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42 of 1930

An Act to establish a Code of Criminal Law.

[1st November, 1931]

28 of 1931

26 of 1933

10 of 1935

3 of 1936

28 of 1937

15 of 1938

48 of 1938

26 of 1940

25 of 1941

1 of 1945

15 of 1946

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29 of 1976
14 of 1981
2 of 1987
3 of 1990
7 of 1990

23 of 1993
13 of 1994
12 of 2000
20 of 2000
10 of 2003
15 of 2005
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36 of 1954
23 of 1955
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Notices
268 of 1964
303 of 1964
493 of 1964
497 of 1964
*Statutory
Instrument
63 of 1964
152 of 1965*

PART I-GENERAL PROVISIONS

CHAPTER I PRELIMINARY

1. This Act may be cited as the Penal Code Act.

Short title

Cap. 87

2. Except as hereinafter expressly provided, nothing in this Code shall affect-

(a) the liability, trial or punishment of a person for an offence against the common law or against any other law in force in Zambia other than this Code; or

(b) the liability of a person to be tried or punished for an offence under the provisions of any law in force in Zambia relating to the jurisdiction of the local courts in respect of acts done beyond the ordinary jurisdiction of such courts; or

(c) the power of any court to punish a person for contempt of such court; or

(d) 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

(e) 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; or

(f) any written law for the time being in force for the government of the Defence Force or the Zambia Police Force:

Saving of certain
laws

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.

(As amended by No. 10 of 1935 and S.I. No. 63 of 1964 and No 12 of 2000)

CHAPTER II INTERPRETATION

3. This Code shall be interpreted in accordance with the principles of legal interpretation obtaining in England.

(No. 5 of 1972)

General rule of interpretation

4. Unless the context otherwise requires- Interpretation
"community service" means form of punishment as a condition of suspension of a sentence of imprisonment requiring an offender to perform unpaid work within the community where the offender resides for the period specified in the order for community service"

"dwelling-house" includes any building or structure or part of a building or structure or any tent, or caravan or vessel 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;

"explosive" or "explosive substance" means-

(a) nitro-glycerine, dynamite, gun-cotton, blasting powders, gunpowder, fulminate of mercury or other metals, and every other substance or mixture, whether similar to those enumerated herein or not, used with a view to producing a practical effect by explosion; and
(b) any detonating, igniter or safety fuse, or article of like nature, any detonator, and every adaptation or preparation of an explosive as herein defined;

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

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

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

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

"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 city council, municipal council, town council, district council;

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

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

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

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

"offensive weapon" means any article made or adapted for use for causing or threatening injury to the person, or intended by the person in question for such use, and includes any knife, spear, arrow, stone, axe, axe handle, stick or similar article;

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

"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 public office; or
- (b) any office to which a person is appointed or nominated by Act or Statute; 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 definition; 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 member of a commission of inquiry appointed under or in pursuance of any Act;
- (ii) any person employed to execute any process of a court;
- (iii) all persons belonging to the Defence Force;
- (iv) all persons in the employment of any department of the Government, or a person in the employ of any corporation, body or board, including an institution of higher learning, in which the Government has a majority or controlling interest or any director of any such corporation, body or board;
- (v) a person acting as a minister of religion of whatsoever denomination in so far as he performs functions in respect of the notification of intending marriage or in respect of the solemnisation of marriage, or in respect of the making or keeping of any register or certificate of marriage, birth, baptism, death or burial, but not in any

other respect;

(vi) a councillor of, or a person in the employ of a local authority;

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

"petroleum" has the meaning assigned to it by section *two* of the Petroleum Act;

Cap. 435

"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 and possession of each and all of them;

"property" includes any description of real and personal property, money, debts, and legacies, and all deeds and instruments relating to or evidencing the title or right to any property, or giving a right to recover or receive any money or goods, and also includes not only such property as has been originally in the possession or under the control of any person, but also any property into or for which the same has been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise;

"public" refers not only to all persons within Zambia, but also to such indeterminate persons as may happen to be affected by the conduct in respect to which such expression is used;

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

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

"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;

"the State" means the Sovereign Republic of Zambia;

"Statute" means any British Act and includes any orders, rules, regulations, by-laws, or other subsidiary legislation made or passed under the authority of any Statute;

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

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

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

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

(As amended by No. 26 of 1940, No. 29 of 1948, No. 53 of 1957, Nos. 7 and 34 of 1960, G.N. No. 268 of 1964, S.I. No. 63 of 1964, Nos. 69 and 76 of 1965, 35 of 1973 No. 20 of 1966, Nos. 25 and 36 of 1969, No. 5 of 1972, No. 29 of 1974, and No. 3 of 1990

CHAPTER III

APPLICATION OF THIS CODE

5. The jurisdiction of the courts of Zambia for the purposes of this Code extends to every place within Zambia.

Extent of
jurisdiction of local
courts

6. (1) Subject to subsection (3), a citizen of Zambia who does any act outside Zambia which, if wholly done within Zambia, would be an offence against this Code, may be tried and punished under this Code in the same manner as if such act had been wholly done within Zambia.

