person's term of imprisonment and release from prison.

(5) A compensation order shall specify the manner and form of the payment of compensation and may include, if need be, conditions of such payment.

(6) If a person without reasonable cause fails to comply with a compensation order, the person commits an offence and is liable on conviction to imprisonment for a term not exceeding two years or to a fine not exceeding one hundred thousand rupees.

(7) When a person is convicted of an offence under subsection (6), the court may, in addition to, or in lieu of, any penalty which may be imposed, order the forfeiture to the Republic of such property of the person as is equal in value to the amount of compensation ordered by the court and the property so forfeited may be dealt with in such manner as the court may direct to give effect to the compensation order.

(8) The court may all the case on its own motion or upon the application of any party appearing at the trial at any time after imposing the sentence so as to make an appropriate order to give effect to, alter or modify a compensation order.

Costs

31. Subject to the limitations imposed by section 146 of the Criminal Procedure Code a court may order any person convicted of an offence to pay the costs of and incidental to the prosecution or any part thereof.

Security for keeping the peace

32. A person convicted of an offence not punishable with imprisonment for life may, instead of, or in addition to, any punishment to which he is liable, be ordered to enter into his own recognizance, with or without sureties, in such amount as the court thinks fit, that he shall keep the peace and be of good behaviour for a time to be fixed by the court, and may be ordered to be imprisoned until such recognizance, with sureties if so directed, is entered into; but so that the imprisonment for not entering into the recognizance shall not extend for a term longer than one year, and shall not, together with the fixed term of imprisonment if any, extend for a term longer than the longest term for which he might be sentenced to be imprisoned without fine.

Repealed

33. (Repealed by the Probation of Offenders Act).

Certain provisions of Criminal Procedure Code to apply to recognisances under sections 32 and 33

34. The provisions of sections 105, 106 and 108, of the Criminal Procedure Code shall apply mutatis mutandis to recognisances taken under section 32 of this Code.

General Punishment

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

Sentences cumulative, unless otherwise ordered

36. Where a person after conviction for an offence is convicted of another offence, either before sentence is passed upon him under the first conviction or before the expiration of that sentence, any sentence, which is passed upon him under the subsequent conviction, shall be executed after the expiration of the former sentence,

unless the court directs that it shall be executed concurrently with the former sentence or of any part thereof:

Provided that it shall not be lawful for a court to direct that a sentence under Chapter XXVI, Chapter XXVIII or Chapter XXIX be executed or made to run concurrently with one another or that a sentence of imprisonment in default of a fine be executed concurrently with the former sentence under section 28(c)(i) of this Code, or any part thereof.

Escaped convicts to serve unexpired sentences when recaptured

37. When sentence is passed under this Code on an escaped convict, such sentence-

(a) if a fine shall, subject to the provisions of this Code, take effect immediately;

(b) if of imprisonment, shall run consecutively or concurrently, as the court shall order, with the unexpired portion of the sentence which the convict was undergoing when he escaped.

Repealed

38. (Repealed by the Probation of Offenders Act).

PART II – CRIMES

Division I – Offences Against Public Order

CHAPTER VII - Treason and Other Offences against the Authority of the Republic

Treason

39. (1) A person who-

(a) levies war, or does any act preparatory to levying war, against Seychelles;

(b) assists by any means whatever, with intent to assist, an enemy-

(i) at war with Seychelles, whether or not a state of war has been declared; and

(ii) specified by Proclamation made by the President for the purposes of this paragraph, to be an enemy at war with Seychelles;

(c) instigates any foreigner to make an armed invasion of Seychelles;
or

(d) forms an intention to do any act referred to in a preceding

paragraph and manifests that intention by an overt act,

is guilty of treason and liable on conviction to imprisonment for life.

(2) On the trial of a person charged with treason on the ground that he formed an intention to do an act referred to in paragraph (a), (b) or (c) of subsection (1) and manifested that intention by an overt act, evidence of the overt act shall not be admitted unless the overt act was alleged in the indictment.

(3) A person who is not a citizen of Seychelles shall not be punishable under this section for anything done outside Seychelles, but a citizen of Seychelles may be tried for an offence under this section as if it had been committed within the jurisdiction of the court.

Concealment of treason

40. A person who-

(a) receives or assists another person who is, to his knowledge, guilty of treason in order to enable him to escape punishment; or

(b) knowing that a person intends to commit treason, does not give information thereof with all reasonable dispatch to the President, or a member of the Council of Ministers or a police officer or use other reasonable endeavours to prevent the commission of the offence,

is guilty of the felony of misprision of treason and liable on conviction to imprisonment for life.

Two witnesses necessary

41. A person shall not be convicted (except on his own plea of guilty) of an offence under section 39 or 40 upon the uncorroborated testimony of one witness.

Limitations as to trials for treason

42. A prosecution for an offence under section 39 or 40 shall be commenced not later than two years after the commission of the offence.

Repealed

43. (Repealed by Act 29 of 1976.)

Inciting to mutiny

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

(a) to seduce any person serving in the Defence Force or any member of the police force from his duty; or

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

(c) to incite any such persons to make or endeavour to make a mutinous assembly,

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

Aiding in acts of mutiny.

45. Any person who-

(a) aids, abets, or is accessory to, any act of mutiny by; or

(b) incites to sedition or to disobedience to any lawful order given by

a superior officer, any non-commissioned officer or private of the Defence Force or any police officer, is guilty of a misdemeanour.

Inducing desertion

46. Any person who, by any means whatever, directly or indirectly-

(a) procures or persuades or attempts to procure or persuade to desert; or

(b) aids, abets, or is accessory to the desertion of; or

(c) having reason to believe he is a deserter, harbours or aids in concealing,

any non-commissioned officer or private of the Defence Force or any police officer, is guilty of a misdemeanour, and is liable to imprisonment for six months.

Aiding prisoner of war to escape

47. Any person who-

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

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

Definition of overt act

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

Definitions

49. For the purposes of the eight next following sections of this Code-

“import” includes-

(a) to bring into Seychelles; and

(b) to bring within the territorial waters of Seychelles whether or not the publication is brought ashore, and whether or not there is an intention to bring the same ashore.

“publication” includes all written or printed matter and everything, whether of a nature similar to written or printed matter or not, containing any visible representation, or by its form, shape, or in any manner capable of suggesting words or ideas, and every copy and reproduction of any publication;

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

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

“seditious words” means words having a seditious intention;

“the public interest” means the interests of defence, public safety, public order, public morality or public health.

Power to prohibit importation of publication

50. (1) If the President is of the opinion that there is in any publication or series of publications published outside Seychelles by any person or association of persons matter which is contrary to the public interest, he may, in his absolute discretion, by order published in the Gazette, declare that that particular publication or series of publications, or all publications published by that person or association of persons, shall be a prohibited publication or prohibited publications, as the case may be.

(2) If an order made under the provisions of subsection (1) specified by name a publication which is a periodical publication, such order shall, unless a contrary intention be expressed therein, have effect-

(a) with respect to all subsequent issues of such publication; and

(b) not only with respect to any publication under that name, but also

with respect to any publication published under any other name if the publishing thereof is in any respect a continuation of, or in substitution for, the publishing of the publication named in the order.

(3) If an order made under the provisions of subsection (1) declares that all publications published by a specified person or association of persons shall be prohibited publications, such order shall, unless a contrary intention be expressed therein, have effect not only with respect to all publications published by that person or association of persons before the date of the order but also with respect to all publications so published on or after such date.

(4) An order made under the provisions of subsection (1) shall, unless a contrary intention is expressed therein, apply to any translation into any language whatsoever of the publications specified in the order.

(5) Where an order has been made under subsection (1) declaring any series of publications or all publications published by any person or association of persons to be prohibited publications or specifying by name a publication which is a periodical publication, any person who wishes to import into Seychelles any particular publication in that series or published by that person or association or being a publication with respect to which the order is required by subsections (2) and (3) to have effect, may apply in writing to the Secretary to the Council of Ministers for a permit in that behalf, and, unless the Secretary to the Council of Ministers is satisfied that the publication contains matter which is contrary to the public interest, he shall grant such a permit and the order shall thereupon cease to have effect with respect to that publication.

(6) Any person whose application to the Secretary to the Council of Ministers under subsection (5) of this section has been refused may appeal against such refusal to the President whose decision thereon shall be final.

Offences in relation to importation of prohibited publications

51. (1) Any person who imports, publishes, sells, offers for sale, distributes or reproduces any publication, the importation of which has been prohibited under section 50, or any extract therefrom, shall be guilty of an offence and liable for a first offence to imprisonment for two years or to a fine not exceeding Rs.1.500, or to both such imprisonment and fine, and for a subsequent offence to imprisonment for three years; and such publication or extract therefrom shall be forfeited to the Republic.

(2) Any person who without lawful excuse has in his possession any publication the importation of which has been prohibited under section 50, or any extract therefrom, shall be guilty of an offence and liable for a first offence to imprisonment for one year or to a fine not exceeding Rs500 or to both such imprisonment and fine, and for a subsequent offence to imprisonment for two years; and such publication or extract therefrom shall be forfeited to the Republic.

Delivery of prohibited publication to police station

52. (1) Any person to whom any publication the importation of which has been prohibited under section 50, or any extract therefrom, is sent without his knowledge

or privity or in response to a request made before the prohibition of the importation of such publication came into effect, or who has such a publication or extract therefrom in his possession at the time when the prohibition of its importation comes into effect, shall forthwith if or as soon as the nature of its contents have become known to him, or in the case of a publication or extract therefrom coming into the possession of such person before an order prohibiting its importation has been made, forthwith upon the coming into effect of an order prohibiting the importation of such publication, deliver such publication or extract therefrom to the officer in charge of the nearest police station, and in default thereof shall be guilty of an offence and liable to imprisonment for one year or to a fine not exceeding Rs.500 or to both such imprisonment and fine; and such publication or extract therefrom shall be forfeited to the Republic.

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

Power to examine suspected packages

53. (1) Any of the following officers, that is to say-

- (a) the Chief Postmaster;
- (b) the Collector of Customs;
- (c) any police officer not below the rank of Assistant Superintendent;
- (d) any other officer authorised in that behalf by the President,

may detain, open and examine any package or article which he suspects to contain any publication or extract therefrom which it is an offence under the provisions of section 51 to import, publish, sell, offer for sale, distribute, reproduce or possess, and during such examination may detain any person importing, distributing or posting such package or article or in whose possession such package or article is found.

(2) If any such publication or extract therefrom is found in such package or article, the whole package or article may be impounded and retained by the officer and the person importing, distributing or posting it, or in whose possession it is found, may forthwith be arrested and proceeded against for the commission of an offence under section 51 or section 52, as the case may be.

Seditious intention

54. (1) An intention to effect any of the following purposes, that is to say-

- (a) to bring the President into hatred or contempt;
- (b) to excite disaffection against the Government, the Constitution or the National Assembly;

(c) to excite the people of Seychelles to attempt to procure the alteration, otherwise than by lawful means, of any matter in Seychelles established by law;

(d) to bring into hatred or contempt or to excite disaffection against the administration of justice in Seychelles;

(e) to raise discontent or disaffection amongst the people of Seychelles;

(f) to promote feelings of ill-will and hostility between different sections of the population of Seychelles,

is a seditious intention.

(2) An intention-

(a) to endeavour in good faith to show that the persons responsible for the Government have been or are mistaken in any of their counsels, policies or actions;

(b) to point out in good faith errors or defects in the Government, the Constitution, the National Assembly or the administration of Justice with a view to the reformation of those errors or defects;

(c) to excite in good faith another person to attempt to procure by lawful means the alteration of any matter established by law in Seychelles;

(d) to point out in good faith, in order to bring about their removal, any matters that are producing, or have a tendency to produce, feelings of ill-will or hostility between different classes of persons,

is not a seditious intention.

(3) In determining whether an intention to affect any purpose is a seditious intention, every person shall be deemed to intend the consequences which would naturally follow from effecting that purpose.

Seditious offences

55. (1) Any person who-

(a) does or attempts to do, or makes any preparation to do any act with a seditious intention;

(b) utters any seditious words;

(c) prints, publishes, sells, offers for sale, distributes or reproduces any seditious publication;

(d) imports any seditious publication, unless he has no reason to believe that it is seditious,

shall be guilty of an offence and liable for a first offence to imprisonment for two years or to a fine not exceeding Rs.1000 or to both such imprisonment and fine, and for a subsequent offence to imprisonment for three years, and any seditious publication shall be forfeited to the Republic.

(2) Any person who without lawful excuse has in his possession any seditious publication shall be guilty of an offence and liable for a first offence to imprisonment for one year or to a fine not exceeding Rs.500 or to both such imprisonment and fine, and for a subsequent offence to imprisonment for two years; and such publication shall be forfeited to the Republic.

(3) It shall be a defence to a charge under subsection (2) that, if the person charged did not know that the publication was seditious when it came into his possession, he did, as soon as the nature of the publication became known to him, deliver the publication to the officer in charge of the nearest police station.

(4) Any printing machine which has been, or is reasonably suspected of being, used for or in connexion with the printing or reproducing of a seditious publication may be seized or otherwise secured by a police officer pending the trial and conviction or discharge or acquittal of any person accused of printing or reproducing any seditious publication; and, when any person is convicted of printing or reproducing a seditious publication, the court may, in addition to any other penalty which it may impose, order that the printing machine on which the publication was printed or reproduced shall either be confiscated for a period not exceeding three years, or be forfeited, and may make such order whether or not the person convicted is, or was at the time when the publication was printed or reproduced, the owner of the printing machine; a printing machine forfeited under this subsection shall be disposed of as the President shall direct.

(5) When a proprietor, publisher, printer or editor of a newspaper, as defined in the Newspaper Act is convicted of printing or publishing a seditious publication in a newspaper, the court may, in addition to any other punishment it may impose, and whether or not it has made an order under subsection (4), make an order prohibiting any further publication of the newspaper for a period not exceeding three years.

(6) The court may, at any time, on the application of the Attorney General and on taking such security, if any, for good behaviour as the court may see fit to order, revoke any order made by it forfeiting or confiscating a printing machine or prohibiting further publication of a newspaper.

(7) A court before ordering the forfeiture or confiscation of a printing machine under this section shall be satisfied that the printing machine was the printing machine upon or by which the seditious publication was printed or reproduced.

(8) In any case in which a printing machine has been secured or confiscated under this section the Commissioner of Police may, in his discretion, cause-

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

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

Provided that the owner of the printing machine or his agents shall be entitled to reasonable access to it keep it in working order.

(9) The Commissioner of Police or any police officer acting in pursuance of the powers conferred by this section shall not be liable for any damage caused to a printing machine, whether by neglect or otherwise, not being damage willfully caused to the machine.

(10) Any person who uses or attempts to use a printing machine confiscated under subsection (4) is guilty of an offence and is liable to imprisonment for a term not exceeding three years.

(11) Any person who prints or publishes a newspaper in contravention of an order made under subsection (5) is guilty of an offence and is liable to imprisonment for a term not exceeding three years.

(12) In this section, "printing machine" includes a printing press, copying press, type-setting machine, photographic, duplicating or engraving apparatus, or other machine or apparatus used for or in connexion with printing or reproducing publications and the type, appurtenances and equipment thereof.

Legal proceedings

56. (1) No prosecution for an offence under section 55 of this Code shall be begun except within six months after the offence is committed:

Provided that, where a person leaves Seychelles within six months of committing such offence, the prosecution for such offence may be begun within the six months from the date that such person returns to Seychelles after leaving it.

(2) A person shall not be prosecuted for an offence under section 55 of the Code without the written consent of the Attorney General.

Evidence

57. No person shall be convicted of an offence under section 55 of this code on the uncorroborated testimony of one witness.

Unlawful oath to commit capital offence

58. Any person who-

(a) administers, or is present at and consents to the administering of, any oath or engagement in the nature of an oath, purporting to bind the person who takes it, to commit any offence punishable with imprisonment for life; or

(b) takes any such oath or engagement, not being compelled to do so,
is guilty of a felony, and is liable to imprisonment for life.

Other unlawful oaths

59. Any person who-

(a) administers, or is present at and consents to the administering of, any oath or engagement in the nature of an oath, purporting to bind the person who takes it to act in any of the ways following, that is to say-

(i) to engage in any mutinous or seditious enterprise;

(ii) to commit any felony;

(iii) to disturb the public peace;

(iv) to be member of any association, society or confederacy formed for the purpose of doing any such act as aforesaid;

(v) to obey the orders or commands of any committee or body of men not lawfully constituted, or of any leader or commander or other person not having authority by law for that purpose;

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

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

(b) takes any such oath or engagement, not being compelled to do so,
is guilty of a felony, and is liable to imprisonment for seven years.

Defence of compulsion

60. A person who takes any such oath or engagement as is mentioned in sections 58 and 59 cannot set up as a defence that he was compelled to do so, unless within fourteen days after taking it, or, if he is prevented by actual force or sickness, within fourteen days after the termination of such prevention, he declares by information an oath before a magistrate, or, if he is on actual service in the Defence Force, or in the police force, either by such information or by information to his commanding officer, the whole of what he knows concerning the matter, including the person or persons by whom and in whose presence, and the place where, and the time when, the oath or engagement was administered or taken.

Unlawful drilling

61. (1) Any person who-

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

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

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

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

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

62. (1) Any person who publishes, whether orally or in writing or otherwise, any statement, rumour or report which is likely to cause fear and alarm to the public or to disturb the public peace, knowing or having reason to believe that such statement, rumour or report is false, shall be guilty of an offence and liable to imprisonment for 3 years.

(2) Any person who with intent to bring the President into hatred, ridicule or contempt publishes any defamatory or insulting matter whether in writing, print, word of mouth or in any other manner shall be guilty of an offence and liable to imprisonment for 3 years.

Defamation of President

62A. Any person who with intent to bring the President into hatred, ridicule or contempt publishes any defamatory or insulting matter whether in writing, print, word of mouth or in any other manner shall be guilty of an offence and liable to imprisonment for 3 years.

CHAPTER VIII - Offences Affecting Relations with Foreign States and External Tranquility

Defamation of foreign princes

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

Repealed

64. (Repealed by S.I. 72 of 1976.)

Piracy

65. (1) Any person who commits any act of piracy within Seychelles or elsewhere is guilty of an offence and liable to imprisonment for 30 years and a fine of R1 million.

(2) Notwithstanding the provisions of section 6 and any other written law, the courts of Seychelles shall have jurisdiction to try an offence of piracy or an offence referred to under subsection (3) whether the offence is committed within the territory of Seychelles or outside the territory of Seychelles.

(3) Any person who attempts or conspires to commit, or incites, aids and abets, counsels or procures the commission of, an offence contrary to section 65(1) within Seychelles or elsewhere commits an offence and shall be liable to imprisonment for 30 years and a fine of R1 million.

(4) For the purposes of this section "piracy" includes-

(a) any illegal act of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft and directed-

(i) on the high seas, against another ship or aircraft, or against persons or property on board such a ship or aircraft;

(ii) against a ship, an aircraft, a person or property in a place outside the jurisdiction of any State;

(b) any act of voluntary participation in the operation of a ship or an aircraft with knowledge of facts making it a pirate ship or a pirate aircraft; or

(c) any act described in paragraph (a) or (b) which, except for the fact that it was committed within a maritime zone of Seychelles, would have been an act of piracy under either of those paragraphs.

(5) A ship or aircraft shall be considered a pirate ship or a pirate aircraft if-

(a) it has been used to commit any of the acts referred to in subsection (4) and remains under the control of the persons who committed those acts; or

(b) it is intended by the person in dominant control of it to be used for the purpose of committing any of the acts referred to in subsection (4).

(6) A ship or aircraft may retain its nationality although it has become a pirate ship or a pirate aircraft. The retention or loss of nationality shall be determined

by the law of the State from which such nationality was derived.

(7) Members of the Police and Defence Forces of Seychelles shall on the high seas, or may in any other place outside the jurisdiction of any State, seize a pirate ship or a pirate aircraft, or a ship or an aircraft taken by piracy and in the control of pirates, and arrest the persons and seize the property on board. The Seychelles Court shall hear and determine the case against such persons and order the action to be taken as regards the ships, aircraft or property seized, accordingly to the law.

Section 65 amended by Act 5 of 2012 with effect from 6 August 2012

CHAPTER IX - Unlawful Societies, Assemblies, Riots and other Offences against Public Tranquility

Definition of society and unlawful society

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

(2) A society is an unlawful society-

(a) if formed for any of the following purposes-

(i) levying war or encouraging or assisting any person to levy war on the Government or the inhabitants of any part of Seychelles; or

(ii) killing or injuring or inciting to the killing or injuring of any person; or

(iii) destroying or injuring or inciting to the destruction or injuring of any property; or

(iv) subverting or promoting the subversion of the Government or if its officials; or

(v) committing or inciting to acts of violence or intimidation; or

(vi) interfering with, or resisting, or inciting to interference with or resistance to the administration of the law; or

(vii) disturbing or inciting to the disturbance of peace and order in any part of Seychelles; or

(b) if declared by an order of the President to be a society dangerous to the good government of Seychelles.

Managing unlawful society

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

Being member of unlawful society

68. Any person who-

(a) is a member of an unlawful society; or

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

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

Prosecutions under sections 67 and 68

69. (1) A prosecution for an offence under section 67 or 68 shall not be instituted except with the consent of the Attorney General:

Provided that a person charged with such an offence may be arrested, or a warrant for his arrest may be issued and executed, and any such person may be remanded in custody or on bail, notwithstanding that the consent of the Attorney General to the institution of a prosecution for the offence has not been obtained, but no further or other proceedings shall be taken until that consent has been obtained.

(2) In any prosecution for an offence under section 67 or 68 it shall not be necessary to prove that the society consisted of ten or more members; but it shall be sufficient to prove the existence of a combination of persons, and the onus shall then rest with the accused to prove that the number of members of such combination did not amount to ten.

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

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

Power of entry, arrest, search, etc.

70. Any peace officer, and any police officer authorised in writing by a peace officer, may enter with or without assistance any house or building or into any place in which he had reason to believe that a meeting of an unlawful society, or of persons who are members of an unlawful society, is being held, and to arrest or cause to be arrested all persons found therein and to search such house, building or place, and seize or cause to be seized all insignia, banners, arms, books, papers, documents and other property

which he may have reasonable cause to believe to belong to any unlawful society, or to be in any way connected with the purpose of the meeting.

For the purpose of this section, the expression “peace officer” means any magistrate or any police officer not below the rank of sergeant.

Declaration by President

71. (1) When a society is declared to be an unlawful society by an order of the President in his discretion, the following consequences shall ensue:-

(a) the property of the society within Seychelles shall forthwith vest in an officer appointed by the President;

(b) the officer appointed by the President shall proceed to wind up the affairs of the society, and after satisfying and providing for all debts and liabilities of the society and the costs of the winding up, if there shall then be any surplus assets, shall prepare and submit to the President a scheme for the application of such surplus assets;

(c) such scheme, when submitted for approval, may be amended by the President in such way as he shall think proper in the circumstances of the case;

(d) the approval of the President to such scheme shall be denoted by the endorsement thereon of a memorandum of such approval signed by the President and, upon this being done, the surplus assets, the subject of the scheme, shall be held by such officer upon the terms and to the purposes hereby prescribed;

(e) for the purposes of the winding up, the officer appointed by the President shall have all the powers vested in the Official Assignee for the purpose of the discovering of the property of a debtor and the realization thereof.

(2) The President may, for the purpose of enabling a society to wind up its own affairs, suspend the operation of this section for such period as to him shall seem expedient.

(3) The provisions of subsection (1) shall not apply to any property seized at any time under section 70.

Forfeiture of insignia, etc.

72. Subject to the provisions of section 71, the insignia, banners, arms, books, papers, documents and other property belonging to an unlawful society shall be forfeited to the Republic, and shall be dealt with in such manner as the President may direct.

Definition of unlawful assembly and riot.

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

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

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

Punishment of unlawful assembly

74. Any person who takes part in an unlawful assembly is guilty of a misdemeanour, and is liable to imprisonment for one year.

Punishment of riot

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

Proclamation for rioters or assembly to disperse

76. A magistrate, a Justice of Peace within the area of his jurisdiction, a police officer of or above the rank of sub-inspector or such other person as the President may appoint, in whose view twelve or more persons are riotously assembled, or who apprehends that a riot is about to be committed by twelve or more persons assembled within his view, may make or cause to be made a proclamation, in such form as he thinks fit, commanding the rioters or persons so assembled to disperse peaceably.

Dispersal of rioters or persons assembled after proclamation

77. If, after such proclamation made or if the making of such proclamation has been prevented by force, twelve or more persons continue so assembled together, any person authorised to make the proclamation, or any police officer, or any other person acting in aid of such person or police officer may do all things necessary for dispersing the persons so continuing assembled and for apprehending them or any of them, and, if any person makes resistance, may use all such force as is reasonably necessary for overcoming such resistance, and shall not be liable in any criminal or civil proceeding for having, by the use of such force, caused harm or death to any person.

Calling on military forces

78. (1) If, in the opinion of a person authorised to make the proclamation, the force of police available is insufficient to disperse such assembly, or is unable to control the situation created by such assembly, such person shall request the military forces, if

any, to assist and restore order. Such request shall be made in writing wherever practicable. Every member of the military forces so requested to assist and restore order shall have the same powers and immunities as a police officer under section 77 of this Code.

(2) For the purposes of this section “military forces” include naval and air forces.

Rioting or failure to disperse after proclamation

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

Obstructing proclamation

80. Any person who forcibly prevents or obstructs the making of such proclamation as is in section 76 mentioned is guilty of a felony, and is liable to imprisonment for ten years; and if the making of the proclamation is so prevented, every person who, knowing that it has been so prevented, takes or continues to take part in the riot or assembly is guilty of a felony and is liable to imprisonment for five years.

Rioters destroying buildings, etc.

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

Injury to buildings by rioters

82. Any persons who, being riotously assembled together, unlawfully damage any of the things in section 81 mentioned are guilty of a felony, and each of them is liable to imprisonment for seven years.

Riotously preventing sailing of ship

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

Possession of fire-arms, etc.

84. (1) Any person who, without lawful authority or reasonable excuse, the proof whereof shall lie upon him, carries or has in his possession or under his control any firearm or other offensive weapon, or any ammunition, incendiary material or explosive in circumstances which raise a reasonable presumption that such firearm, offensive weapon, ammunition, incendiary material or explosive is intended to be used or has recently been used in a manner or for a purpose prejudicial to public order is guilty of a felony and is liable to imprisonment for seven years.

(2) Any person who consorts with, or is found in the company of, another person who, in contravention of subsection (1), is carrying or has in his possession or under his control any firearm or other offensive weapon, or any ammunition, incendiary material or explosive, in circumstances which raise a reasonable presumption that he intends to act or has recently acted with such other person in a manner or for a purpose prejudicial to public order, is guilty of a felony and is liable to imprisonment for five years.

(3) Any person who knowingly negotiates, procures, arranges for, or is in any way concerned in or assists, the delivery to any other person, or the delivery by any person to any other person, of any firearm or other offensive weapon, or any ammunition, incendiary material or explosive, whether by way of sale, hire, gift, loan or otherwise, in circumstances which raise a reasonable presumption that he knew or believed that such firearm, offensive weapon, ammunition, incendiary material or explosive was intended or likely to be used by any person in a manner or for a purpose prejudicial to public order is guilty of a felony and is liable to imprisonment for five years.

(4) Any person who, without lawful authority or reasonable excuse, the proof whereof shall lie upon him, has with him in any public place an offensive weapon is guilty of a misdemeanour and is liable to a fine of one thousand rupees and to imprisonment for one year.

(5) Where any person is convicted of an offence under this section any weapon or other articles in respect of which the offence was committed shall be forfeited to the Republic.

(6) A person shall not be prosecuted for an offence under this section, other than an offence under subsection (4), without the written consent of the Attorney General.

(7) In any prosecution for an offence under this section, other than an offence under subsection (4), without the written consent of the Attorney General.

(8) In this section-

“ammunition” means ammunition for any firearm as hereinafter defined and includes grenades, bombs and other like missiles whether capable of use with such a firearm or not, and any ammunition containing or designed or adapted to contain any noxious liquid, gas or other thing;

“explosives” means any explosive within the meaning of the Explosives Act;

“firearm” means any lethal barreled weapon of any description from which any shot, bullet or other missile can be discharged or which can be adapted for the discharge of any such shot, bullet or other missile, and any weapon of whatever description designed or adapted for the discharge of any noxious liquid, gas or other thing, and includes the barrel, bolt and chamber, and any other essential component part, of any such weapon as aforesaid;

“incendiary material” means any material capable of being used for causing

damage to property by fire and intended by the person having it in his possession or under his control for such use;

“offensive weapon” means any article made or adapted for use for causing injury to the person or intended by any person having it with him for such use by him and includes any axe, hatchet, cutlass, knife or club.

Forcible entry

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

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

Forcible detainer

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

Affray

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

Challenge to a duel

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

Threatening violence, etc.

89. Any person who-

(a) threatens another with any injury, damage, harm or loss to any person or property with intent to cause alarm to that person, or to cause that person, to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as a means of avoiding the execution of such threat; or

(b) discharges any loaded firearm or commits any breach of the peace with intent to alarm any person,

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

Incitement to violence and disobedience of the law

89A(1) Any person who, without lawful excuse, the burden of proof whereof shall lie upon him, utters, prints or publishes any words, or does any act or thing, indicating or implying that it is or might be desirable to do, or omit to do any act, the doing or omission of which is calculated-

(a) to bring death or physical injury to any person or to any class, community or body of persons;

(b) to lead to the damage or destruction of any property; or

(c) to prevent or defeat by violence or by other unlawful means the execution or enforcement of any law in force in the Republic or to lead to defiance or disobedience of any such law or any lawful authority,

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

(2) A person shall not be prosecuted for an offence under paragraph (c) of subsection (1) without the written consent of the Attorney General.

Assembling to smuggle

90. Any persons who assemble together, to the number of two or more, for the purpose of unshipping, carrying or concealing any goods subject to customs duty and liable to forfeiture under any law relating to the customs, are guilty of a misdemeanour, and each of them is liable to a fine not exceeding Rs.1,000 or to imprisonment for six months.

Division II – Offences against the Administration of Lawful Authority

CHAPTER X - Corruption and the Abuse of Office

Official corruption

91. Any person who-

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

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

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

Extortion by public officers

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

Receipt of property for favours

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

Officers with special duties to property

94. Any person who, being employed in the public service, and being charged by virtue of his employment with any judicial or administrative duties respecting property of a special character, or respecting the carrying on of any manufacture, trade or business of a special character, and having acquired or holding directly or indirectly, a private interest in any such property, manufacture, trade or business, discharges any such duties with respect to the property, manufacture, trade or business, discharges any such duties with respect to the property, manufacture, trade or business in which he has such interest or with respect to the conduct of any person in relation thereto, is guilty of a felony, and is liable to imprisonment for five years.

False claims by officials

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

Abuse of authority of office

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

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

A prosecution for any offence under this section or section 94 or 95 shall not

be instituted except by or with the sanction of the Attorney General.

False certificates by public officers

97. Any person who, being authorised or rehired by law to give any certificate touching any matter by virtue whereof the rights of any person may be prejudicially affected, gives a certificates which is, to his knowledge, false in any material particular is guilty of a misdemeanour and is liable to imprisonment for three years.

Unauthorised administration of oaths

98. Any person who administers an oath, or takes a solemn declaration or affirmation or affidavit, touching any matter with respect to which he had not by law any authority to do so is guilty of a misdemeanour and is liable to imprisonment for one year:

Provided that this section shall not apply to an oath, declaration, affirmation or affidavit administered by or taken before a magistrate or a Justice of the Peace in any matter relating to the preservation of the peace or the punishment of offences relating to inquiries respecting sudden deaths, nor to an oath, declaration, affirmation, or affidavit administered or taken for some purpose which is lawful under the laws of another country, or for the purpose of giving validity to an instrument in writing which is intended to be used in another country.

False assumption of authority

99. Any person who-

(a) not being a judicial officer, assumes to act as a judicial officer;
or

(b) without authority assumes to act as a person having authority by law to administer an oath or take a solemn declaration or affirmation or affidavit or to do any other act of a public nature which can only be done by persons authorised by law to do so; or

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

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

Personating public officers

100. Any person who-

(a) personates any person employed in the public service on an occasion when the latter is required to do any act or attend in any place by virtue of his employment; or

(b) falsely represents himself to be a person employed in the public service, and assumes to do any act or to attend in any place for the purpose of doing any act by virtue of such employment,

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

Threat of injury to persons employed in public services

101. Whoever holds out any threat of injury to any person employed in the public service, or to any person in whom he believes that person employed in the public service to be interested, for the purpose of inducing that person employed in the public service to do any act or to forbear or delay to do any act connected with the exercise of the public functions of such person employed in the public service, is guilty of a felony and is liable to imprisonment for five years.

CHAPTER XI - Offences Relating to the Administration of Justice

Perjury and subornation of perjury

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

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

The forms and ceremonies used in administering the oath or in otherwise binding the person giving the testimony to speak the truth are immaterial, if he assents to the forms and ceremonies actually used.

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

It is immaterial whether the court or tribunal is properly constituted, or is held in the proper place or not, if it actually acts as a court or tribunal in the proceeding in which the testimony is given.

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

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

False statement by interpreters

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

Punishment of perjury and subornation

104. Any person who commits perjury or suborns perjury is liable to imprisonment for seven years.

Evidence on charge of perjury

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

Contradictory statements

105A(1) Where a witness in any judicial proceedings (other than a person accused of an offence in criminal proceedings) has made a statement on oath or affirmation of some fact relevant in the proceedings, contradicting in a material detail a previous statement made on oath or affirmation by the same witness before the same court or any other court or tribunal, such witness, if a court is satisfied that either of such statements was made with intent to deceive, is guilty of a misdemeanour.

(2) Upon the trial of any person for an offence under this section, it shall not be necessary to prove the falsity of either of the contradictory statements, but, upon proof that both the statements were made by him, the court, if satisfied that the statements, or either of them, were or was made with intent to deceive, shall convict the accused.

(3) At the trial of any person for an offence under this section, the record of a court or tribunal containing any statement made on oath or affirmation by the person charged shall be prima facie evidence of such statement.

(4) For the avoidance of doubt, it is hereby declared that a person shall be liable to be convicted of an offence under this section notwithstanding that any statement made by him before a court or tribunal was made in reply to a question which he was bound by law to answer, and any such statement shall be admissible in any proceedings under this section.

Fabricating evidence

106. Any person who, with intent to mislead any tribunal in any judicial proceeding-

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

(b) knowingly makes use of such fabricated evidence,

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

False swearing

107. Any person who swears falsely or makes a false affirmation or declaration before any person authorised to administer an oath or take a declaration upon a matter

or public concern under such circumstances that the false swearing or declaration if committed in a judicial proceeding would have amounted to perjury is guilty of a misdemeanour.

Deceiving witnesses

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

Destroying evidence.

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

Conspiracy to defeat justice and interference with witnesses

110. Any person commits a misdemeanour who-

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

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

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

Compounding felonies

111. Any person who asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person upon any agreement or understanding that he will compound or conceal a felony, or will abstain from, discontinue, or delay a prosecution for a felony, or will withhold any evidence thereof, is guilty of a misdemeanour.

Compounding penal actions

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

Misprision of felony

112A(1) Any person who, knowing a felony to have been committed, conceals his knowledge of such felony, is guilty of a misdemeanour.

(2) A person shall be deemed to conceal his knowledge of a felony if, without lawful excuse, he fails or refuses to disclose to proper authority all material facts known to him relative to such felony.