Liability for
offences
committed outside
the jurisdiction, or
partly within and
partly beyond the
jurisdiction

(2) When an act which, if wholly done within Zambia, would be an offence against this Code, is done partly within and partly outside Zambia, any person who within Zambia does any part of such act may be tried and punished under this Code as if such act had been wholly done within Zambia.

(3) Nothing in subsection (1) shall render any person liable to be tried and punished under this Code in respect of any act done outside Zambia which, if wholly done within Zambia, would be an offence against this Code if such person has been convicted and punished outside Zambia in respect of the same act, but, save as aforesaid, any such conviction shall, for the purposes of any law including this Code, be deemed to be a conviction for the said offence against this Code.

(No. 39 of 1970)

CHAPTER IV

GENERAL RULES AS TO CRIMINAL RESPONSIBILITY

7. 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.

Ignorance of law

8. 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.

Bona fide claim of right

9. (1) 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.

Intention and motive

(2) 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.

(3) 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.

10. 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.

Mistake of fact

11. 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.

Presumption of sanity

12. 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

Insanity

upon his mind one or other of the effects above mentioned in reference to that act or omission.

12A. (1) Where a person kills or is a 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 is induced by

disease or injury) which has substantially impaired his mental responsibility for his acts or omissions in doing or being party to the killing.

Defence of diminished responsibility

(2) The provisions of subsection (2) of section *thirteen* shall apply with necessary modifications to the defence of diminished responsibility under this section:

Provided that the transient effect of intoxication as described in that subsection shall be deemed not to amount to disease or injury for purposes of this section.

(3) On a charge of murder, it shall be for the defence to prove the defence of diminished responsibility and the burden of proof shall be on a balance of probabilities.

(4) Where the defence of diminished responsibility is proved in accordance with this section, a person charged with murder shall be liable to be convicted of manslaughter or any other offence which is less than murder.

(As amended by Act No. 3 of 1990)

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

Intoxication

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

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

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

(3) Where the defence under 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 *one hundred and sixty-seven* of the Criminal Procedure Code relating to insanity 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.

(No. 10 of 1935 as amended by No. 3 of 1936)

Cap. 88

14. (1) A person under the age of eight years is not criminally responsible for any act or omission.

Immature age

(2) 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.

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

(As amended by No. 20 of 1953)

15. 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.

Judicial officers

16. (1) Except as provided in this section, a person shall not be guilty of an offence if he does or omits to do any act under duress or coercion.

Defence of duress

or coercion

(2) For the purpose of this section a person shall be regarded as having done or omitted to do any act under duress if he was induced to do or omit to do the act by any threat of death or grievous harm to himself or another and if at the time when he did or omitted to do the act he believed (whether or not on reasonable grounds)-

(a) that the harm threatened was death or grievous injury;

(b) that the threat would be carried out-

(i) immediately; or

(ii) before he could have any real opportunity to seek official protection,

if he did not do or omit to do the act in question; and

(c) that there was no way of avoiding or preventing the harm threatened.

(3) In this section "official protection" means the protection of the police or any authority managing any prison or other custodial institution, or any other authority concerned with the maintenance of law and order.

(As amended by Act No. 13 of 1990)

17. Subject to any other provisions of this Code or any other law for the time being in force, a person shall not be criminally responsible for the use of force in repelling an unlawful attack upon his person or property, or the person or property of any other person, if the means he uses and the degree of force he employs in doing so are no more than is necessary in the circumstances to repel the unlawful attack.

(As amended by Act 3 of 1990)

Defence of person

or property

18. Where any person is charged with a criminal offence arising out of the arrest, or attempted arrest, by him of a person who forcibly resists such arrest or attempts to evade being arrested, the court shall, in

considering whether the means used were necessary or the degree of force used was reasonable for the apprehension of such person, have regard to the gravity of the offence which had been, or was being, committed by such person and the circumstances in which such offence had been, or was being, committed by such person.

Use of force in effecting arrest

19. Repealed by Act No. 3 of 1990.

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

Person not to be punished twice for same offence

CHAPTER V

PARTIES TO OFFENCES

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

Principal offenders

(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.

(2) In the case of paragraph (d) of subsection (1), such person may be charged either with committing the offence or with counselling or procuring its commission. A conviction of counselling or procuring the commission of an offence entails the same consequences in all respects as a conviction of committing the offence. Any person who procures another to do or omit to do any act of such a nature that, if he had himself done the act or made the omission, the act or omission would have constituted an offence on his part, is guilty of an offence of the same kind and is liable to the same punishment, as if he had himself done the act or made the omission; and he may be charged with doing the act or making the omission.