Advertisements for stolen property

113. Any person who-

(a) publicly offers a reward for the return of any property which has been stolen or lost, and in the offer makes use of any words purporting that no questions will be asked, or that the person producing such property will not be seized or molested; or

(b) publicly offers to return to any person who may have bought, or advanced money by way of loan upon, any stolen or lost property the money so paid or advanced, or any other sum of money or reward for the return of such property; or

(c) prints or publishes any such offer,

is guilty of a misdemeanour.

Offences relating to judicial proceedings

114. (1) Any person who-

(a) within the premises in which any judicial proceeding is being had or taken, or within the precincts of the same, shows disrespect, in speech or manner, to or with reference to such proceeding, or any person before whom such proceeding is being had or taken; or

(b) having been called upon to give evidence in a judicial proceeding, fails to attend, or having attended, refuses to be sworn or to make an affirmation or, having been sworn or affirmed, refuses without lawful excuse to answer a question or to produce a document, or remains in the room in which such proceeding is being had or taken, after the witnesses have been ordered to leave such room; or

(c) causes an obstruction or disturbance in the course of a judicial proceeding; or

(d) while a judicial proceeding is pending, makes use of any speech or writing misrepresenting such proceeding or capable of prejudicing any person in favour of or against any parties to such proceeding, or calculated to lower the authority of any such person before whom such proceeding is being had or taken; or

(e) publishes a report of the evidence taken in any judicial proceeding which has been directed to be held in private; or

(f) attempts wrongfully to interfere with or influence a witness in a judicial proceeding, either before or after he has given evidence, in connection with such evidence; or

(g) dismisses a servant because he has given evidence on behalf of a certain party to a judicial proceeding; or

(h) wrongfully retakes possession of land from any person who has recently obtained possession by a writ or court; or

(i) commits any other act of intentional disrespect to any judicial proceeding, or to any person before whom such proceeding is being had or taken,

is guilty of an offence, and is liable to imprisonment for three months.

(2) When any offence against paragraphs (a), (b), (c), (d) or (i) of subsection (1) is committed in view of the court, the court may cause the offender to be detained in custody and at any time before the rising of the court on the same day take cognizance of the offence and sentence the offender to a fine of Rs.250 and to imprisonment for one month.

(3) The provisions of this section shall be deemed to be addition to and not in derogation from the power of the Supreme Court to punish for contempt of court.

Sanction of Attorney General

114A. No prosecution for an offence under section 104, section 105A or section 107 shall be commenced without the written consent of the Attorney General.

CHAPTER XII - Rescues, Escapes and Obstructing Officers of Court of Law

Rescue

115. Any person, who by force rescues or attempts to rescue from lawful custody any other person-

(a) is, if such last-named person is under sentence of imprisonment for life, or charged with an offence punishable with imprisonment for life, guilty of a felony, and is liable to imprisonment for life; and

(b) is, if such other person is imprisoned on a charge or under sentence for any offence other than those specified above, guilty of a felony, and is liable to imprisonment for seven years; and

(c) is, in any other case, guilty of a misdemeanour.

If the person rescued is in the custody of a private person, the offender must

have notice of the fact that the person rescued is in such custody.

Escape

116. (1) Subject to subsection (2) any person who, being in lawful custody, escapes from such custody, is guilty of a misdemeanour.

(2) Notwithstanding subsection (1), any person who whilst under lawful custody under an order by a court escapes from such custody is guilty of an offence and is liable to imprisonment for a term of not less than 5 years.

(3) Any person who-

(a) aids a prisoner in escaping from lawful custody contrary to subsection (2);

(b) knowingly harbours a prisoner who has so escaped; or

(c) conveys anything or causes anything to be conveyed into a prison with intent to facilitate the escape of a prisoner contrary to subsection (2),

is guilty of an offence and is liable to imprisonment for a term of not less than 3 years.

Aiding prisoners to escape

117. Any person who-

(a) aids a prisoner in escaping or attempting to escape from lawful custody; or

(b) conveys anything or causes anything to be conveyed into a prison with intent to facilitate the escape of a prisoner,

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

Taking property under lawful seizure

118. Any person who, when any property has been attached or taken under the process of authority of any court, knowingly, and with intent to hinder or defeat the attachment or process receives, removes, retains, conceals, or disposes of such property, is guilty of a felony, and is liable to imprisonment for three years.

Obstructing court officers

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

CHAPTER XIII - Miscellaneous Offences Against Public Authority

Frauds by public officers

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

Neglect of duty by public officers

121. Every person employed in the public service who willfully neglects to perform any duty which he is bound either by statute or Act to perform, provided that the discharge of such duty is not attended with greater danger than a man of ordinary firmness and activity may be expected to encounter, is guilty of a misdemeanour.

False information to person employed in the public service

122. Whoever gives to any person employed in the public service any information which he knows or believes to be false intending thereby to cause, or knowing it to be likely that he will thereby cause such person employed in the public service-

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

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

(c) to devote his time and services to the investigation of such information,

shall be guilty of a misdemeanour and shall be liable to imprisonment for six months or to a fine of Rs.500 or to both such fine and such imprisonment.

False reports causing wasteful employment of police

122A(1) Any person who causes any wasteful employment of the police by knowingly making to any person a false report tending to show that an offence has been committed or to give rise to apprehension for the safety of any person or property, or tending to show that he has information material to any police enquiry shall be guilty of an offence and liable to imprisonment for one year.

(2) A prosecution for an offence under this section shall not be instituted except with the consent of the Attorney General.

Disobedience of statutory duty

123. Everyone who willfully disobeys any statute or Act by doing any act which it forbids, or by omitting to do any act which it requires to be done, and which concerns the public or any part of the public, is guilty of a misdemeanour, and is liable, unless

it appears from the statute or Act that it was the intention of the Legislature to provide some other penalty for such disobedience, to imprisonment for two years.

Disobedience of lawful order

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

Division III – Offences Injuries to the Public in General

CHAPTER XIV - Offences Relating to Religion

Insult to religion of any class

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

Disturbing religious assemblies

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

Trespassing on burial places, etc.

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

Writing or uttering words with intent to wound religious feelings

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

Hindering burial of dead body, etc.

129. Whoever unlawfully hinders the burial of the dead body of any person, or without lawful authority in that behalf disinters, dissects, or harms the dead body of any person or, being under a duty to cause the dead body of any person or, being under a duty to cause the dead body of any person to be buried, fails to perform such duty, is guilty of a misdemeanour.

In this section the word “burial” means burial in earth, interment or any other form or sepulture or the cremation or any other mode of disposal of a dead body and “buried” has a corresponding meaning.

CHAPTER XV - Offences Against Morality

Sexual assault

130. (1) A person who sexually assaults another person is guilty of an offence and liable to imprisonment for 20 years:

Provided that where the victim of such assault is under the age of 15 years and the accused is of or above the age of 18 years and such assault falls under subsection (2)(c) or (d), the person shall be liable to imprisonment for a term not less than 14 years and not more than 20 years:

Provided also that if the person is convicted of a similar offence within a period of 10 years from the date of the first conviction the person shall be liable to imprisonment for a period not less than 28 years:

Provided further that where it is the second or a subsequent conviction of the person for an assault referred to in subsection (2)(d) on a victim under 15 years within a period of ten years from the date of the conviction, the person shall be liable to imprisonment for life.

(2) For the purposes of this section “sexual assault” includes-

- (a) an indecent assault;
- (b) the non-accidental touching of the sexual organ of another;
- (c) the non-accidental touching of another with one’s sexual organ, or
- (d) the penetration of a body orifice of another for a sexual purpose.

(3) A person does not consent to an act which if done without consent constitutes an assault under this section if-

- (a) the person’s consent was obtained by misrepresentation as to the character of the act or the identity of the person doing the act;
- (b) the person is below the age of fifteen years; or

(c) the person's understanding and knowledge are such that the person was incapable of giving consent.

(4) In determining the sentence of a person convicted of an offence under this section the court shall take into account, among other things-

(a) whether the person used or threatened to use violence in the course of or for the purpose or committing the offence;

(b) whether there has been any penetration in terms of subsection (2)(d); or

(c) any other aggravating circumstances.

Section 130 amended by Act 5 of 2012 with effect from 6 August 2012

Repealed

131. (Repealed by Act 15 of 1996)

Repealed

132. (Repealed by Act 15 of 1996)

Abduction

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

Abduction of girls under eighteen years

133A(1) Any person who unlawfully takes an unmarried girl under the age of eighteen years out of the custody or protection of her father or mother or other person having the lawful care or charge of her and against the will of such father or mother or other person, if she is taken with the intention that she may be unlawfully and carnally known by any man whether any particular man or generally, is guilty of a misdemeanour.

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

Abduction of girls under sixteen

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

Sexual interference with a child

135. (1) A person who commits an act of indecency towards another person who is under the age of fifteen years is guilty of an offence and liable to imprisonment for 20 years:

Provided that where the person accused is of or above the age of 18 years and the act of indecency is of a kind described in subsection 2(c) or (d) of section 130(2) the person shall be liable to imprisonment for a term not less than 14 years and not more than 20 years:

Provided also that if the person is convicted of a similar offence within a period of 10 years from the date of the first conviction, the person shall be liable to imprisonment for a period not less than 28 years:

Provided further that where it is the second or a subsequent conviction of the person for the sexual interference referred to in subsection (2)(d) within a period of ten years from the date of the conviction, the person shall be liable to imprisonment for life.

(2) A person is not guilty of an offence under this section if at the time of the offence the victim of the act of indecency was-

- (a) fourteen years old or older and the accused had reasonable ground to believe that the victim was over fifteen years old; or
- (b) the spouse of the accused.

Section 135 amended by Act 5 of 2012 with effect from 6 August 2012

Sexual interference with dependant

136. (1) A person who interferes sexually with another person of the age of fifteen years or older but under the age of eighteen years, referred to in this section as the "victim", who-

- (a) is dependent upon, or is under the legal authority of, the first-mentioned person, but is not the spouse of the first-mentioned person; or
- (b) is closely related by blood to the first-mentioned person,

is guilty of an offence and is liable to imprisonment for 20 years;

Provided that where the person accused is of or above the age of 18 years the person shall be liable to imprisonment for a term not less than 7 years and not more than 20 years.

Provided also that if the person is convicted of a similar offence within a period of 10 years from the date of the first conviction, the person shall be liable to imprisonment for a period not less than 14 years and not more than 20 years.

(2) For the purposes of this section a person interferes sexually with another person if-

- (a) the person commits an act of indecency towards that other person;
- (b) the person non-accidentally touches the other person's sexual organ;
- (c) the person non-accidentally touches the other person with the person's sexual organ;
- (d) the person penetrates any part of the body orifice of the other person for a sexual purpose.

(3) For the purposes of subsection (1), a victim is dependent upon, or is under the legal authority of a person if the person is the guardian of or has control or custody over or care of the victim or was at the time living in the same household as the victim and was in a position of authority over the victim.

(4) For the purposes of subsection (1) a person is closely related to a victim if the person is the father, mother, brother or half-brother, sister or half-sister, grandfather or grandmother of the victim.

Section 136 amended by Act 5 of 2012 with effect from 6 August 2012

Indecent Assault

137. A person who does an indecent act-

- (a) in the public view;
- (b) in a public place in the presence of one or more persons; or
- (c) in any place, with intent thereby to insult or offend any person,

is guilty of an offence and liable to imprisonment for five years.

Procuration

138. Any person who-

- (a) procures or attempts to procure any girl or woman under the age of twenty-one years, not being a common prostitute or of known immoral character, to have unlawful carnal connection, either in Seychelles or elsewhere, with any other person or persons; or
- (b) procures or attempts to procure any woman or girl to become, either in Seychelles or elsewhere, a common prostitute; or
- (c) procures or attempts to procure any woman or girl to leave Seychelles, with intent that she may become an inmate of or frequent

a brothel elsewhere; or

(d) procures or attempts to procure any woman or girl to leave her usual place of abode in Seychelles (such place not being a brothel), with intent that she may, for the purposes of prostitution, become an inmate of or frequent a brothel either in Seychelles or elsewhere,

is guilty of a misdemeanour:

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

Procuring defilement by threats, etc

139. Any person who-

(a) by threats or intimidation procures or attempts to procure any woman or girl to have any unlawful carnal connection, either in Seychelles or elsewhere; or

(b) by false pretences or false representations procures any woman or girl, not being a common prostitute or of known immoral character, to have any unlawful carnal connection, either in Seychelles or elsewhere; or

(c) applies, administers to, or causes to be taken by any woman or girl any drug, matter, or thing with intent to stupefy or overpower so as thereby to enable any person to have unlawful carnal connection with such woman or girl,

is guilty of a misdemeanour:

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

Householder permitting defilement of girls under thirteen

140. (1) Any person who, being the owner or occupier of premises or having or acting or assisting in the management or control thereof, induces or knowingly suffers any girl under the age of thirteen years to resort to or be upon such premises for the purpose of being unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally, is guilty of a felony, and is liable to imprisonment for five years.

(2) Any person who, being the owner or occupier of premises or having or assisting in the management or control thereof, induces or knowingly suffers any girl not under the age of thirteen years but under the age of fifteen years to resort to or be upon such premises for the purpose of being unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or

generally, is guilty of a misdemeanour.

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

Detention of female in brothel and elsewhere

141. Any person who detains any woman or girl against her will-

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

(b) in any brothel,

is guilty of a misdemeanour.

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

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

Power to search

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

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

A woman or girl shall be deemed to be unlawfully detained for immoral

purposes if she is so detained for the purpose of being unlawfully and carnally known by any man, whether any particular man or generally, and-

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

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

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

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

Procuring for prostitution for purposes of gain

143. Whoever for purposes of gain-

(a) procures, entices or leads away, for purposes of prostitution, another person (even with the consent of that other person); or

(b) exploits, or is an accessory in, the prostitution of another person (even with the consent of that other person), or the illicit carnal connection of two other persons,

is guilty of a misdemeanour.

Procuring for prostitution, etc., other than for purposes of gain

144. Whoever-

(a) procures, entices or leads away, for purposes prostitution, another person (even with the consent of that other person); or

(b) exploits, or is an accessory in, the prostitution of another person (even with the consent of that other person),

where the person procured, enticed, led away or exploited is less than twenty-one years old at the time of the offence, or is procured, enticed, led away or exploited for the purpose of being sent abroad, or by the use of fraud, deceit, threat, violence or any other means of duress, is guilty of a misdemeanour.

Repealed

145. (Repealed by Act 15 of 1996)

Conspiracy to defile

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

Abortion

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

Abortion by woman with child

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

Drugs and instruments for abortion

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

Medical termination of pregnancy

149A. A person shall not be guilty of a felony under section 147, 148 or 149 when a pregnancy is terminated under the Termination of Pregnancy Act.

Knowledge of age in offences against women

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

Unnatural offences

151. Any person who-

- (a) has carnal knowledge of any person against the order of nature; or
- (b) has carnal knowledge of an animal; or
- (c) permits a male person to have carnal knowledge of him or her against the order of nature,

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

Incest

151A. (1) A person who has sexual intercourse with another person of the opposite sex when the person knows that the person and that other person are closely related by blood is guilty of an offence and liable to imprisonment for 3 years.

(2) A person is closely related by blood to another person if-

(a) in the case of a man, the other person is the grandmother, mother, sister, half-sister, daughter or grand-daughter of the person;

(b) in the case of woman, the other person is the grand-father, father, brother, half-brother, son or grandson of the person.

Display of or traffic in indecent material

152. (1) A person who-

(a) for the purposes or by way of trade or for the purpose of public exhibition or distribution to the public, makes, purchases, hires or has in the person's possession any indecent material;

(aa) makes, takes or has in the person's possession without a reasonable excuse an indecent photograph, sketch, drawing or picture of a child;

(b) for the purposes or by way of trade or for the purpose of public exhibition or distribution to the public conveys, exports or imports, causes to be conveyed, exported or imported or puts in circulation any indecent material;

(c) deals in indecent material or carries on or takes part in any business concerned with the making, producing, hiring, distribution to the public, export, import, public exhibition or circulation of any indecent material;

(d) advertises or makes known by any means whatsoever with a view to assist in the distribution or circulation of or traffic in any indecent material;

(e) publicly sells or exposes for sale any indecent material;

(f) exposes to view in a public place any indecent material;

(ff) willfully or negligently exhibits to a child any indecent material;

(g) publicly exhibits, appears, performs or takes part in or assist in any capacity with the public exhibition of any indecent show, entertainment or representation or any show, entertainment or

representation tending to corrupt morals,

(h) publishes an indecent material,

is guilty of an offence and liable to imprisonment for five years.

(2) In this section

“indecent material” means-

(a) any indecent or obscene writing, photograph, sketch, drawing or picture including whether partly or wholly generated by computer;

(b) any indecent or obscene printed matter, print, painting, poster, drawing, model or cinematographic film or video film, cassette or disc;

(c) any other indecent or obscene object; or

(d) any other object tending to corrupt morals;

“publish” includes, where the indecent material is data stored electronically, transmit the data.

(3) Where any element of any of the offences specified in paragraphs (a) to (d) of subsection (1) is committed in Seychelles the offence the element of which has been committed in Seychelles shall be deemed to have been committed in Seychelles.

(4) A court may-

(a) on the conviction of a person of an offence under this section, order the destruction of the indecent material used in connection with the commission of the offence; or

(b) on the application of the Attorney-General and being satisfied that any indecent material is being or will be used in contravention of this section, but whether or not a person has been convicted of an offence, order the destruction of the indecent material.

(5) The owner of any premises on which any indecent material is found or the person in whose possession it is found or the person in whose possession any indecent material is found shall be presumed, until the owner or person proves the contrary, to be dealing in or carrying on or taking part in a business connected with indecent material contrary to paragraph (c) of subsection (1).

Insulting the modesty of a person

153. A person who, with intent to insult the modesty of a person, utters any word, makes any sound or gesture or exhibits any object intending that the word or sound shall be heard, or that the gesture or object shall be seen, by the other person, or intrudes upon the privacy of the other person is guilty of an offence and liable to

imprisonment for one year.

Soliciting

154. A person who solicits another person in a public place for the purposes of prostitution is guilty of an offence and liable to imprisonment for two years.

Brothel

155. (1) A person who-

(a) keeps or manages, or acts or assists in the keeping or management of a brothel;

(b) being the owner, tenant, lessee or occupier or person in charge of any premises, knowingly permits the premises or any part of the premises to be used as a brothel;

(c) being the owner, lessor or landlord or the agent of the owner, lessor or landlord, of any premises-

(i) lets out the premises or any part of the premises knowing that the premises or any part of the premises is to be used as a brothel; or

(ii) is willfully a party to the continued use of the premises or any part of the premises as a brothel,

is guilty of an offence and liable to imprisonment for three years.

(2) In this section "brothel" means any premises or any part of any premises resorted to or used by any person for the purposes of prostitution or lewd sexual practices.

Living on earning of prostitution

156. A person who-

(a) procures, entices or leads away, for the purposes of prostitution, another person;

(b) knowingly lives wholly or in part on the earnings of prostitution of another person;-

(c) knowingly exploits the prostitution of another person.

(d) for the purposes of gain, exercises control, direction of influence over the movements or action of another person in a manner as to show that the person is aiding, abetting, encouraging or compelling the prostitution of that other person,

is guilty of an offence and liable to imprisonment for five years.

Repealed

157. (Repealed by Act 15 of 1996)

Prohibited observation and recording of private act

157A A person who observes or visually records another person, in circumstances where a person would expect to be afforded privacy –

(a) without the other person's consent; and

(b) when the other person is –

(i) in a private place; or

(ii) engaging in a private act; and

(c) the observation or visual recording is made for the purpose of observing or visually recording a private act,

commits an offence and is liable on conviction to imprisonment for a term of 20 years.

Section 157A inserted by Act 7 of 2012 with effect from 27 August 2012.

Prohibited observation and recording of private parts

157B A person who observes or visually records another person's private parts, in circumstances where a person would expect to be afforded privacy in relation to his or her private parts –

(a) without the other person's consent; and

(b) when the observation or visual recording is made for the purpose of observing or visually recording the other person's private parts,

commits an offence and is liable on conviction to imprisonment for a term of 20 years.

Section 157B inserted by Act 7 of 2012 with effect from 27 August 2012.

Possession of prohibited visual recording

157C A person who possesses a prohibited visual recording of another person having reason to believe it to be a prohibited visual recording, without the other person's consent, commits an offence and is liable on conviction to imprisonment for a term of 20 years.

Section 157C inserted by Act 7 of 2012 with effect from 27 August 2012.

Distribution of prohibited visual recording

157D A person who distributes a prohibited visual recording of another person having reason to believe it to be a prohibited visual recording, without the other person's consent, commits an offence and is liable on conviction to imprisonment for a term of 20 years.

Section 157D inserted by Act 7 of 2012 with effect from 27 August 2012.

Interpretation

157E For the purpose of sections 157A, 157B, 157C and 157D –

“distribute” includes –

- (a) communicate, exhibit, send, supply or transmit to someone, whether to a particular person or not;
- (b) make available for access by someone, whether by a particular person or not;
- (c) enter into an agreement or arrangement to do something in paragraph (a) or (b); and
- (d) attempt to distribute.

“observe” means observation by any means whatsoever;

“private act” means –

- (a) bathing and showering;
- (b) using a toilet;
- (c) any other activity where the person is in a state of nudity;
- (d) intimate sexual activity that is not ordinarily done in public;

“private parts” means a person's genital or anal region when bare or a female's breast when bare;

“private place” means a place where a person might reasonably be expected to be engaging in a private act;

“prohibited visual recording of another person” means a visual recording of –

- (a) the person in a private place or engaging in a private act made in circumstances where a person would expect to be afforded privacy;
- or

(b) a visual recording of the person's private parts, when made in circumstances where a person would expect to be afforded privacy in relation to his or her private parts.

Section 157E inserted by Act 7 of 2012 with effect from 27 August 2012.

Immunity

157F A person is not criminally responsible for an offence against sections 157A, 157B, 157C or 157D if –

(a) the person is, at the time of the offence, a law enforcement officer acting in the course of the person's duties; and

(b) the person's conduct is reasonable in the circumstances for the performance of the duties.

Section 157F inserted by Act 7 of 2012 with effect from 27 August 2012.

Repealed

158. (Repealed by Act 15 of 1996)

CHAPTER XVI - Offences Relating to Marriage and Domestic Obligations

Fraudulent pretence of marriage

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

Bigamy

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

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

Fraudulently going through ceremony of marriage

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

Desertion of children

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

Neglecting children

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

Failure to provide for apprentice or servants

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

Child stealing

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

(a) forcibly or fraudulently takes or entices away, or detains the child;
or

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

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

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

CHAPTER XVIA - Antisocial Behaviour Order

Antisocial behaviour

165A.(1) The court may, on an application made under this section make an antisocial behaviour order.

(2) An application for an antisocial behaviour order against a person of or more than 12 years of age may be made by a police officer where-

(a) the person has acted, in an antisocial manner, that is to say, in a manner that causes or is likely to cause violence, harassment, alarm or distress to one or more other persons not of the same household as that person or to the public; and

(b) such an order is necessary to protect any person or a group of persons or any member of the public in the locality in which the violence, harassment, alarm or distress was caused or was likely to be caused from further antisocial acts by that person;

(c) a complaint has been made to the police as to the existence of the circumstances referred to in paragraphs (a) and (b) by a person or a group of persons or a member of the public.

(3) An application may be made by a police officer if the circumstances referred to in subsection (2)(a) and (b) are within the personal knowledge of the police officer.

(4) For the purposes of section (2)(a) any act or omission punishable under Chapter XVII constitutes antisocial behaviour.

(5) An application for an antisocial behaviour order shall set out the scope of the order prayed for by the applicant and shall be supported by an affidavit or affidavits of the complainant or complainants as the case may be.

(6) Subject to subsection (7), where an application under this section is received by the court, the court shall cause a notice of the application to be served on the respondent and shall summon the respondent to appear before the court on such day as may be fixed by the court to show cause why the antisocial behaviour order should not be made.

(7) Where the respondent fails to appear on the day fixed in the summons to appear under subsection (6) and the court is satisfied that the summons has been served on the respondent, the court may proceed to hear the application in the absence of the respondent.

(8) Where the court makes an antisocial behaviour order in the absence of the respondent, the order shall, unless the court orders otherwise, be served on the respondent personally and is not binding until it is so served.

(9) The court shall, in determining whether a person has committed antisocial acts complained of, apply the standard of proof applicable in civil proceedings.

(10) Where on an application under this section the court is satisfied that there is a serious risk of further violence, harassment, alarm or distress being caused to the complainant or to any member of the public before summoning and hearing the respondent, and that it is appropriate to do so, the court may issue an interim antisocial behaviour order and the order shall remain in force until the determination of the application, unless the court determines otherwise.

(11) A party in a proceeding on an application under this section may call witnesses in support of the party's case.

(12) Where the court is of the opinion that it is necessary for the protection of the privacy of a person concerned in the proceeding on an application under this section, the court may hold the proceeding in camera.

(13) In considering an application under this section, the court shall have regard to-

(a) the need to ensure that any person is protected against violence, harassment, alarm or distress or any kind;

(b) any other legal proceedings between the respondent and the applicant or between the respondent and the complainant or between the respondent and the Republic;

(c) any other matter that the court may consider relevant, including the prayer contained in the application.

(14) An antisocial behaviour order made under this section-

(a) may impose such restraints on the respondent as are necessary or desirable to prevent the respondent from acting in an apprehended manner or engaging in any conduct which may constitute antisocial behaviour;

(b) may apply for the protection of-

(i) the complainant;

(ii) any person or a group of persons in the locality in which the violence, harassment, alarm or distress was caused or was likely to be caused;

(iii) any person specified in the order; or

(15) Without limiting the effect of subsection (13), an antisocial behaviour order may-

(a) prohibit the respondent from being on premises at which the complainant resides, works, is studying or is undergoing vocational training or an apprenticeship;

(b) prohibit the respondent from being on premises specified in the order frequented by the complainant;

(c) prohibit the respondent from being in or at premises or in a locality or area specified in the order;

(d) prohibit the respondent from being in or at premises or in a

locality or area during a specified period of time of day or night;

(e) prohibit the respondent from approaching within a distance, specified in the order, of the complainant;

(f) prohibit the respondent from contacting, harassing, threatening or intimidating the complainant or any other person at a place where the complainant or other person resides, works, is studying or is undergoing vocational training or an apprenticeship;

(g) prohibit the respondent from damaging any property of the complainant;

(h) prohibit the respondent from causing or allowing another person to engage in conduct referred to in paragraphs (a) to (g);

(i) direct the respondent to attend such counseling or rehabilitation programme as may be specified in the order;

(j) contain any other conditions which the court considers necessary in the circumstances.

(16) An antisocial behaviour order may be made against a respondent in relation to premises or property despite the fact that the respondent has a legal or equitable interest in the premises or property.

(17) An antisocial behaviour order-

(a) shall be valid for the period specified in the order,

(b) shall not, in any event, be for a period of more than 24 months.

(18) A person who intentionally and without reasonable excuse contravenes an antisocial behaviour order shall be guilty of an offence and liable on conviction to a fine not exceeding R30,000 or to imprisonment not exceeding 2 years or to both such fine and imprisonment.

(19) Where a court convicts a person of an offence under subsection (18), it shall not be open to the court to make an order of conditional discharge in respect of the offence:

Provided that the court may deal with the convict under the Probation of Offenders Act.

(20) Where there is an antisocial behaviour order in force, the applicant, the respondent or any other person for whose protection the order was made may apply to the court for a variation or revocation of the order.

(21) The person applying for the variation or revocation of an order shall cause a copy of the application to be served on every other party and the court shall, before varying or revoking the order, allow the parties affected by the order a

reasonable opportunity to be heard.

(22) Notwithstanding any other written law, where the court is satisfied that it is not reasonably possible to serve a summons or any other document on any person, the court may make an order for substituted service.

CHAPTER XVII - Nuisances and Offences Against Health and Convenience

Common nuisance

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

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

Gaming houses

167. (1) Any person being the owner or occupier, or having the use of, any house, room, building or place whether open or enclosed, or ship, boat or other vessel, whether afloat or not, or any vehicle, who shall open, keep or use the same for the purpose of unlawful gaming being carried on therein, and any person who, being the owner or occupier of any house, room, building, place, vessel or vehicle as aforesaid, shall knowingly and willfully permit the same to be opened, kept or used by any other person for the purpose aforesaid, and any person having the care of management of or in any manner assisting in conducting the business of any house, room, building, place, vessel or vehicle as aforesaid, is said to keep a common gaming house.

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

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

(4) Any person other than the persons mentioned in subsection (1) who is found in a common gaming house shall be deemed, unless the contrary is proved, to be there for the purpose of unlawful gaming, and is guilty of a misdemeanour, and is liable to a fine of Rs.50 for the first offence, and for each subsequent offence to a fine of Rs.250 or imprisonment for two months, or to both such fine and imprisonment.

Search warrants

168. (1) The judge or any magistrate or other officer for the time being empowered to issue warrants, on being satisfied upon written information on oath and after any further inquiry which he may think necessary, that any place is kept or used for

gaming and that the public has access to it, may, by warrant, authorise any person therein named or any police officer, with such assistance and by such force as may be necessary, by night or by day, to enter or go to such place and to search the same and to seize all instruments or appliances for gaming, and all money, securities for money, and other articles reasonably supposed to have been used or intended to be used for any game or lottery which may be found in such place; and also to detain all persons found therein until the said place shall have been searched. If any of the things or circumstances which are made by section 169 presumptive evidence of guilt are found in such place, every person found therein shall be taken before the competent court to be dealt with according to law.

(2) Notwithstanding the provisions of subsection (1) any police officer, not below the rank of corporal, who reasonably suspects that any place is kept or used for gaming and that the public has access to it, shall without the necessity of procuring a warrant as required in subsection (1) have in respect of such place all the powers conferred upon a police officer by the said subsection in the same manner as if a warrant had been issued for that purpose.

(3) All instruments or appliances for gaming, money, securities for money, and other articles found in a gaming house, which the court finds were used or intended to be used for any game or lottery, shall be declared by the said court to be forfeited to the Republic, and dealt with accordingly.

Presumptions

169. (1) If any instruments or appliances of gaming are found in any place entered under section 168, or if persons are seen or heard to escape therefrom on the approach or entry of a police officer, or if any person having authority under section 168 to enter or go to such place is unlawfully prevented from, or obstructed or delayed in entering or approaching the same or any part thereof, it shall be presumed, until the contrary be proved, that the place is a common gaming house, and that the same is so kept or used by the occupier thereof.

(2) If, in the case of a place entered under section 168, any passage, staircase, or means of access to any part thereof is unusually narrow or steep or otherwise difficult to pass, or any part of the premises is provided with unusual or unusually numerous means for preventing or obstructing an entry or with unusual contrivances for enabling persons therein to see or ascertain the approach or entry of persons or for giving the alarm or for facilitating escape from the premises, it shall be presumed, until the contrary be proved, that the place is a common gaming house, and that the same is so kept or used by the occupier thereof.

Lotteries

170. (1) Any person who opens, keeps, or uses any place for carrying on a lottery not authorised by the Commissioner of Police is guilty of a misdemeanour, and any person who in any way infringes or fails to comply with any of the conditions (if any) laid down when such authorization as above mentioned is given is guilty of a misdemeanour and is liable to imprisonment for a period not exceeding six months.

(2) Any person who prints or publishes, or causes to be printed or published any advertisement or other notice of or relating to any lottery not so authorised or of

or relating to the sale of any ticket or chance in any lottery not so authorised is liable to a fine of Rs.500.

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

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

Keeper of premises defined

171. Any person who appears, acts, or behaves as master or mistress, or as the person having the care or management of any such house, room, set of rooms, or place as is mentioned in sections 167 and 170 is to be taken to be keeper thereof, whether he is or is not the real keeper.

Traffic in obscene publications

172. (1) Any person who-

(a) for the purpose of or by way of trade or for the purpose of distribution or public exhibition, makes, produces, or has in his possession any one or more obscene writings, drawings, prints, paintings, printed matter, pictures, posters, emblems, photographs, cinematograph films or any other obscene objects or any other object tending to corrupt morals, or

(b) for any of the purposes above-mentioned imports, conveys, or exports, or causes to be imported, conveyed or exported any such matters or things or in any manner whatsoever puts any of them in circulation; or

(c) carries on or takes part in any business whether public or private, concerned with any such matters or things, or deals in any such matters or things in any manner whatsoever, or distributes any of them, or exhibits any of them publicly, or makes a business of lending any of them; or

(d) advertises or makes known by any means whatsoever with a view to assisting the circulation of, or traffic in, any such matters or things, that a person is engaged in any of the acts referred to in this section, or advertises or makes known how, or from whom, any such matters or things can be procured either directly or indirectly; or

(e) publicly exhibits any indecent show or performance or any show or performance tending to corrupt morals,

is guilty of a misdemeanour, and is liable to imprisonment for two years or to a fine of Rs.1,000.

(2) If, in respect of any of the offences specified in paragraphs (a), (b), (c) or (d) of subsection (1), any constitutive element thereof is committed in Seychelles such commission shall be sufficient to render the person accused of such offence triable therefore in Seychelles.

(3) A court, on convicting any person of an offence against this section, may order to be destroyed any matter or thing made, possessed or used for the purpose of such offence.

(4) A court may, on the application of the Attorney General or the Commissioner of Police, order the destruction of any obscene matter or thing to which this section relates, whether any person may or may not have been convicted under the provisions of this section in respect of such obscene matter or thing.

(5) The judge or any magistrate or other officer for the time being empowered to issue warrants on being satisfied upon written information on oath and after any further inquiry which he may think necessary, that any premises are used for any of the purposes specified in this section or in violation of these provisions or for the deposit of any such obscene matters or things may by warrant authorise any persons therein named or any police officer with such assistance and by such force as may be necessary by night or by day to enter the same and to seize all instruments or appliances and other articles reasonably supposed to have been used or intended to be used for any of the purposes specified in this section.

If any of the obscene matters are found in such place or in the possession of any person it shall be presumed, until the contrary be proved, that the owner or occupier of the premises and the person with whom such obscene matters or things are found, shall have carried on or taken part in business in violation of paragraph (c) of subsection (1) above.

Idle and disorderly persons

173. The following persons-

- (a) every common prostitute behaving in a disorderly or indecent manner in any public place;
- (b) every person wandering or placing himself in any public place to beg or gather alms, or causing or procuring or encouraging any child or children so to do;
- (c) every person playing at any game of chance for money or money's worth in any public place, or on private property without the consent of the occupier;
- (d) every person who in any public place conducts himself in a manner likely to cause a breach of the peace;

(e) every person who in any public place uses any indecent or obscene language;

(f) every person found in a public place wandering or placing himself so as to cause an obstruction,

shall be deemed idle and disorderly persons, and shall be liable to imprisonment for one year or to a fine not exceeding Rs.1,000 or to both.

Prohibition of consumption of alcoholic liquor

173A. Any person who consumes any alcoholic liquor-

(i) on any road, or in any public place; or

(ii) in any vehicle on a road,

shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding one year or to a fine not exceeding Rs.1,000 or to both such fine and imprisonment.

(2) In any proceedings under this section, evidence that consumption of alcoholic liquor without proof of actual consumption.