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

that its commission was a probable consequence of the prosecution of such purpose, each of them is deemed to have committed the offence.

Offences
committed by joint
offenders in
prosecution of
common purpose

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

Counselling
another to commit
an offence

CHAPTER VI PUNISHMENTS

24. The following punishments may be inflicted by a court:

- (a) death;
- (b) imprisonment or an order for community service;
- (c) Repealed by Act No. 10 of 2003
- (d) fine;
- (e) forfeiture;
- (f) payment of compensation;
- (g) finding security to keep the peace and be of good behaviour, or to come up for judgment;
- (h) deportation;
- (i) any other punishment provided by this Code or by any other law.

(As amended by No. 26 of 1933 and No.26 of 1940 and No 12 of 2000)

Different kinds of
punishment

25. (1) When any person is sentenced to death, the sentence shall direct that he shall be hanged by the neck until he is dead.

Sentence of death

(2) Sentence of death shall not be pronounced on or recorded against a person convicted of an offence if it appears to the court that, at the time when the offence was committed, he was under the age of eighteen years; but in lieu thereof the court shall sentence him to be detained during the President's pleasure; and when so sentenced he shall be liable to be detained in such place and under such conditions as the President may direct.

(3) When a person has been sentenced to be detained during the President's pleasure under subsection (2), the presiding Judge shall forward to the President a copy of the notes of evidence taken at the trial,

with a report in writing signed by him containing such recommendation or observations on the case as he may think fit to make.

(4) Where a woman convicted of an offence punishable with death is found in accordance with the provisions of section *three hundred and six* of the Criminal Procedure Code to be pregnant, the sentence to be passed on her shall be a sentence of imprisonment for life instead of a sentence of death.

(As amended by No. 26 of 1940 and No. 28 of 1952)

Cap. 88

26. (1) All imprisonment shall be with or without hard labour in the discretion of the court, unless the imposition of imprisonment only without hard labour is expressly prescribed by law.

Imprisonment

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

(3) A person convicted of a felony, other than manslaughter, may be sentenced to pay a fine in addition to imprisonment:

Provided that, where such person is a corporation, the corporation may be sentenced to a fine instead of imprisonment.

(4) A person convicted of manslaughter or a misdemeanour may be sentenced to pay a fine in addition to or instead of imprisonment.

26A. Where an offender has been sentenced to community service, the offender shall perform community work for the period specified in the order for community service shall be performed in an area where the offender resides.

(As amended by No. 26 of 1933 and No. 76 of 1965 and No 12 of 2000)

Insertion of new

section 26A

Sentence of

community service

27. *(No. 23 of 1952 as amended by No. 21 of 1958, No. 18 of 1963 and G.N. No. 303 of 1964 and Repealed by Act No. 10 of 2003)*

28. Where a fine is imposed under any written law, then, in the absence of express provisions relating to such fine in such written 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.

Fines

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

(ii)

is

to 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 term of imprisonment ordered by a court in respect of the non-payment of any sum of money adjudged to be paid by a conviction or in respect of the default of a sufficient distress to satisfy any such sum shall be such term as, in the opinion of the court, will satisfy the justice of the case, but shall not exceed in any case the maximum fixed by the following scale:

Maximum

Amount period

Not exceeding 15 penalty unit 14 days

Exceeding 15 penalty units but not exceeding 30 penalty units 1 month

Exceeding 30 penalty units but not exceeding 150 penalty units 3 months

Exceeding 150 penalty units but not exceeding 600 penalty units 4 months

Exceeding 600 penalty units but not exceeding 1500 penalty units 6 months

Exceeding 1500 penalty units 9 months

(e) 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.

(As amended by No. 26 of 1933 and Act No. 13 of 1994)

29. When any person is convicted of an offence under any of the following sections, namely, sections *ninety four, ninety-five, ninety-six, one hundred and thirty, one hundred and fourteen, three hundred and eighty-five and three hundred and eighty-six*, the court shall, in addition to or in lieu of any penalty which may be imposed, order the forfeiture of any property which has passed in connection with the commission of the offence, or, if such property cannot be forfeited or cannot be found, of such sum as the court shall assess as the value of the property. Payment of any sum so ordered to be forfeited may be enforced in the same manner and subject to the same provisions as in the case of the payment of a fine.

(As amended by No. 26 of 1933 and S.I. No. 63 of 1964 and Act No. 29 of 1974)

Forfeiture

30. In accordance with the provisions of section *one hundred and*

seventy-five of the Criminal Procedure Code, 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;

Provided that where a person is convicted of an offence under section Compensation.

Cap. 88

two hundred and eighty-one A the court which convicts the person may, in addition to any other penalty imposed under that section, order the person convicted to make compensation to any person who has suffered loss or damage from the convicted person's offence and the order of compensation may include the actual loss suffered and any loss arising from the commission of the offence.