(3) In this section-

“alcoholic liquor” includes baka, lapuree, toddy, spirits, wine, ale, beer, porter, cider, perry or hop beer or any liquor containing more than two per centum by weight of absolute alcohol or any liquor containing more than one per centum of alcohol, but does not include industrial alcohol;

“breach” means that part of the land which is alternately covered and uncovered by the sea at the highest and lowest tide;

“public place” shall have the same meaning ascribed to it in section 2 but for the purposes of this section does not include a beach or premises in respect of which there is a valid public bar licence or a baka or toddy licence under the Licences (liquor) regulations, authorizing the consumption of alcoholic liquor on such premises;

“road” includes any highway, street, road, bridge, square, court, alley, lane, passage or pavement to which the public are entitled or permitted to have access whether on payment or otherwise.

Rogues and vagabonds

174. The following persons-

(a) every person convicted of an offence under section 173 after having been previously convicted as an idle and disorderly person;

(b) every person going about as a gatherer or collector of alms, or endeavouring to procure charitable contributions of any nature or kind, under any false or fraudulent pretence;

(c) every suspected person or reputed thief who has no visible means of subsistence and cannot give a good account of himself;

(d) every person found in or upon or near any premises or in any road or highway or any place adjacent thereto or in any public place at such time and under such circumstances as to lead to the conclusion that such person is there for an illegal or disorderly purpose,

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

Wearing of uniform without authority

175. (1) Any person who, not being a person serving in the Defence Force or in the Seychelles Police Force, without the permission of the President, wears the uniform of any of those forces or any dress having the appearance or bearing of any of the regimental or other distinctive marks of such uniform, is guilty of a misdemeanour and liable to imprisonment for 6 months and to a fine of R10,000:

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

(2) Any person who unlawfully wears the uniform of any of the forces aforesaid, or any dress having the appearance, or bearing any, of the regimental or other distinctive marks of any such uniform, in such a manner or in such circumstances as to be likely to bring contempt on that uniform, or employs any other person so to wear such uniform or dress, is guilty of a misdemeanour, and is liable to imprisonment for 6 months and a fine of Rs.1,000.

(3) Any person who, not being in the service of the Republic or not having previously received the written permission of the President so to do, imports or sells or has in his possession for sale any such uniform as aforesaid, or the buttons or badges appropriate thereto, is guilty of a misdemeanour, and is liable to imprisonment for 12 months and a fine of Rs.2,000.

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

Negligent spreading of disease

176. Any person who unlawfully or negligently does any act which is, and which he

knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, is guilty of a misdemeanour.

Adulteration of food

177. Any person who adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, is guilty of a misdemeanour.

Sale of adulterated food

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

Adulteration of drugs

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

Sale of adulterated drugs

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

Fouling water

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

Fouling air

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

Carrying out advice, etc., in matters of witchcraft

182A. Any person who on the advice of any person pretending to the knowledge of witchcraft or of any non-natural or superstitious processes or in the exercise of any witchcraft or of any non-natural superstitious means shall use or cause to be put into

operation such means or processes as he may have been advised or may believe to be calculated to influence or affect the mind, feelings or judgment of any person or to injure any person or any property, is guilty of a misdemeanour.

Lighting fires, etc.

183. The following persons commit and are liable to be punished as for a common nuisance-

(a) any person who lights a fire in any forest, plantation or field for the purpose of burning any dried, dead or decayed matter or for the purpose of clearing any ground or of burning any charcoal kiln without having previously obtained written permission from the Department of Agriculture:

Provided that the permission so granted shall not be a defence to any other criminal or civil to which such person may be subject under any law in the event of the fire causing damage to property;

(b) any person who carries fire or a lighted naked torch or candle or any other lighted thing in any street, road, way, land, track, foot-path, square or open space to which the public have access or in any forest, plantation or field, except in a lantern or with such other precautionary means to guard against fire or with the permission of the Commissioner of Police and subject to such conditions as he may law down;

(c) any person who willfully obstructs any auction sale by force, or who by threatening to use force prevents any person from coming forward to bid or from coming forward to bid or from bidding;

(d) any person who-

(i) in any place where the public have or are allowed to have access, uses any indecent or obscene language at or against any other person with intent to annoy and to the annoyance of that person; or

(ii) disturbs the public peace;

(e) any person who-

(i) sends any message by telephone which is grossly offensive or of an indecent, obscene or menacing character;

(ii) sends any message by telephone, or any telegram, which he knows to be false, for the purpose of causing annoyance, inconvenience or needless anxiety to any other person;

(iii) persistently makes telephone calls without reasonable

cause and for any such purpose as aforesaid;

(f) any person who contravenes or fails to comply with regulations made by the President who is hereby empowered to make such regulations, controlling, regulating or prohibiting-

(i) the operation or use of loudspeakers, megaphones and any other device for amplifying sound; and

(ii) the making of noise or the playing of music;

(g) any person who allows a dog in his custody or under his control to bark or whine persistently after having been warned that such barking or whining causes or would cause annoyance to any other person;

(h) any person who allows any animal belonging to himself to stray;

(i) any person who, within such areas as may be prescribed by the President by notice published in the Gazette, is found in possession of a catapult;

(j) any person who, without lawful authority or reasonable excuse, the proof whereof shall lie upon him-

(i) writes upon, marks, soils or defaces any building, road, pavement, wall, fence or paling, whether public or private property, with chalk or paint or in any other way whatsoever;
or

(ii) affixes any poster or other paper against or upon any building, road, pavement, wall, fence or paling, whether public or private property;

(k) (i) any person who deposits or throws away or allows to be deposited or thrown away any litter or refuse-

(a) on private property without the consent of the owner or occupier thereof;

(b) on the foreshore or in any public place, except in receptacles specially provided for the purpose;

(ii) in this paragraph-

“public place” means any place to which the public have or are allowed to have access;

“foreshore” means that portion of the shore adjacent to the sea which is alternatively covered or uncovered by the sea at the highest and lowest tides and includes that part of the

seabed adjacent to the coast which is within 100 yards from the low-water mark or from any pier or jetty;

“refuse” includes glass, bottles, tins and any object whatsoever which may be injurious to persons.

CHAPTER XVIII - Defamation

Definition of libel

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

Definition of defamatory matter

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

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

Publication

186. (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 or any other person.

(2) It is not necessary for libel that the 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.

Unlawful publication

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

Absolute privilege

188. (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, or by the Council of Ministries or the People Assembly, in any official document or proceeding; or
- (b) if the matter is published in the Council of Ministers or the People's Assembly by the President or by any member of such Council; or
- (c) if the matter is published by order of the Council of Ministers; or
- (d) if the matter is published concerning a person subject to Defence Force discipline for the time being and relates to his conduct as a person subject to such discipline, and is published by some person subject to such discipline, and is published by some person having authority over him in respect of such conduct, and to some person having authority over him in respect of such conduct; or
- (e) if the matter is published in the course of any judicial proceedings by a person taking part therein as a judge or magistrate or commissioner or pleader or assessor or witness or party thereto; or
- (f) if the matter published is in fact a fair report of anything said, done, or published in the Council of Ministers or the People's Assembly; or
- (g) if the person publishing the matter is legally bound to publish it.

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

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

Conditional privilege

189. A publication of defamatory matter is privileged, on condition that it was published in good faith, if the relation between the parties by and to whom the publication is made is such that the person publishing the matter is under some legal, moral or social duty to publish it to the person to whom the publication is made or has a legitimate personal interest in so publishing it, provided that the publication does not exceed either in extent or matter what is reasonably sufficient for the occasion, and in any of the following cases, namely:-

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

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

(b) if the matter published is a copy or reproduction, or in fact a fair abstract, of any matter which has been previously published, and the previous publication of which was or would have been privileged under section 188; or

(c) 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

(d) 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

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

(f) 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

(g) if the matter is a censure passed by a person in good faith on the conduct of another person in any matter in respect of which he has authority, by contract or otherwise, over the other person, or on the character of the other person, so far as it appears in such conduct; or

(h) if the matter is a complaint or accusation made by a person in good faith against another person in respect of his conduct in any matter, or in respect of his character so far as it appears in such conduct, to any person having authority, by contract or otherwise, over that person in respect of such conduct or matter, or having authority by law to inquire into or receive complaints respecting such conduct or matter; or

(i) if the matter is published in good faith for the protection of the rights or interests of the person who publishes it, or of the person to whom it is published, or of some person in whom the person to whom it is published is interested.

Good faith

190. A publication of defamatory matter shall not be deemed to have been made in

good faith by a person, within the meaning of section 189, if it made to appear either-

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

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

(c) that in publishing the matter, he acted with intent to injure the person defamed in a substantially greater degree or substantially other wise than was reasonably necessary for the interest of the public or for the protection of the private right or interest of which he claims to be privileged.

Presumptions as to good faith

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

Division IV – Offences against the Person

CHAPTER XIX - Murder and Manslaughter

Manslaughter

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

Murder

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

Punishment of murder

194.*Any person convicted of murder shall be sentenced to imprisonment for life.

Punishment of manslaughter

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

Malice aforethought

196. Malice aforethought shall be deemed to be established by evidence proving any one or more of the following circumstances:-

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

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

Persons suffering from diminished responsibility

196A(1) Where a person kills or is party to the killing of another, he shall not be convicted of murder if he was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for his acts and omissions in doing or being a party to the killing.

(2) On a charge of murder it shall be for the defence to prove that the person charged is by virtue of this section not liable to be convicted of murder.

(3) A person who but for this section would be liable to be convicted of murder shall be liable instead to be convicted of manslaughter. In such a case the court instead of or in addition to inflicting any punishment which it may inflict on a conviction for manslaughter, may order the convicted person to be detained in custody during the President's pleasure and thereafter he shall be detained in such custody as the President shall from time to time direct.

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

Killing on provocation

197. When a person who unlawfully kills another under circumstances which, but for the provisions of this section, would constitute murder, does the act which causes death in the heat of passion caused by sudden provocation as hereinafter defined, and before there is time for his passion to cool, he is guilty of manslaughter only.

Provocation defined

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

offered.

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

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

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

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

For the purposes of this section the expression "an ordinary person" shall mean an ordinary person of the community to which the accused belongs.

Causing death defined

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

- (a) if he inflicts bodily injury on another person in consequence of which that other person undergoes surgical or medical treatment which causes death. In this case it is immaterial whether the treatment was proper or mistaken if it was employed in good faith and with common knowledge and skill; but the person inflicting the injury is not deemed to have caused the death if the treatment which was its immediate cause was not employed in good faith or was so employed without common knowledge or skill;
- (b) if he inflicts a bodily injury on another which would not have caused death if he injured person has submitted to proper surgical or medical treatment or had observed proper precautions as to his mode of living;
- (c) if by actual or threatened violence he causes such other person to perform an act which causes the death of such person, such act being a means of avoiding such violence which in the circumstances would appear natural to the person whose death is so caused;
- (d) if by any act or omission he hastened the death of a person suffering under any disease or injury which apart from such act or omission would have caused death;
- (e) if his act or omission would not have caused death unless it had been accompanied by an act or omission of the person killed or of other persons.

Child capable of being killed

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

Limitation as to time of death

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

Such period is reckoned inclusive of the day on which the last unlawful act contributing to the cause of death was done.

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

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

CHAPTER XX - Duties Relating to the Preservation of Life and Health

Persons having charge

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

Head of family

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

Masters and mistresses

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

Person doing dangerous act

205. It is the duty of every person who, except in a case of necessity, undertakes to administer surgical or medical treatment to any other person, or to do any other lawful act which is or may be dangerous to human life or health, to have reasonable skill and to use reasonable care in doing such act; and he is held to have caused any consequences which result to the life or health of any person by reason of any omission to observe or perform that duty.

Person in charge of dangerous thing

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

CHAPTER XXI - Offences Connected with Murder and Suicide

Attempt to murder

207. Any person who-

(a) attempts unlawfully to cause the death of another, or

(b) with intent unlawfully to cause the death of another does any act, or omits to do any act, which it is his duty to do, such act or omission being of such a nature as to be likely to endanger human life,

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

Attempt to murder by convict

208. Any person who, being under sentence of imprisonment for three years or more, attempts to commit murder, is liable to imprisonment for life.

Accessory after the fact to murder

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

Written threat to murder

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

Conspiracy to murder

211. Any person who conspires with any other person to kill any person, whether such person is in Seychelles or elsewhere, is guilty of a felony, and is liable to imprisonment for eighteen years.

Complicity in another's suicide

212. Any person who aids, abets, counsels or procures the suicide of another, or an attempt by another to commit suicide, is guilty of a felony and is liable to imprisonment for fourteen years.

Suicide pacts

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

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

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

Infanticide

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

Killing unborn child

215. Any person who when a woman is about to be delivered of a child, prevents the child from being born alive by any act or omission of such a nature that, if the child had been born alive and had then died, he would be deemed to have unlawfully killed the child, is guilty of a felony and is liable to imprisonment for life.

Concealment of birth

216. Any person who, when a woman is delivered of a child, endeavours, by any secret disposition of the dead body of the child to conceal the birth, whether the child

died before, at, or after its birth, is guilty of the misdemeanour of concealment of birth and is liable to imprisonment for two years.

CHAPTER XXII - Offences Endangering Life or Health

Disabling with intent to commit crime

217. Any person who, by any means calculated to choke, suffocate or strangle, and with intent to commit or to facilitate the commission of a felony or misdemeanour, or to facilitate the flight of an offender after the commission or attempted commission of a felony or misdemeanour, renders or attempts to render any person incapable of resistance, is guilty of a felony, and is liable to imprisonment for life.

Stupefying with intent

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

Acts intended to cause grievous harm or to prevent arrests

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

- (a) unlawfully wounds or does any grievous harm to any person by any mean whatever; or
- (b) unlawfully attempts in any manner to strike any person with any kind of projectile or with a spear, sword, knife, or other dangerous or offensive weapon; or
- (c) unlawfully causes any explosive substance to explode or;
- (d) sends or delivers any explosive substance or other dangerous or noxious thing to any person; or
- (e) causes any such substance or thing to be taken or received by any person; or
- (f) puts any corrosive fluid or any destructive or explosive substance in any place; or
- (g) unlawfully casts or throws any such fluid or substance at or upon any person, or otherwise applies any such fluid or substance to the person of any person,

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

Preventing escape from wreck

220. Any person who unlawfully-

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

(b) obstructs any person in his endeavours to save the life of any person so situated;

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

Grievous harm

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

Placing explosive with intent

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

Administering poison

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

Unlawful wounding or poisoning

224. Any person who-

(a) unlawfully wounds another; or

(b) unlawfully, and with intent to injure or annoy any person, causes any poison or other noxious thing to be administered to, or taken by, any person,

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

Failure to supply necessaries

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

Surgical operation

226. A person is not criminally responsible for performing in good faith and with reasonable care and skill a surgical operation upon any person for his benefit, or upon an unborn child for the preservation of the mother's life, if the performance of the operation is reasonable, having regard to the patient's state at the time, and to all the circumstances of the case.

Excess of force

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

Consent

228. Notwithstanding anything contained in section 227, consent by a person to the causing of his own death or his own maim does not affect the criminal responsibility of any person by whom such death or maim is caused.

CHAPTER XXIII - Criminal Recklessness and Negligence

Reckless and negligent acts

229. Any person who in a manner so rash or negligent as to endanger human life or to be likely to cause harm to any person-

- (a) drives any vehicle or rides on any public way; or
- (b) navigates, or takes part in the navigation or working of, any vessel; or
- (c) does any act with fire or any combustible matter, or omits to take precautions against any probable danger from any fire or any combustible matter in his possession; or
- (d) omits to take precaution against any probable danger from any animal in his possession; or
- (e) gives medical or surgical treatment to any person whom he has undertaken to treat; or
- (f) dispenses, supplies, sells, administers, or gives away any medicine or poisonous or dangerous matter; or
- (g) does any act with respect to, or omits to take proper precautions against any probable danger from, any machinery of which he is solely or partly in charge; or
- (h) does any act with respect to, or omits to take proper precautions against any probable danger from, any explosive in his possession,

is guilty of a misdemeanour.

Other negligent acts causing harm

230. Any person who unlawfully does any act, or omits to do any act which it is his duty to do, not being an act or omission specified in section 229, by which act or omission harm is caused to any person, is guilty of a misdemeanour, and is liable to imprisonment for six months.

Dealing in poisonous substances in negligent manner

231. Whoever does with any poisonous substance any act in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such care with any poisonous substance in his possession as is sufficient to guard against probable danger to human life from such poisonous substance, is guilty of a misdemeanour, and is liable to imprisonment for six months, or to a fine of Rs.1,000.

Exhibition of false lights, mark or buoy

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

Unsafe or overloaded vessel

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

Obstructing public way or navigation

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

CHAPTER XXIV - Assaults

Common assault

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

Assaults occasioning actual bodily harm

236. Any person who commits an assault occasioning actual bodily harm is guilty of a felony, and is liable to imprisonment for seven years.

Assaults on persons protecting wrecks

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

Assaults punishable with five years' imprisonment

238. Any person who-

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

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

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

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

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

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

CHAPTER XXV - Offences Against Liberty

Definition of Kidnapping from Seychelles

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

Kidnapping from lawful guardianship

240. Any person who takes or entices any minor under fourteen years of age if a male, or under sixteen years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.

Abduction

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

Punishment for kidnapping

242. Any person who kidnaps any person from Seychelles or from lawful guardianship, is guilty of a felony, and is liable to imprisonment for ten years.

Kidnapping or abducting with intent to murder

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

Kidnapping with intent wrongfully to confine

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

Kidnapping with intent to do harm, slavery, etc.

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

Wrongfully concealing kidnapped person

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

Kidnapping child with intent to steal

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

Punishment for wrongful confinement

248. Whoever wrongfully confines any person is guilty of a misdemeanour, and is liable to imprisonment for one year or to a fine of Rs.5,000.

Buying or disposing of a person as slave

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

Slave dealing

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

Forced labour

251. Any person who unlawfully compels any person to labour against the will of that person is guilty of a misdemeanour and is liable to imprisonment for three years.