(As amended by No. 26 of 1933, No. 26 of 1940 and No. 20 of 2000)

31. A person convicted of an offence not punishable with death 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, conditioned 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.

(No. 26 of 1933 as amended by No. 18 of 1962)

Security for
keeping the peace

32. A court may order any person convicted of an offence to pay the costs of and incidental to the prosecution or any part thereof.

Costs

33. Whenever a court shall sentence to a term of imprisonment any person-

(a) who is not a citizen of Zambia; and

(b) who has been convicted of an offence under this Code, or under any written law other than an offence relating to the driving of a motor vehicle set out in the Roads and Road Traffic Act or in any regulations for the time being in force made thereunder;

the public prosecutor shall forth with, forward to the Minister responsible for home affairs the particulars of the conviction and sentence and all other particulars specified in the Second Schedule.

(Act No. 32 of 1972 and No. 8 of 1974)

Court to send
particulars of
conviction of
non-citizens to
Minister
responsible for

home affairs

Cap. 464

34. (1) Where a person is convicted before the High Court of felony, the High Court may, in addition to or in lieu of any other punishment to which he is liable, recommend to the President that he be deported to such part of Zambia as the President may direct.

Deportation within
Zambia- in cases of
felony

(2) Where upon any sworn information it appears to the High Court that there is reason to believe that any person is about to commit a breach of the peace or that his conduct is likely to produce or excite to a breach of the peace, the High Court may order him to give security in one or more sureties for peace and good behaviour and in default may order him to be imprisoned until he gives the security ordered, or recommend to the President that he be deported as aforesaid.

In default of
security for peace

(3) Where it is shown on oath to the satisfaction of the High Court that any person is conducting himself so as to be dangerous to peace and good order in any part of Zambia, or is endeavouring to excite enmity between any section of the people of Zambia and the President or the Government, or between any section of the people of Zambia and any other section of the same, or is intriguing against constituted power and authority in Zambia, or has been convicted in any court of competent jurisdiction within or without Zambia of any offence which would be likely to excite enmity between any section of the people of Zambia and any other section of the same or by any section of the people against such person, the High Court may recommend to the President that an order be made for his deportation to such part of Zambia as may be specified in such order.

In cases of
dangerous conduct

(4) The powers conferred by this section on the High Court shall also be exercisable by subordinate courts:

Powers of
subordinate courts

Provided however that any exercise of such powers by subordinate courts shall be liable to revision by and must be reported at once to the High Court.

(5) Where a court recommends under this section that a person be deported, the President may make an order in accordance with such recommendation:

Approval of High
Court

Provided however that if such recommendation is made by a subordinate court, the President shall not make an order for deportation without the approval of the High Court.

(6) Any person for whose deportation a recommendation or an order has Detention pending

deportation

been made may be detained in the nearest convenient prison pending confirmation or otherwise of the recommendation or the carrying out of the order, as the case may be.

(As amended by No. 26 of 1933, No. 34 of 1954, G.N. No. 303 of 1964 and S.I. No. 63 of 1964)

35. (1) If a person ordered to be deported to any part of Zambia under the preceding section is sentenced to any term of imprisonment, such sentence of imprisonment shall be served before the order of deportation is carried into effect.

Provisions as to
sentences of
deportation

(2) An order for deportation may be expressed to be in force for a time to be limited therein or for an unlimited time and may require the deported person to report himself personally at such place, to such person and at such intervals of time, not being less than thirty days, as may be specified in such order.

(3) If a person leaves or attempts to leave the district or place in Zambia to which he has been deported while the order of deportation is still in force without the written consent of the President, which consent may be given subject to any terms as to security for good behaviour or otherwise as to the President may seem good, or wilfully neglects or refuses to report himself as ordered, such person is liable to imprisonment for six months and to be again deported on a fresh warrant under the original order or under a new order.

(4) For the purposes of this section, a person shall be deemed to have served a sentence of imprisonment immediately upon his release after earning remission for good behaviour or on licence issued under any written law relating to prisons.

(As amended by No. 1 of 1952, No. 34 of 1954, No. 21 of 1959, No. 18 of 1962 and G.N. No. 303 of 1964)

36. With respect to cases where one act constitutes several crimes or where several acts are done in execution of one criminal purpose, the following provisions shall have effect, that is to

say:

One act
constituting several
crimes, etc.

(a) Where a person does several acts against or in respect of one person or thing, each of which acts is a crime but the whole of which

Against one person
or thing

acts are done in the execution of the same design and in the opinion of the court before which the person is tried form one continuous transaction, the person shall be punished for each act so charged as a separate crime and the court shall upon conviction award a separate punishment for each act. If the court orders imprisonment the order may

be for concurrent or consecutive terms of imprisonment:

Provided always that-

(i) if the terms of imprisonment ordered are consecutive, the total of the terms so ordered shall not exceed the maximum term of imprisonment allowed by law in respect of that conviction for which the law allows the longest term; and, if the court orders the payment of fines, the fines may or may not be cumulative;

(ii) where the court orders cumulative fines, the total of the fines so ordered shall not exceed the maximum fines allowed by law in respect of that conviction for which the law allows the largest fine.

(b) If a person by one act assaults, harms or kills several persons or in any manner causes injury to several persons or things, he shall on conviction be punished in respect of each person so assaulted, harmed or killed or each person or thing injured; in such case the court shall order a separate punishment in respect of each person assaulted, harmed or killed or in respect of each person or thing injured. If the court orders imprisonment, the order may be for concurrent or consecutive terms of imprisonment:

Against several
persons or things

Provided always that-

(i) if the terms of imprisonment ordered are consecutive, the total of the terms of imprisonment so ordered shall not exceed the maximum term allowed by law in respect of that conviction for which the law allows the longest term; and, if the court orders the payment of fines, the fines may or may not be cumulative;

(ii) where the court orders cumulative fines, the total of such fines shall not exceed the maximum allowed by law in respect of that conviction for which the law allows the largest fine.

(As amended by No. 23 of 1952 and No. 10 of 2003)

37. Except as otherwise in this Code or in any other written law provided, a sentence of imprisonment takes effect from and includes the whole of the day on which it was pronounced unless the court shall, at the time of passing sentence, expressly order that it shall take effect from some day prior to that on which it was pronounced;

Date from which
sentence takes
effect

Provided that such prior day shall not be earlier than the day on which the arrested person was taken into custody for the offence for which sentence is pronounced.

(As amended by Act No. 3 of 1990)

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

General
punishment for
misdemeanours

39. (1) Where any person is convicted of an offence by a court and at the date of such conviction he has not been sentenced under a prior conviction or his sentence under a prior conviction has not expired, then any sentence imposed by the said court, other than a sentence of death, shall be executed after the expiration of the sentence imposed under the prior conviction, unless the said court otherwise directs.

Sentences

cumulative unless

otherwise directed

(2) A court may direct that a sentence imposed by it on any person shall be executed concurrently with a sentence or with any part of a sentence imposed on such person under a prior conviction:

Provided that it shall not be lawful for a court to direct that a sentence of imprisonment in default of payment of a fine shall be executed concurrently with a sentence imposed in respect of a prior conviction under sub-paragraph (i) of paragraph (c) of section *twenty-eight* or with any part of such sentence.

(*No. 18 of 1962 as amended by G.N. No. 268 of 1964 and Act No. 10 of 2003*)

40. (1) When sentence is passed under this Code on an escaped convict, such sentence, if of death or fine, shall, subject to the provisions of this code, take effect immediately, and if of imprisonment, shall take effect according to the following rules, that is to say:

Escaped convicts

to serve unexpired

sentences when

recaptured

(a) if the new sentence is severer than the sentence which such convict was undergoing when he escaped, the new sentence shall take effect immediately and he shall serve any period of imprisonment in respect of his former sentence which remained unexpired at the time of his escape after he has completed serving his new sentence;

(b) when the new sentence is not severer than the sentence the convict was undergoing when he escaped, the new sentence shall take effect after he has suffered imprisonment for a further period equal to that part of his former sentence which remained unexpired at the time of his escape.

(2) For the purposes of this section, a sentence of imprisonment for whatever period with hard labour shall be deemed severer than a sentence of imprisonment for whatever period without hard labour and, where the conditions as to labour are the same, a longer sentence shall be deemed severer than a shorter sentence.

(*Amended by Act No. 26 of 1940 and Act No. 10 of 2003*)

41. (1) Where a court by or before which a person is convicted of an offence, not being an offence the sentence for which is fixed by law, is of opinion, having regard to the circumstances including the nature of the offence and the character of the offender, that it is inexpedient to inflict punishment and that a probation order under the Probation of

Offenders Act is not appropriate, the court may make an order discharging him absolutely or subject to the condition that he commits no offence during such period, not exceeding twelve months from the date of the order, as may be specified therein.

Absolute and
conditional
discharge
Cap. 93

(2) An order discharging a person subject to such a condition as aforesaid is in this section and in section *forty-two* referred to as "an order for conditional discharge", and the period specified in any such order as "the period of conditional discharge".

(3) Before making an order for conditional discharge, the court shall explain to the offender in ordinary language that if he commits another offence during the period of conditional discharge he will be liable to be sentenced for the original offence.

(4) A court may, on making an order for conditional discharge, if it ⁸⁸ thinks it expedient for the purpose of the reformation of the offender, allow any person who consents to do so to execute a bond for the good behaviour of the offender; and the provisions of section *sixty* of the Criminal Procedure Code shall apply in relation to the forfeiture of any such bond.