Division V – Offences Relating to Property

CHAPTER XXVI - Theft

Things capable of being stolen

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

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

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

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

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

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

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

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

Definition of theft

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

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

(a) an intent permanently to deprive the general or special owner of the thing, of it;

(b) an intent to use the thing as a pledge or security;

(c) an intent to part with it on a condition as to its return which the person taking or converting it may be unable to perform;

(d) an intent to deal with it in such a manner that it cannot be returned in the condition in which it was at the time of the taking or conversion;

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

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

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

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

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

Special cases

254. (1) When a factor or agent pledges or gives a lien on any goods or document of title to goods entrusted to him for the purpose of sale or otherwise for any sum of money not greater than the amount due to him from his principal at the time of pledging or giving the lien, together with the amount of any bill of exchange or

promissory note accepted or made by him for or on account of his principal, such dealing with the goods or document of title is not deemed to be theft.

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

Funds held on trust or under direction

255. When a person receives, either alone or jointly with another person, any money or valuable security or a power of attorney for the sale, mortgage, pledge, or other disposition of any property, whether capable of being stolen or not, with a direction in either case that such money or any part thereof, or any other money received in exchange for it, or any part thereof, or the proceeds or any part of the proceeds of such security or of such mortgage, pledge, or other disposition, shall be applied to any purpose or paid to any person specified in the direction, such money and proceeds are deemed to be the property of the person from whom the money, security, or power of attorney was received until the direction has been complied with.

Funds received by agents for sale

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

Money received for another

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

Theft by owner

258. When any person takes or converts anything capable of being stolen, under such circumstances as would otherwise amount to theft, it is immaterial that he himself has a special property or interest therein, or that he himself is the owner of the thing taken or converted subject to some special property or interest of some other person therein, or that he is lessee of the thing, or that he himself is one of two or more joint owners of the thing, or that he is a director or officer of a corporation or company or society who are the owners of it.

Husband and wife

259. A person who, while a man and his wife are living together, procures either of them to deal with anything which is, to his knowledge, the property of the other in a manner which would be theft if they were not married, is deemed to have stolen the thing, and may be charged with theft.

General punishment for the ft

260. A person who steals anything capable of being stolen is guilty of the felony termed theft, and is liable, unless owing to the circumstances of the theft or the nature of the thing stolen some other punishment is provided, to imprisonment for seven years.

Stealing wills

261. If the thing stolen is a testamentary instrument, whether the testator is living or dead, the offender is liable to imprisonment for ten years.

Stealing postal matter

262. If the thing stolen is postal matter or any chattel, money, or valuable security contained in any postal matter, the offender is liable to imprisonment for ten years.

Stealing cattle

263. If the thing stolen is any of the things following, that is to say: a horse, mare, gelding, ass, mule, bull, cow, ox, ram, wether, goat or pig, or the young of any such animal, the offender is liable to imprisonment for seven years.

Stealing from the person, in transit, etc.

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

- (a) if the thing is stolen from the person of another;
- (b) if the thing is stolen in a dwelling-house, and its value exceeds Rs.60, or the offender at or immediately before or after the time of stealing uses or threatens to use violence to any person in the dwelling-house;
- (c) if the thing is stolen from any kind of vessel or vehicle or place of deposit used for the conveyance or custody of goods in transit from one place to another;
- (d) if the thing is stolen from a vessel which is in distress or wrecked or stranded;
- (e) if the thing is stolen from a public office in which it is deposited or kept;

(f) if the offender, in order to commit the offence, opens any locked room, box, or other receptacle, by means of a key or other instrument.

the offender is liable to imprisonment for ten years.

Stealing by public servants.

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

Stealing by clerks or servants

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

Stealing by directors or officers of companies

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

Stealing by agents

268. If the thing stolen is any of the things following, that is to say-

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

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

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

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

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

the offender is liable to imprisonment for ten years.

Stealing by tenants or lodgers

269. If the thing stolen is a fixture or chattel let to the offender to be used by him with a house or lodging, and its value exceeds Rs.60, he is liable to imprisonment for seven years.

Stealing after previous conviction

270. If on the conviction of a person for theft under section 260 of this Code, he admits or it is proved that before committing such theft he had been convicted of a theft under the said section, he shall be liable to imprisonment for ten years.

CHAPTER XXVII - Offences Allied to Stealing

Concealing registers

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

Concealing wills

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

Concealing title deeds

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

Killing animal with intent to steal

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

Severing with intent to steal

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

Fraudulent disposal of mortgaged goods

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

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

Fraudulent dealing with ores

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

Fraudulent appropriation of power

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

Unlawful use of vehicles, animals, etc.

279. Any person who unlawfully and without colour of right, but not so as to be guilty of stealing, takes or converts to his own use or to the use of any other person, any draught or riding animal or any vehicle or cycle, however propelled, or any vessel, shall be guilty of a misdemeanour and shall be liable to imprisonment for six months, or to a fine of Rs.500 or to both such imprisonment and such fine.

CHAPTER XXVIII - Robbery and Extortion

Definition of robbery

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

Punishment of robbery

281. Any person who commits the felony of robbery is liable to imprisonment for eighteen years.

If the offender is armed with any dangerous or offensive weapon or instrument, or is in company with one or more other person or persons, or if, at

Attempted robbery

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

If the offender is armed with any dangerous or offensive weapon or instrument, or is in company with one or more other person or persons, or if, at or immediately before or immediately after the time of the assault, he wounds, beats, strikes, or uses any other personal violence to any person, he is liable to imprisonment for life.

Assault with intent to steal

283. Any person who assaults any person with intent to steal anything is guilty of a felony, and is liable to imprisonment for ten years.

Demanding property by written threat

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

Threatening to accuse of crime with intent to extort

285. Any person who with intent to extort or gain anything from any person-

(a) accuses or threatens to accuse any person of committing any felony or misdemeanour, or of offering or making any solicitation or threat to any person as an inducement to commit or permit the commission of any felony or misdemeanour; or

(b) threatens that any person shall be accused by any other person of any felony or misdemeanour, or of any such act; or

(c) knowing the contents of the writing, causes any person to receive any writing containing any such accusation or threat as aforesaid,

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

(i) an offence for which the punishment of imprisonment for life may be inflicted; or

(ii) any of the offences defined in Chapter XV, or an attempt to commit any of such offences; or

(iii) an assault with intent to have carnal knowledge of any person against the order of nature, or an unlawful and indecent assault upon a male person; or

(iv) a solicitation or threat offered or made to any person as an inducement to commit or permit the commission of any of the offences aforesaid

the offender is liable to imprisonment for eighteen years.

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

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

Procuring execution of deed by threats

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

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

(b) to write any name or impress or affix any seal upon or to any paper or parchment, in order that it may be afterwards made or converted into or used or dealt with as a valuable security,

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

Demanding thing with threats with intent to steal

287. Any person who, with intent to steal any valuable thing, demands it from any person with menaces or force, is guilty of a felony, and is liable to imprisonment for ten years.

CHAPTER XXIX - Burglary, Housebreaking and Similar Offences

Definition of breaking and entering

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

A person is deemed to enter a building as soon as any part of his body or

any part of any instrument used by him in within the building.

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

Breaking and entering dwelling-houses, etc.

289. Any person who-

(a) breaks and enters any building, tent or vessel used as a human dwelling with intent to commit a felony therein; or

(b) having entered any building, tent or vessel used as a human dwelling with intent to commit a felony therein, or having committed a felony in any such building, tent, or vessel, breaks out thereof,

is guilty of a felony termed "housebreaking" and is liable to imprisonment for ten years.

If the offence is committed in the light, it is termed "burglary" and the offender is liable to imprisonment for fourteen years.

Entering dwelling-house with intent

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

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

Breaking into shop, etc., and committing felony

291. Any person who-

(a) breaks and enters a schoolhouse, shop, warehouse, store, office, or counting-house, or a building which is adjacent to a dwelling house, garage, pavilion club, factory, workshop and occupied with it but is no part of it, or any building used as a place of worship, and commits a felony therein; or

(b) having committed a felony in a schoolhouse, shop, warehouse, store, office, garage, pavilion, club, factory, workshop, or counting-house, or in any such other building as last mentioned, breaks out of the building,

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

Breaking into shop, etc., with intent

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

Armed, etc., with intent to commit felony

293. Any person who is found under any of the circumstances following, that is to say-

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

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

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

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

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

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

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

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

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

Criminal trespass

294. Any person who-

(1) enters into or upon property in the possession of another contrary to the will of any person lawfully in possession of such property or who having entered into or upon property in the possession of another remains in or upon the same contrary to the will of any person lawfully in possession of such property, or

(2) enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person lawfully in possession of such property or who having lawfully entered into or upon such property unlawfully remains there with intent thereby to intimidate, insult or annoy any such person or with intent to commit any offence.

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

If the property upon which the offence is committed is any vessel or any building or tent used as a human dwelling or any building used as a place of worship or as a place for the custody of property, the offender is liable to imprisonment for five years.

Forfeiture of house breaking instruments

295. When any person is convicted of an offence under this chapter the court may order that any dangerous or offensive weapon or instrument of house-breaking carried or used in connection with any such offence shall be forfeited to the Republic.

CHAPTER XXX -False Pretences

Definition of a false pretence

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

Provided however that, a person who enters into a contract without intending to perform his obligations thereunder shall be deemed to make a false pretence.

Obtaining goods by false pretence

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

Obtaining execution of security by false pretence

298. Any person who by any false pretence, and with intent to defraud, induces any person to execute, make, accept, indorse, alter, or destroy the whole or nay part of any valuable security, or to write any name or impress, or affix any seal upon or to any paper or parchment in order that it may be afterwards made or converted into or used or dealt with as a valuable security, is guilty of a misdemeanour, and is liable to imprisonment for three years.

Cheating

299. Any person who by means of any fraudulent trick or device obtains from any

other person anything capable of being stolen or induces any other person to deliver to any person anything capable of being stolen or to pay or deliver to any person any money or goods or any greater sum of money or greater quantity of goods than he would have paid or delivered but for such trick or devices, is guilty of a misdemeanour, and is liable to imprisonment for three years.

Issuing cheque without provision

299A(1) Any person who-

(a) issues a cheque on a bank, within or outside Seychelles, for the payment of which cheque there is no, or no sufficient, pre-existing, adequate or free provision; or

(b) after the issue of a cheque, withdraws, whether within or outside Seychelles, all or part of any provision for the payment of such cheque or stops payment thereof; or

(c) in any way prevents the payee of any cheque from effecting payment thereof,

shall be guilty of an offence and liable on conviction to imprisonment for five years or to a fine of Rs.50,000 or to both such imprisonment and fine.

(2) A prosecution shall not be commenced in respect of an offence under subsection (1)(a) of this section unless the payee of the cheque, within one month of the date of such cheque, makes a complaint to the Police or to the Attorney General.

Obtaining credit by false pretence

300. Any person who-

(a) in incurring any debt or liability obtains credit by any false pretence or by means of any other fraud; or

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

(c) with intent to defraud his creditors or any of them, sells or removes any part of his property since or within two months before the date of any unsatisfied judgment or order for payment of money obtained against him,

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

Conspiracy to defraud

301. Any person who conspires with another by deceit or any fraudulent means to affect the market price of anything publicly sold, or to defraud the public, or any person, whether a particular person or not, or to extort any property from any person,

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

Frauds on sale or mortgage of property

302. Any person who, being a seller or mortgagor of any property, or being the pleader or agent of any such seller or mortgagor, with intent to induce the purchaser or mortgagee to accept the title offered or produced to him, and with intent to defraud-

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

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

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

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

Pretending to deal in witchcraft and offences connected therewith

303. (1) Any person who-

(a) pretends to deal in witchcraft; or

(b) pretends to tell fortunes; or

(c) uses or pretends to use subtle craft, means or device by witchcraft, charms or other like superstitious means, to deceive or to impose upon any other person or to cause fear, annoyance or injury to another in mind, person or property; or

(d) employs or solicits any person to advise him on any matter for any purpose whatsoever by witchcraft, non-natural or other like superstitious means; or

(e) has in his possession any charm or poison or thing which he intends for use either by himself or by some other person for the purpose of any act punishable under paragraph (a), (b) or (c) of this subsection,

is guilty of a misdemeanour.

(2) A person found in possession of anything commonly used for the purpose of an act punishable under paragraph (a), (b), or (c) of such purpose unless and until the contrary be proved.

(3) Any person who shall receive or obtain any consideration whatsoever or the promise thereof for or in respect of the doing by such person of any act punishable under paragraphs (a), (b) or (c) of subsection (1) shall, if he has actually received

such consideration, be deemed guilty of the offence of obtaining by false pretences, and if he has not actually received such consideration but only the promise thereof, be deemed guilty of the offence of attempting to obtain by false pretences and shall be liable upon conviction to punishment accordingly.

Any agreement for the giving of any consideration for or in respect of the doing of any act punishable as aforesaid shall be null and void.

Obtaining registration by false pretence

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

False declaration for passport

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

Possession of unauthorized weights, measures

306. (1) Any trader who shall have in his warehouse, manufactory, shop, counting-house, backshop or place of business any weights or measures of length and of capacity not duly or marked by the officer or officers appointed for that purpose by the President under the laws for the time being in force regulating weights and measures of length or of capacity, or any weights or measures differing from those established by law, is guilty of a misdemeanour and is liable to a fine not exceeding five thousand rupees and to the seizure and forfeiture of the said weights and measures.

(2) The provisions of subsection (1) shall not apply to druggists' or jewellers' weights or measures of length or capacity of lawful weight, dimensions or capacity and intended to be sold as merchandise, but not possessed or used for the sale of other goods.

Possession of false weights

307. (1) Any hawker, shop-keeper, druggist or other trader who has in his possession or in his shop, warehouse or place of business any instrument for weighing or any weight or any measure of length or not exceeding five thousand rupees unless he proves that he did not know that any such article was false.

(2) In case of a subsequent conviction for a similar offence within twelve months of the first conviction the offender shall be punished with imprisonment not exceeding twelve months and a fine not exceeding ten thousand rupees.

Use of false instrument for weighing or false weight

308. (1) Any person who fraudulently uses any instrument for weighing, which he knows to be false, is guilty of a misdemeanour and is liable to imprisonment not

exceeding twelve months and to fine not exceeding ten thousand rupees.

(2) Any person who fraudulently uses any false weight or false measure of length or capacity, or fraudulently uses any weight or any measure of length or capacity as a different weight or measure from what it is in fact is guilty of a misdemeanour and liable to imprisonment not exceeding one year or to a fine not exceeding ten thousand rupees.

CHAPTER XXXI - Receiving Property Stolen or Unlawfully Obtained and Like Offences

Receiving property stolen or unlawfully obtained

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

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

(3) No person shall be convicted of an offence under this section unless it shall first be proved that the property which is the subject matter of the charge has in fact been stolen, or feloniously or unlawfully taken, extorted, obtained, converted or disposed of.

Unlawful possession

310. Any person who has or had in his possession anything whatever which may be reasonably suspected of having been stolen or unlawfully obtained and who fails to give a satisfactory account to the court of how he came by the same is guilty of a misdemeanour.

Tracing possession

311. (1) If any person brought or appearing before a court under the provisions of section 310 declares that he received any such thing as therein mentioned from some other person, or that he was employed as a carrier, agent, or servant to convey the same for some other person, the court may cause every such other person, and also any other person through whose possession any such thing shall previously have passed, to be brought before it.

(2) Upon any such person as is in subsection (1) mentioned being brought before it, it shall be lawful for the court to examine him as to whether he has been in possession of any such thing as aforesaid, and upon his admitting such possession, or upon it being proved to the satisfaction of the court that such person has been in possession of any such thing, the court may call upon such person to give an account

to the satisfaction of the court by what lawful means such person came by such thing, and if such person fails to give such account, he shall be liable to imprisonment for two years.

(3) For the purposes of this section, the possession of a carrier, agent or servant shall be deemed to be the possession of the person who shall have employed such carrier, agent or servant to convey the same.

Receiving property dishonestly acquired outside Seychelles

312. Any person who, without lawful excuse, knowing or having reason to believe the same to have been stolen or obtained in any way whatsoever under such circumstances that if the act had been committed in Seychelles the person committing it would have been guilty of felony or misdemeanour, receives or has in his possession any property so stolen or obtained outside Seychelles, is guilty of an offence of the like degree (whether felony or misdemeanour) and is liable to imprisonment for fourteen years.

CHAPTER XXXII - Frauds by Trustees and Persons in a Position of Trust, and False Accounting

Fraudulent conversion by trustees

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

For the purposes of this section the term “trustee” includes the following persons and no others, that is to say-

- (a) trustees upon express trusts created by a deed, will, or instrument in writing, whether for a public or private or charitable purpose;
- (b) trustees appointed by or under the authority of an Act or statute for any such purpose;
- (c) persons upon whom the duties of any such trust as aforesaid devolve;
- (d) executors and administrators.

Misappropriation and fraud by directors, and officers of corporation, etc.

314. Any person who-

- (a) being a director or officer of a corporation or company receives or possesses himself as such of any of the property of the corporation or company otherwise than in payment of a just debt or demand, and, with intent to defraud, omits either to make a full and true entry thereof in the books and accounts of the corporation or company, or

to cause or direct such an entry to be made therein; or

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

(i) destroys, alters, mutilates or falsifies any book, document, valuable security or account, which belongs to the corporation or company, or any entry in any such book, document, or account, or is privy to any such act; or

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

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

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

Fraudulent publications as to companies, etc.

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

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

(b) to induce any person, whether a particular person or not, to become a member of, or to entrust or advance any property to, the corporation or company, or to enter into any security for the benefit thereof,

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

Fraudulent accounting by clerk

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

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

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

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

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

Fraudulent accounting by public officer

317. Any person who, being an officer charged with the receipt, custody or management of any part of the public revenue or property, knowingly furnishes any false statement or return of any money or property received by him or entrusted to his care, or of any balance of money or property in his possession or under control, is guilty of a misdemeanour and is liable to imprisonment for three years.