(5) Subject as hereinafter provided, a conviction for an offence for which an order is made under this section discharging the offender absolutely or conditionally shall not be deemed to be a conviction for any purpose other than the purposes of the proceedings in which the order is made and of any further proceedings which may be taken against the offender under section *forty-two*.

(6) The foregoing provisions of this section shall not affect-

(a) any right of any such offender as aforesaid to appeal against his conviction, or to rely thereon in bar of any subsequent proceedings for the same offence;

(b) the reversion or restoration of any property in consequence of the conviction of any such offender.

(7) Where, under the provisions of section *forty-two*, a person conditionally discharged under this section is sentenced for the offence in respect of which the order for conditional discharge was made, that order shall cease to have effect.

(No. 18 of 1962)

42. (1) If it appears to any Judge or magistrate that an offender against whom an order for conditional discharge has been made has been convicted of an offence during the period of conditional discharge, he may issue a summons requiring the offender to appear at the place and time specified therein or may issue a warrant for his arrest:

Commission of
further offences by
offender against
whom an order for

conditional
discharge has been
made

Provided that a magistrate shall not issue such a summons or warrant except on information on oath.

(2) A summons or warrant issued under subsection (1) shall direct the offender to appear or to be brought before the court by which the order for conditional discharge was made.

(3) Where an offender is convicted by a magistrate of an offence committed during the period of conditional discharge, the magistrate may commit the offender to custody or release him on bail, with or without sureties, until he can be brought or appear before the court by which the order of conditional discharge was made.

(4) Where a magistrate commits an offender to custody, or releases him on bail, under the provisions of subsection (3), he shall transmit to the court by which the order for conditional discharge was made-

(a) such particulars of the matter as he thinks fit; and

(b) a signed certificate of the conviction for the offence committed during the period of conditional discharge;

and for the purposes of the proceedings in the court to which it is transmitted, such certificate, if purporting to be so signed, shall be admitted as evidence of the conviction.

(5) Where it is proved to the satisfaction of the court by which an order for conditional discharge was made that the offender has been convicted of an offence committed during the period of conditional discharge, such court may deal with him in respect of the original offence in any manner in which it could deal with him if he had just then been convicted before the court of such original offence.

(6) Where an offender is convicted before the High Court of an offence committed during the period of conditional discharge, the High Court may deal with him in respect of the original offence in any manner in which the court which made the order for conditional discharge could deal with him if he had just then been convicted before that court of such original offence.

(No. 18 of 1962)

PART II-CRIMES

DIVISION I

OFFENCES AGAINST PUBLIC ORDER

CHAPTER VII

TREASON AND OTHER OFFENCES

43. (1) A person is guilty of treason and shall be liable to suffer death who-

Treason

(a) prepares or endeavours to overthrow by unlawful means the Government as by law established; or

(b) prepares or endeavours to procure by force any alteration of the law or the policies of the Government; or

(c) prepares or endeavours to procure by force the setting up of an independent state in any part of Zambia or the secession of any part of Zambia from the Republic; or

(d) prepares or endeavours to carry out by force any enterprise which usurps the executive power of the State in any matter of both a public and a general nature; or

(e) incites or assists any person to invade Zambia with armed force or unlawfully to submit any part of Zambia to attack by land, water or air, to assist in the preparation of any such invasion or attack; or

(f) in time of war and with intent to give assistance to the enemy, does any act which is likely to give such assistance.

(2) In paragraphs (b), (c) and (d) of subsection (1), "by force" means either-

(a) by force used in such a manner as, whether by reason of the number of persons involved or the means used or both, to imperil or be likely to imperil the safety of the State or to cause or be likely to cause death or grievous harm or serious damage to property; or

(b) by a show of force calculated to arouse reasonable apprehension that force will be used in such a manner as is described in paragraph (a).

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

(No. 6 of 1965)

44. Any person who-

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

(b) knowing that any person intends to commit treason, does not give information thereof with all reasonable despatch to the President, the Vice-President, a Minister, a Deputy Minister, an Administrative Officer or a police officer, or use other reasonable endeavours to prevent the commission of the offence;

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

(As amended by No. 6 of 1965)

Concealment of treason

45. A person is guilty of treason-felony and shall be liable to imprisonment for twenty years who-

Treason-felony

(a) prepares or endeavours to procure by unlawful means any alterations of the law or the policies of the Government; or

(b) prepares or endeavours to carry out by unlawful means any enterprise which usurps the executive power of the State in any matter of both a public and a general nature.

(No. 6 of 1965)

46. Any person who, without lawful authority, carries on, or makes preparation for carrying on, or aids in or advises the carrying on of, or

preparation for, any war or warlike undertaking with, for, by, or against any chief, or with, for, by, or against any tribal group, is guilty of a felony, and is liable to imprisonment for life.

Promoting tribal
war

47. Repealed by Act No. 35 of 1973.

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

Inciting to mutiny

(a) to seduce any person serving in the Defence Force or any member of the Zambia Police Force from his duty and allegiance to the President; 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.

(As amended by S.I. No. 63 of 1964)

49. 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 member of the Zambia Police Force, is guilty of a misdemeanour.

Aiding soldiers or
police in acts of
mutiny

50. 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 member of the Zambia Police Force, is guilty of a misdemeanour and is liable to imprisonment for six months.

Inducing soldiers
or police to desert

51. Any person who-

(a) knowingly and advisedly aids an alien enemy of the Republic, being a prisoner of war in Zambia, 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,

Aiding prisoners of
war to escape

to escape from Zambia, is guilty of a felony and is liable to imprisonment for life;

(b) negligently and unlawfully permits the escape of any such

person as is mentioned in paragraph (a), is guilty of a misdemeanour.

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

Definition of overt
act

53. (1) If the President is of the opinion that there is in any publication or series of publications published within or without Zambia 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* and in such local newspapers as he may consider necessary, declare that that particular publication or series of publications, or all publications or any class of publication specified in the order published by that person or association of persons, shall be a prohibited publication or prohibited publications, as the case may be.

Prohibited
publications

(2) If an order made under the provisions of subsection (1) specifies 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 publication specified in the order.

(5) Where an order has been made under subsection (1) declaring any series of publications or all or any class of 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 Zambia any particular publication affected by such order may apply to the competent authority for a permit in that behalf and, unless the competent authority 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 competent authority under subsection (5) has been refused may appeal in writing against such refusal to the President whose decision thereon shall be final.

(7) For the purpose of this section and of any prosecution in respect of a prohibited publication, any publication which purports to be printed or published outside Zambia by any person or association of persons shall, unless and until the contrary is proved, be deemed to be published outside Zambia by such person or persons.

(No. 9 of 1954 as amended by Nos. 34 and 36 of 1960, No. 18 of 1962 and G.N. No. 303 of 1964)

54. (1) Any person who imports, publishes, sells, offers for sale, distributes, or reproduces any prohibited publication or any extract therefrom, is guilty of an offence and is liable for a first offence to imprisonment for two years or to a fine not exceeding three thousand penalty units or to both, and for a subsequent offence to imprisonment for three years; and such publication or extract therefrom shall be forfeited to the President on behalf of the Government.

Offences in respect
of prohibited
publications

(2) Any person who, without lawful excuse, has in his possession any prohibited publication or any extract therefrom, is guilty of an offence and is liable for a first offence to imprisonment for one year or to a fine not exceeding one thousand and five hundred penalty units or to both, and for subsequent offence to imprisonment for two years; and such publication or extract therefrom shall be forfeited to the President on behalf of the Government.

(No. 48 of 1938 as amended by No. 9 of 1954, S.I. No. 63 of 1964 and Act No. 13 of 1994)

55. (1) Any person to whom any prohibited publication or any extract therefrom is sent without his knowledge or privity or in response to a request made before the publication was declared to be a prohibited publication, or who has in his possession any prohibited publication or extract therefrom at the date when the publication is declared to be a prohibited publication, shall forthwith if or as soon as the nature of the contents thereof have become known to him, or in the case of a publication or extract therefrom which is in the possession of such person before an order declaring it to be a prohibited publication has been made, forthwith upon the making of such an order, deliver such publication or extract therefrom at the nearest police station of which an officer of or above the rank of Sub Inspector is in charge or to the nearest Administrative Officer, and in default thereof he is guilty of an offence and is liable on conviction to a fine not exceeding one thousand and five hundred penalty units or to imprisonment for a period not exceeding one year, or to both, and such publication or extract therefrom shall be forfeited.

Delivery of
prohibited
publication to
police station

(2) This section shall not apply to a public officer who receives or is in possession of a prohibited publication or extract therefrom in the course of his duties as such officer.

(3) A person who complies with the provisions of subsection (1) or is convicted of an offence under that subsection shall not be liable to prosecution for an offence under section *fifty-four*.

(*No. 9 of 1954 as amended by S.I. No. 63 of 1964, No. 24 of 1977 and Act No. 13 of 1994*)

56. (1) Any of the following officers, that is to say: Power to examine packages

(a) any officer of the General Post Office not below the rank of postmaster;

(b) any officer of the Department of Customs and Excise not below the rank of collector;

(c) any police officer not below the rank of Sub Inspector;

(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 prohibited publication or extract therefrom, 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 *fifty-four* or *fifty-five*, as the case may be.

(*No. 48 of 1938 as amended by No. 9 of 1954, G.N. No. 303 of 1964 and Act No. 24 of 1977*)

57. (1) Any person who- Offences in respect of seditious practices

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

(b) utters any seditious words;

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

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

is guilty of an offence and is liable for a first offence to imprisonment for seven years or to a fine not exceeding six thousand penalty units or to both; and any seditious publication shall be forfeited.