Division VI – Malicious Injuries to Property

CHAPTER XXXIII - Offences Causing Injury to Property

Arson

318. Any person who willfully and unlawfully sets fire to-

- (a) any building or structure whatever, whether completed or not; or
- (b) any vessel, whether completed or not; or
- (c) any stack of cultivated produce, or of mineral or vegetable fuel; or
- (d) a mine, or the workings, fittings, or appliances of a mine,

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

Attempts to commit arson

319. Any person who-

- (a) attempts unlawfully to set fire to any such thing as is mentioned in section 318; or
- (b) willfully and unlawfully sets fire to anything which is so situated that any such thing as is mentioned in section 318 is likely to catch fire from it,

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

Setting fire to crops, etc.

320. Any person who willfully and unlawfully sets fire to-

- (a) a crop of cultivated produce, whether standing, picked or cut; or

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

(c) any standing trees, saplings, or shrubs, whether indigenous or not, under cultivation,

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

Attempts to set fire to crops, etc.

321. Any person who-

(a) attempts unlawfully to set fire to any such thing as is mentioned in section 320; or

(b) willfully and unlawfully sets fire to anything which is so situated that any such thing as is mentioned in section 320 is likely to catch fire from it,

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

Casting away ships

322. Any person who-

(a) wilfully and unlawfully casts or destroys any vessel whether completed or not; or

(b) wilfully and unlawfully does any act which tends to the immediate loss or destruction of a vessel in distress; or

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

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

Attempts to cast ships

323. Any person who attempts unlawfully to cast away or destroy a vessel, whether completed or not, or attempts unlawfully to do any act tending to the immediate loss or destruction of a vessel in distress, is guilty of a felony, and is liable to imprisonment for fourteen years.

Injuring animals

324. Any person who willfully and unlawfully kills, maims, or wounds any animal capable of being stolen is guilty of an offence.

If the animal in question is a horse, mare, gelding, ass, mule, bull, cow, ox, goat, pig, ram, ewe, wether, or the young of any such animal, the offender is guilty of a felony, and is liable to imprisonment for seven years.

In any other case the offender is guilty of a misdemeanour:

Provided that a person who kills any sheep, goat, pig, dog or poultry on his own ground while such animal is doing damage to his property, shall not be liable to punishment under this section if he proves that on a previous occasion such animal had done damage to his property and that he had informed the owner of such animal of the fact.

Other malicious injuries; general and special punishments

325. (1) Any person who willfully and unlawfully destroys or damages any property is guilty of an offence, which, unless otherwise stated, is a misdemeanour, and he is liable, if no other punishment is provided, to imprisonment for two years.

(2) If the property in question is a dwelling-house or a vessel, and the injury is caused by the explosion of any explosive substance, and if-

(a) any person is in the dwelling-house or vessel; or

(b) the destruction or damage actually endangers the life of any person,

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

(3) (a) If the property in question is a bank or wall of a river, canal, aqueduct, reservoir, or inland water, or work which appertains to a dock, reservoir, or inland water, and the injury causes actual danger of inundation or damage to any land or building; or

(b) if the property in question is a bridge, viaduct, or aqueduct, which is constructed over a highway, or canal, or over which a highway, or canal passes, and the property is destroyed, or

(c) if the property in question, being any such bridge, viaduct or aqueduct, is damaged, and the damage is done with intent to render the bridge, viaduct, or aqueduct, or the highway, or canal passing over or under the same, or any part thereof, dangerous or impassable, and the same or any part thereof, dangerous or impassable, and the same or any part thereof is thereby rendered dangerous or impassable,

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

(4) If the property in question is a testamentary instrument, whether the testator is living or dead, or a register which is authorised or required by law to be kept for authenticating or recording the title to any property, or for recording births, baptism, marriages, deaths, or burials, or a copy of any part of any such register

which is required by law to be sent to any public officer, the offender is guilty of a felony, and is liable to imprisonment for fourteen years.

(5) If the property in question is a vessel in distress or wrecked, or stranded, or anything which belongs to such vessel, the offender is guilty of a felony, and is liable to imprisonment for seven years.

- (6) (a) If the property in question, being a vessel, whether completed or not, is destroyed, or
- (b) if the property in question, being a vessel, whether completed or not, is damaged, and the damage is done with intent to destroy it or render it useless; or
- (c) if the property in question is a light, beacon, buoy, mark, or signal, used for the purposes of navigation, or for the guidance of persons engaged in navigation; or
- (d) if the property in question is a bank or wall of a river, canal, aqueduct, reservoir, or inland water, or a work which appertains to a dock, canal, aqueduct, reservoir, or inland water, or which is used for the purposes of loading or unloading goods; or
- (e) if the property in question, being a bridge, viaduct, or aqueduct which is constructed over a highway, or canal, or over which a highway or canal passes, is damaged, and the damage is done with intent to render the bridge, viaduct or aqueduct, or the highway, or canal passing over or under the same, or any part thereof, dangerous or impassable; or
- (f) if the property in question, being anything in process of manufacture, or an agricultural or manufacturing machine, or a manufacturing implement, or a machine or appliance used or intended to be used for performing any process connected with the preparation of any agricultural or pastoral produce, is destroyed; or
- (g) if the property in question, being any such thing, machine, implement, or appliance, as last aforesaid, is damaged, and the damage is done with intent to destroy the thing in question or to render it useless; or
- (h) if the property in question is a shaft or a passage of a mine, and the injury is done with intent to damage the mine or to obstruct its working; or
- (i) if the property in question is a machine, appliance, apparatus, building, erection, bridge or road, appertaining to or used with a mine, whether the thing in question is completed or not; or
- (j) if the property in question, being a rope, chain, or tackle, of whatever material, which is used in a mine, or upon any way or work

appertaining to or used with a mine, is destroyed; or

(k) if the property in question, being any such rope, chain, or tackle, as last aforesaid, is damaged, and the damage is done with intent to destroy the thing in question or to render it useless; or

(l) if the property in question is a well, or bore for water, or the dam, bank, wall or floodgate of a millpond or pool;

(m) if the property in question forms part of or is intended for use in any electrical, telephone, telegraph or wireless telegraph installation, including any wires or cables used or intended for use in any such installation,

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

(7) If the property in question is a document which is deposited or kept in a public office, or which is evidence of title to any land or estate in land, the offender is guilty of a felony, and is liable to imprisonment for seven years.

Attempted destruction by explosives

326. Any person who, unlawfully and with intent to destroy or damage any property, plus any explosive substance in any place whatever, is guilty of a felony, and is liable to imprisonment for fourteen years.

Spreading infectious disease among animals

327. Any person who willfully and unlawfully causes, or is concerned in causing, or attempts to cause, any infectious disease to be communicated to or among any animal or animals capable of being stolen, is guilty of a felony, and is liable to imprisonment for seven years.

Boundary marks – removal of

328. Any person who willfully and unlawfully, and with intent to defraud, removes or defaces any object or mark which has been lawfully erected or made as an indication of the boundary and any land, is guilty of a felony, and is liable to imprisonment for three years.

Government boundary marks – damage to

329. Any person who-

(a) willfully removes, defaces or injures any survey mark or boundary mark which shall have been made or erected by or under the direction of any government department or in the course of or for the purposes of a government survey; or

(b) being under an obligation to maintain in repair any boundary

mark made or erected as aforesaid, neglects or refuses to repair the same;

(c) willfully removes, defaces, or injures any survey mark erected by or under the authority of a licensed surveyor or any mark erected by an intending applicant for any lease, licence or right under an Act relating to mines or minerals,

is guilty of a misdemeanour, and is liable to imprisonment for three months or to a fine of Rs.250 and may further be ordered by the court to pay the cost of repairing or replacing the survey mark or boundary mark and of making any survey rendered necessary by the offender's act or neglect.

Threats to burn or destroy

330. Any person who, knowing the contents thereof, sends, delivers, utters, or directly or indirectly causes to be received, any letter or writing threatening to burn or destroy any house, barn, or other building, or any rick or stack of grain, hay, or straw, or other agricultural produce, whether in or under any building or not, or any ship or vessel, or to kill, maim, or wound any cattle, is guilty of a felony, and is liable to imprisonment for ten years.

Division VII – Forgery, Coining and Counterfeiting

CHAPTER XXXIV - Definitions

Definition of forgery

331. Forgery is the making of a false document with intent to defraud or to deceive.

Document

332. The term “document” in this division of this Code does not include a trade mark or any other sign used in connection with articles of commerce though they may be written or printed.

Making a false document

333. Any person makes a false document who-

(a) makes a document purporting to be what in fact it is not;

(b) alters a document without authority in such a manner that if the alteration had been authorised it would have altered the effect of the document;

(c) introduces into a document without authority whilst it is being drawn up matter which if it had been authorised would have altered the effect of the document;

(d) signs a document-

(i) in the name of any person without his authority whether such name is or is not the same as that of the person signing;

(ii) in the name of any fictitious person alleged to exist whether the fictitious person is or is not alleged to be of the same name as the person signing;

(iii) in the name represented as being the name of the different person from that of the person signing it and intended to be mistaken for the name of that person;

(iv) in the name of a person personated by the person signing the document, provided that the effect of the instrument depends upon the identity between the person signing the document and the person whom he professes to be.

Intent to defraud

334. An intent to defraud is presumed to exist if it appears that at the time when the false the false document was made there was in existence a specific person ascertained or unascertained capable of being defrauded thereby, and this presumption is not rebutted by proof that the offender took or intended to take measures to prevent such person from being defrauded in fact, nor by the fact that he had or thought he had a right to the thing to be obtained by the false document.

CHAPTER XXXV - Punishments for Forgery

General punishment for forgery

335. Any person who forges any document is guilty of an offence which, unless otherwise stated, is a felony, and he is liable, unless owing to the circumstances of the forgery or the nature of the thing forged some other punishment is provided, to imprisonment for three years.

Forgeries punishable by imprisonment for life

336. Any person who forges any will, document of title to land, judicial record, power of attorney, bank note, currency note, bill of exchange, promissory note or other negotiable instrument, policy of insurance, cheque or other authority for the payment of money by a person carrying on business as a banker, is liable to imprisonment for life and the court may in addition order that any such document as aforesaid shall be forfeited to the Republic.

Forgeries punishable by imprisonment for ten years

337. Any person who forges any judicial or official document is liable to imprisonment for ten years.

Forgeries punishable by imprisonment for seven years

338. Any person who-

(a) forges any stamp whether impressed or adhesive used for the purposes of revenue or accounting by any government department; or

(b) without lawful excuse, the proof whereof shall lie upon him, makes or has knowingly in his possession any die or instrument capable or making the impression of any such stamp; or

(c) fraudulently cuts, tears in any way, or removes from any material any stamp used for purposes of revenue or accounting by the Government, with intent that another use shall be made of such stamp or any part thereof; or

(d) fraudulently mutilates any such stamp as last aforesaid, with intent that another use shall be made of such stamp; or

(e) fraudulently fixes or places upon any material or upon any such stamp as last aforesaid any stamp or part of a stamp which whether fraudulently or not has been cut, torn, or in any way removed from any other material or out of or from any other stamp; or

(f) fraudulently erases or otherwise either really or apparently removes from any stamped material any name, sum, date, or other matter or thing whatsoever written thereon with the intent that another use shall be made of the stamp upon such material; or

(g) knowingly and without lawful excuse, the proof whereof shall lie upon him, has in his possession any stamp or part of a stamp which has been fraudulently cut, torn, or otherwise removed from any material, or any stamp which has been fraudulently mutilated, or any stamped material out of which any name, sum, date, or other matter or thing has been fraudulently erased or otherwise really or apparently removed,

is liable to imprisonment for seven years.

Uttering false documents

339. Any person who knowingly and fraudulently utters a false document is guilty of an offence of the same kind, and is liable to the same punishment, as if he had forged the thing in question.

Uttering cancelled or exhausted documents

340. Any person who knowingly utters as and for a subsisting and effectual document, any document which has by any lawful authority been ordered to be revoked, cancelled, or suspended, or the operation of which has ceased by effluxion of time, or by death, or by the happening of any other event, is guilty of an offence of the same kind, and is liable to the same punishment, as if he had forged the document.

Procuring execution by false pretence

341. Any person who, by means of any false and fraudulent representations as to the nature, contents, or operation of a document, procures another to sign or execute the document, is guilty of an offence of the same kind, and is liable to the same punishment, as if he had forged the document.

Obliterating crossing on cheques

342. Any person who, with intent to defraud-

(a) obliterates, adds to, or alters the crossing on a cheque; or

(b) knowingly utters a crossed cheque, the crossing on which has been obliterated, added to, or altered,

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

Making documents without authority

343. Any person who, with intent to defraud or to deceive-

(a) without lawful authority or excuse, makes, signs, or executes, for or in the name or on account of another person, whether by procuration or otherwise, any document or writing; or

(b) knowingly utters any document or writing so made, signed, or executed by another person,

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

Demanding property on forged will

344. Any person who procures the delivery or payment to himself or any other person of any property or money by virtue of any probate or letters of administration granted upon a forged testamentary instrument, knowing the testamentary instrument to have been forged, or upon or by virtue of any probate or letters of administration obtained by false evidence, knowing the grant to have been so obtained, is guilty of an offence of the same kind, and is liable to the same punishment, as if he had forged the document or thing by virtue whereof he procures the delivery or payment.

Importing and purchasing forged bank notes

345. Any person who, without lawful authority or excuse, the proof of which lies on him, imports into Seychelles, or purchases or receives from any person, or has in his possession, a forged bank note or currency note, whether filled up or in blank, knowing it to be forged, is guilty of a felony, and is liable to imprisonment for seven years.

Falsifying warrants for money

346. Any person who, being employed in the public service, knowingly and with intent to defraud makes out or delivers to any person a warrant for the payment of any money payable by public authority, for a greater or less amount than that to which the person on whose behalf the warrant is made out is entitled, is guilty of a felony, and is liable to imprisonment for seven years.

Falsification of register

347. Any person who, having the actual custody of any register or record kept by lawful authority, knowingly permits any entry which in any material particular is to his knowledge false to be made in the register or record, is guilty of a felony, and is liable to imprisonment for seven years.

False certificate of marriage

348. Any person who signs or transmits to a person authorised by law to register marriages, a certificate of marriage, or any documents purporting to be a certificate of marriage, which in any material particulars to his knowledge false, is guilty of a felony and is liable to imprisonment for seven years.

False statement for registration

349. Any person who knowingly and with intent to procure the same to be inserted in a register of births, deaths, or marriages, makes any false statement touching any matter required by law to be registered in any such register, is guilty of a felony, and is liable to imprisonment for three years.

CHAPTER XXXVI - Offences Relating to Coin and to Bank and Currency Notes

Definitions

350. In this chapter-

“coin” means any coin issued or deemed to have been issued by the Central Bank of Seychelles under the Central Bank of Seychelles Act and includes any coin of a foreign Sovereign or State;

“counterfeit coin” means coin not genuine but resembling or apparently intended to resemble or pass for genuine coin; and includes genuine coin prepared or altered so as to pass for coin of a higher denomination;

“utter” includes “tender” and “pass”;

“stamp” means any stamp issued or to be issued hereafter by the government for the purpose of revenue and includes postage stamps.

Counterfeiting coin

351. Any person who makes or begins to make any counterfeit coin is guilty of a

felony, and is liable to imprisonment for life.

Preparation for coining

352. Any person who-

(a) gilds or silvers any piece of metal of a fit size or figure to be coined, with intent that it shall be coined into counterfeit coin; or

(b) makes any piece of metal into a fit size or figure to facilitate the coining from it of any counterfeit coin, with intent that such counterfeit coin shall be made from it; or

(c) without lawful authority or excuse, the proof of which lies on him-

(i) buys, sells, receives, pays or disposes of any counterfeit coin at a lower rate than it imports or is apparently intended to import, or offers to do any such thing; or

(ii) brings or receives into Seychelles any counterfeit coin, knowing it to be counterfeit; or

(iii) makes or mends, or begins or prepares to make or mend, or has in his possession, or disposes of any stamp or mould which is adapted to make the resemblance of both or either of the sides of any coin, or any part of either of the sides of any coin, or any part of either side thereof, knowing the same to be a stamp or mould or to be so adapted; or

(iv) makes or mends, or begins or prepares to make or mend, or has in his possession, or disposes of any tool, instrument or machine which is adapted and intended to be used for making coin round the edges with marks or figures apparently resembling those on the edges of any coin, knowing the same to be so adapted and intended; or

(v) makes or mends, or begins or prepares to make or mend, or has in his possession, or disposes of any press for coinage, or any tool, instrument, or machine which is adapted for cutting round blanks out of gold, silver, or other metal, knowing such press, tool, instrument, or machine to have been used or to be intended to be used for making any counterfeit coin,

is guilty of a felony.

If the offence is committed with respect to current coin, he is liable to imprisonment for life.

If the offence is committed with respect to coin of a foreign Sovereign or

State, he is liable to imprisonment for seven years.

Making or having in possession paper or implements of forgery

353. Any person who, without lawful authority or excuse, the proof of which lies on him-

(a) makes, uses, or knowingly has in his custody or possession any paper intended to resemble and pass as a special paper such as is provided and used for making any bank note or currency note;

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

(c) engraves or in anywise makes upon any plate, wood, stone, or other material, any words, figures, letters, marks, lines or devices, the print whereof resembles in whole or in part any words, figures, letters, marks, lines or devices peculiar to and used in or on any bank note or currency note,

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

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

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

Clipping

354. Any person who deals with any current coin in such a manner as to diminish its weights with intent that when so dealt with it may pass as current coin, is guilty of a felony, and is liable to imprisonment for seven years.

Melting down of currency

355. Any person who melts down, breaks up, defaces by stamping thereon any name, word or mark, or uses otherwise than as currency any coin current for the time being in Seychelles is guilty of a misdemeanour, and is liable to imprisonment for six months or to a fine of Rs.1,000, or both such fine and imprisonment.

Impounding and destruction of counterfeit coin

356. Any officer of the government or the manager of any bank who receives, during the performance of his duties, any coin which he has reasonable ground for believing to be counterfeit coin shall impound such coin and transmit it to the Central Bank of

Seychelles that a coin is counterfeit and that compensation shall be granted or withheld shall be final, and no person shall be entitled to claim and no proceedings or action shall be brought against the Central Bank of Seychelles, the government, the officer of the government concerned, the manager of the bank concerned or his bank in respect of any loss or damage suffered by reason of such impounding and cutting, defacing or destruction.

Possession of clippings

357. Any person who unlawfully has in his possession or disposes of any filings, or clippings of gold or silver, or any gold or silver in bullion, dust, solution, or any other state, obtained by dealing with current gold or silver coin in such a manner as to diminish its weight, knowing the same to have been so obtained, is guilty of a felony, and is liable to imprisonment for seven years.

Uttering counterfeit coin

358. Any person who utters any counterfeit coin, knowing it to be counterfeit, is guilty of a misdemeanour.

Repeated uttering

359. Any person who-

(a) utters any counterfeit coin, knowing it to be counterfeit and at the time of such uttering has in his possession any other counterfeit coin; or

(b) utters any counterfeit coin, knowing it to be counterfeit, and either on the same day or on any of the ten days next ensuing, utters any other counterfeit coin, knowing it to be counterfeit; or

(c) receives, obtains, or has in his possession any counterfeit coin, knowing it to be counterfeit, with intent to utter it,

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

Uttering metal or coin not current as coin

360. (1) Any person who, with intent to defraud, utters as and for coin any metal or piece of metal is guilty of a misdemeanour, and is liable to imprisonment for one year.

(2) Any person who, with intent to defraud, utters as and for coin lawfully current in Seychelles by virtue of any Order in Council, Act, proclamation or otherwise, any coin not so lawfully current is guilty of a misdemeanour and is liable to imprisonment for one year.

Selling articles bearing designs in imitation of currency

361. Any person who, without lawful authority or excuse, the proof whereof lies

upon him, sells or offers or exposes for sale any article which bears a design in imitation of any currency or bank note or coin in current use in Seychelles or elsewhere is guilty of a misdemeanour, and is liable to imprisonment for six months.

Exporting counterfeit coin

362. Any person who, without lawful authority or excuse, the proof of which lies on him, exports or puts on board of a vessel or vehicle of any kind for the purpose of being exported from Seychelles, any counterfeit coin whatever, knowing it to be counterfeit, is guilty of a misdemeanour.

Forfeiture or counterfeit coin, etc.

363. (1) When any person is convicted of an offence under this or the preceding chapter, the court shall order the forfeiture to the Republic of any forged bank note or currency note or of any counterfeit coin or any stamp, mould, tool, instrument, machine, press, or any coin, bullion, or metal, or any article bearing a design in imitation of any currency, bank note or coin used or employed in the commission of any such offence.

(2) If it shall be made to appear by information on oath before the judge, registrar, magistrate or Justice of the Peace that there is reasonable cause to believe that any person has in his custody or possession without lawful authority or excuse-

(a) any instrument or other article peculiarly adapted for the forgery of currency notes; or

(b) any article mentioned in section 353, of this Code,

the judge, registrar, magistrate, or Justice of the Peace within his district may grant a warrant to search for the same; and if the same shall be found on search, it shall be lawful to seize and remove it to be disposed of according to law.

Counterfeit Stamps

Possession of die for purpose of making stamps

364. Any person who, without lawful authority or excuse, the proof of which lies on him-

(a) makes or mends, or begins or prepares to make or mend, or uses, or knowingly has in his possession, or disposes of any die, plate or instrument capable of making an impression resembling that made by any die, plate or instrument used for the purpose of making any stamp, whether impressed or adhesive, which is used for the purposes of the public revenue or of the Post Office Department in Seychelles or in any foreign country, or capable of producing in or on paper any words, figures, letters, marks, or lines resembling any words, figures, letters, marks or lines used in or on any paper specially provided by the proper authority for any such purpose; or

(b) knowingly has in his possession or disposes of any paper or other material which has on it the impression of any such die, plate or instrument, or any paper which has on it or in it any such words, figures, letters, marks or line as aforesaid; or

(c) fraudulently and with intent that use may be made of any such stamp as aforesaid, or of any part of it, removes the stamp from any material in any way whatever; or

(d) fraudulently and with intent that use may be made of any part of such stamp, mutilates the stamp; or

(e) fraudulently fixes or places upon any material or upon any such stamp or part of a stamp which has been in any way removed from any other material, or out of or from any other stamp; or

(f) fraudulently, and with intent that use may be made of any such stamp which has been already impressed upon or attached to any material, erases or otherwise removes, either really or apparently, from such material anything whatever written on it; or

(g) knowingly has in his possession or disposes of anything obtained or prepared by any such unlawful act as aforesaid; or

(h) fraudulently or with intent to cause loss to the government, uses for any purpose a stamp issued by government for the purpose of revenue which he knows to have been before used,

is guilty of a felony, and is liable to imprisonment for seven years, and any die, plate, instrument, paper or other thing as aforesaid which is found in his possession shall be forfeited to the Republic.

Possession of paper for making stamps

365. Any person who, without lawful authority or excuse, the proof of which lies on him-

(a) makes, or begins or prepares to make, or uses for any postal purpose, or has in his possession, or disposes of any imitation or representation on paper or any other material, of any stamp used for denoting any rate of postage of Seychelles, or of any foreign country; or

(b) makes or mends, or begins or prepares to make or mend, or uses, or has in his possession, or disposes of any die, plate, instrument, or material for making any such imitation or representation,

is guilty of a misdemeanour, and is liable to imprisonment for one year, or to a fine of Rs.650, and any stamps, and any other such things as aforesaid, which are found in his possession, shall be forfeited to the Republic.

For the purposes of this section a stamp purporting to denote a rate of postage of any country is to be taken to be a stamp used for postal purposes in that country until the country is shown.

CHAPTER XXXVII - Personation

General penalty for personation

366. Any person who, with intent to defraud any person, falsely represents himself to be some other person, living or dead, is guilty of a misdemeanour.

If the representation is that the offender is a person entitled by will or operation of law to any specific property and he commits the offence to obtain such property or possession thereof, he is liable to imprisonment for seven years.

Falsely making acknowledgment

367. Any person who, without lawful authority or excuse, the proof of which lies on him, makes, in the name of any other person, before any court or person lawfully authorised to take such an acknowledgment, an acknowledgment of liability of any kind, or an acknowledgment of a deed or other instrument, is guilty of a misdemeanour.

Personation of person named in certificate

368. Any person utters any document which has been issued by lawful authority to another person, and whereby that other person is certified to be a person possessed of any qualification recognized by law for any purpose, or to be the holder of any office, or to be entitled to exercise any profession, trade, or business, or to be entitled to any right or privilege, or to enjoy any rank or status, and falsely represents himself to be the person named in the document, is guilty of an offence of the same kind and is liable to the same punishment as if he had forged the document.

Lending certificate for personation

369. Any person who, being a person to whom any document has been issued by lawful authority whereby he is certified to be a person possessed of any qualification recognised by law for any purpose, or to be the holder of any office, or to be entitled to exercise any profession, trade, or business, or to be entitled to any right or privilege, or to enjoy any rank or status, sells, gives, or lends the document to another person with intent that that other may represent himself to be the person named therein, is guilty of a misdemeanour.

Personating person named in a testimonial

370. Any person who, for the purpose of obtaining any employment, utters any document of the nature of a testimonial of character given to another person, is guilty of a misdemeanour and is liable to imprisonment for one year.

Lending testimonial

371. Any person who, being a person to whom any such document as is mentioned in section 370 has been given, gives, sells, or lends such document to another person with the intent that that other person may utter such document for the purpose of obtaining any employment, is guilty of a misdemeanour.

CHAPTER XXXVIII - Secret Commissions and Corrupt Practices

Interpretation

372. (1) For the purpose of this chapter, the expression "consideration" includes valuable consideration of any kind; and the expression "agent" includes any person employed by or acting for another; and the expression "principal" includes an employer.

(2) A person serving in the public service or under any municipal council or board or under any other public body having power to impose rates or entrusted with the expenditure of any government funds or grants, and a member of any such municipal council or board or other public body is an agent within the meaning of this chapter.

Corrupt practices

- 373.
- (a) If any agent corruptly accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gift or consideration as an inducement or reward for doing or forbearing to do or for having done or forborne to do, any act in relation to his principal's affairs or business or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; or
 - (b) if any person corruptly gives or agrees to give or offers any gift or consideration to any agent as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; or
 - (c) if any person knowingly gives to any agent, or if any agent knowingly uses with intent to deceive his principal, any receipt, account or other document in respect of which the principal is interested, and which contains any statement which is false or erroneous or defective in any material particular, and which to his knowledge is intended to mislead the principal,

he shall be guilty of a misdemeanour, and shall be liable on conviction to imprisonment for a term not exceeding three years or to a fine not exceeding Rs.10,000, or to both such imprisonment and such fine.

Secret commission on Government contracts

374. Any person convicted of an offence under this chapter shall, where the matter or transaction in relation to which the offence was committed was a contract or a proposal for a contract with the government or any government department or a municipal council or board or other public body having power to impose rates or entrusted with the expenditure of any government funds or grants, or a sub-contract to execute any work comprised in such contract, be liable to imprisonment for fourteen years, or to a fine of Rs.10,000.

Presumption as to corrupt practices

375. Where in any proceedings against a person for an offence under this chapter it is proved that any money, gift or other consideration has been paid or given to or received by a person in the employment of the Republic or any government department or a municipal council or board or other public body having power to impose rates or entrusted with the expenditure of any government funds or grants, by or from a person or agent of a person holding or seeking to obtain a contract from the Republic or any government department or municipal council or board or other public body having power to impose rates or entrusted with the expenditure of any government funds or grants, the money, gift or consideration shall be deemed to have been paid or given and received corruptly as such inducement or reward as is mentioned in this chapter, unless the contrary is proved.

Consent of Attorney General to prosecution

376. A prosecution for an offence under this chapter shall not be instituted without the written consent of the Attorney General.

Division VIII – Attempts and Conspiracies to Commit Crimes, and Accessories after the Fact

CHAPTER XXXIX - Attempts

Attempt defined

377. When a person, intending to commit an offence, begins to put his intention into execution by means adapted to its fulfillment, and manifests his intention by some overt act, but does not fulfil his intention to such an extent as to commit the offence, he is deemed to attempt to commit the offence.

It is immaterial, except so far as regards punishment, whether the offender does all that is necessary on his part for completing the commission of the offence, or whether the complete fulfilment of his intention is prevented by circumstances independent of his will, or whether he desists of his own motion from the further prosecution of his intention.

It is immaterial that by reason of circumstances not known to the offender it is impossible in fact to commit the offence.

Soliciting or inciting others to commit offence

377A. Any person who solicits or incites or attempts to procure another to do any act or make any omission of such a nature that, if the act were done or the omission were made, an offence would thereby be committed, whether by himself or by that other person, is guilty of an offence of the same kind and is liable to the same punishment as if he had himself attempted to do the same act or make the same omission.

General punishment for attempts

378. Any person who attempts to commit a felony or misdemeanour is guilty of an offence, which, unless otherwise stated, is a misdemeanour.

Punishment for attempts to commit certain felonies

379. Any person who attempts to commit a felony of such a kind that a person convicted of it is liable to the punishment of death or imprisonment for a term of ten years or upwards, with or without other punishment, is guilty of a felony, and is liable, if no other punishment is provided, to imprisonment for seven years.

Neglect to prevent commission of a felony

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

CHAPTER XL - Conspiracies

Conspiracy to commit felony

381. Any person who conspires with another to commit any felony, or to do any act in any part of the world which if done in Seychelles would be a felony, and which is an offence under the law in force in the place where it is proposed to be done, is guilty of a felony, and is liable, if no other punishment is provided, to imprisonment for seven years, or, if the greatest punishment to which a person convicted of the felony in question is liable is less than imprisonment for seven years, then to such lesser imprisonment.

Conspiracy to commit misdemeanours

382. Any person who conspires with another to commit a misdemeanour, or to do any act in any part of the world which if done in Seychelles would be a misdemeanour, and which is an offence under the law in force in the place where it is proposed to be done, is guilty of a misdemeanour.

Other conspiracies

383. Any person who conspires with another to effect any of the purposes following, that is to say-

- (a) to prevent or defeat the execution or enforcement of any Act,

statute, or Order in Council; or

(b) to cause any injury to the person or reputation of any person, or to depreciate the value of any property of any person; or

(c) to prevent or obstruct the free and lawful disposition of any property by the owner thereof for its fair value; or

(d) to injure any person in his trade or profession; or

(e) to prevent or obstruct, by means of any act or acts which if done by an individual person would constitute an offence on his part, the free and lawful exercise by any person of his trade, profession, or occupation; or

(f) to effect any unlawful purpose; or

(g) to effect any lawful purpose by any unlawful means,

is guilty of a misdemeanour.

CHAPTER XLI - Accessories After the Fact

Definition

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

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

Punishment of accessories to felonies

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

Punishment of accessories to misdemeanours

386. Any person who becomes an accessory after the fact to a misdemeanour is guilty of a misdemeanour.

LAWS OF SEYCHELLES

CHAPTER 158

THE PENAL CODE

SUBSIDIARY LEGISLATION: SECTION 183: DRUMS REGULATIONS

[9th August, 1935]

G.G.1/5/1935
L.N.40/1937

Areas within which the beating of drums or tambours or the blowing of shells, etc., at night after 9 p.m. are prohibited are as follows-

(a) within the town of Victoria and a distance of one mile outside the limit thereof;

(b) within a radius of three-quarters of a mile from the police station at Anse Royale, Mahé;

(c) within a radius of three-quarters of a mile from the police station at Baie Ste. Anne, Praslin;

(d) within the area situated in the district of Grand' Anse, Praslin, and lying between the Morico Bridge on the North and the Nouvelle Découverte Bridge on the South and between the seashore on one side and an imaginary line inland three-quarters of a mile distant from the seashore and parallel thereto on the other side;

(e) within a radius of three-quarters of a mile from an imaginary point half way between the police station and the Roman catholic Church in the district of La Passe, La Digue.

SUBSIDIARY LEGISLATION: THE LOUDSPEAKERS (RESTRICTION OF USE) REGULATIONS

[25th March, 1965]

S.I. 17/1965

1. These regulations may be cited as the Loudspeakers (Restriction of use) Regulations.

2. In these regulations unless the context otherwise requires-

“loudspeaker” includes a megaphone and any other device for amplifying sound;

“public meeting” means any meeting in a public place;

“public place” means any open space to which, for the time being, the public have or are permitted to have access;

“town of Victoria” means the town of Victoria as defined in the Schedule to the Town of Victoria (Boundaries and Divisions) Act.

3. The use of a loudspeaker from a moving vehicle is absolutely prohibited within the town of Victoria.

4. (1) The use of a loudspeaker within the town of Victoria at a public meeting or in a public place is prohibited unless there is in force a written permit issued by the Commissioner of Police authorizing such use.

(2) The prohibition in this regulation imposed shall not apply to the use of loudspeakers-

(a) at any religious meeting; or

(b) at any ceremonial parade or public function of an official character; or

(c) at any sports meeting; or

(d) by or under the authority of any Government official or department or of a district council.

**SUBSIDIARY LEGISLATION: POSSESSION OF CATAPULT PROHIBITED
IN LA DIGUE ISLAND**

[15th March, 1965.]

G.N 95/1965

La Digue Island has been prescribed as an area within which the possession of a catapult is prohibited.

**SUBSIDIARY LEGISLATION: THE AMPLIFICATION OF SOUND AND
PLAYING OF MUSIC (CONTROL) REGULATION**

[30th August, 1976]

S.I. 81/1976
S.I. 6 of 2001

1. These regulations may be cited as the Amplification of Sound and Playing of

Music (Control) Regulations.

2. In these regulations words and expressions used shall, unless the context otherwise requires, have the meanings assigned to them in the Penal Code.

3. No person shall in any ballroom, dance-hall, "discotheque", business premises, restaurant, house, shop or other place whatsoever operate, cause, play or suffer to be operated, caused or played any radio, wireless gramophone, record-player, loudspeaker or other instrument or instruments, whether of the same nature of otherwise, made or adapted for the production, reproduction or amplification of sound or music, in such a manner as to cause annoyance or disturbance to any person, or causes any annoyance or disturbance thereby, whether in or outside such place:

Provided that the Commissioner of Police may, on the application in writing made by any person, and for good and sufficient reason, grant an exemption from the provisions of these Regulations for any specified period of time, in consultation with the Ministry responsible for Environment.

4. Any application for exemption from the provisions of regulation 3 shall be made to the Commissioner of Police and shall contain such information as the Commissioner of police may require to satisfy himself as to the nature of the application and any exemption granted by the Commissioner shall be subject to such conditions as he may lay down including a requirement to take specific measures for the protection of persons likely to be exposed to excessive noise.

5. The Commissioner of Police or any police officer may enter upon any premises or place mentioned in regulation 3 and may require that any noise, music or sound be abated or lowered in volume and if such request is not complied with may arrest or cause to be arrested any person whom he reasonably believes to be responsible for such noise, music or sound and may seize any radio, wireless, gramophone, record-player, loudspeaker or other instrument or instruments which he reasonably believes to be the cause of such noise, music or sound.

6. Any person who gives false information to the Commissioner of Police or any police officer or who fails to comply with or is in breach of any of these regulations or any condition laid down in regulation 4 shall be guilty of an offence and shall be liable, on conviction, to imprisonment for one year and to a fine of Rs.500, and, in addition the Court may order the confiscation of any radio, wireless, gramophone, record-player, loudspeaker or other instrument or instruments which may have been used in the commission of the offence.