(2) Any person who, without lawful excuse, has in his possession any seditious publication is guilty of an offence and is liable for a first

offence to imprisonment for two years or to a fine not exceeding three thousand penalty units or to both, and for a subsequent offence to imprisonment for five years; and such publication shall be forfeited.

(No. 48 of 1938 as amended by No. 29 of 1959, No.6 of 1965 and Act No. 13 of 1994)

58. A person shall not be prosecuted for an offence under section *fifty-seven* without the written consent of the Director of Public Prosecutions.

(No. 48 of 1938 as amended by No. 6 of 1965)

Legal proceedings

59. No person shall be convicted of an offence under section *fifty-seven* on the uncorroborated testimony of one witness.

(No. 48 of 1938)

Evidence

60. (1) A seditious intention is an intention- Seditious intention

(a) to advocate the desirability of overthrowing by unlawful means the Government as by law established; or

(b) to bring into hatred or contempt or to excite disaffection against the Government as by law established; or

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

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

(e) to raise discontent or disaffection among the people of Zambia; or

(f) to promote feelings of ill will or hostility between different communities or different parts of a community; or

(g) to promote feelings of ill will or hostility between different classes of the population of Zambia; or

(h) to advocate the desirability of any part of Zambia becoming an independent state or otherwise seceding from the Republic; or

(i) to incite violence or any offence prejudicial to public order or in disturbance of the public peace; or

(j) to incite resistance, either active or passive, or disobedience to any law or the administration thereof:

Provided that an intention, not being an intention manifested in such a manner as to effect or be likely to effect any of the purposes mentioned in the foregoing provisions of this subsection, shall not be taken to be seditious if it is an intention-

(i) to show that the Government have been misled or mistaken in any of their measures; or

(ii) to point out errors or defects in the Government or Constitution as by law established or in legislation or in the administration of justice, with a view to the reformation of such errors or defects; or

(iii) to persuade the people of Zambia to attempt to procure by lawful means the alteration of any matter in Zambia as by law established; or

(iv) to point out, with a view to their removal, any matters which are producing or have a tendency to produce feelings of ill will or hostility between different classes of the population of Zambia.

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

(3) For the purposes of paragraph (f) of subsection (1), "community" includes any body or group of persons having a common tribal or racial origin.

(No. 48 of 1938 as amended by No. 2 of 1955, No. 53 of 1957, No. 34 of 1960, No. 20 of 1964, No. 6 of 1965 and No. 36 of 1969)

61. (1) In any prosecution for publishing a seditious publication where it is proved that the publication has been published, the following persons shall be deemed to have published such publication:

Persons deemed to
have published a
seditious
publication

(a) in the case of a publication of a society, the office-bearers of the society;

(b) any person referred to in the publication as being the editor, assistant editor or author of such publication;

(c) any person who is proved to be the editor of such publication;

(d) any person who is proved to have published such publication.

(2) Notwithstanding the provisions of subsection (1), where any person mentioned in paragraph (a), (b) or (c) of the said subsection is prosecuted for publishing a seditious publication, it shall be a sufficient defence if he proves to the satisfaction of the court that the seditious publication was published without his consent and that the publication of the seditious publication did not arise from want of due care or caution on his part.

(3) A publication shall be treated as being the publication of a society if-

(a) it professes by name or otherwise to be a publication of or under the sponsorship of the society;

(b) it is published or disseminated by or under the direction or guidance of the society or by any person as an office-bearer of the society.

(4) In any prosecution for publishing a seditious publication, publication by or under the sponsorship of any branch, party or organ of a society shall be deemed to be a publication by the main society and by any headquarters branch of such society.

(5) For the purposes of this section, "office-bearer" and "society" shall have the meaning assigned to them in the Societies Act.

(No. 18 of 1962)

Cap. 119

62. For the purposes of sections *fifty-three* to *sixty-one* both inclusive- Interpretation
"competent authority" means the person appointed as such by the President;

"import" includes(

a) to bring into Zambia; and

b) to bring within the inland waters of Zambia, whether or not the publication is brought ashore, and whether or not there is an intention to bring the same ashore;

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

"prohibited publication" means any publication in respect of which an order has been made under the provisions of section *fifty-three*;

"public interest" means the interest of defence, public safety, public order, public morality or public health;

"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, or gramophone record, or other similar means of reproducing speech, and every copy and reproduction of any publication;

"seditious publication" means a publication containing any word, sign or visible presentation expressive of a seditious intention; and

"seditious words" means words having a seditious intention.

(No. 48 of 1938 as amended by No. 9 of 1954, No. 18 of 1962, G.N. No. 303 of 1964 and No. 6 of 1965)

63. 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 death; 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.

Unlawful oaths to

commit capital

offences

64. 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

Other unlawful

oaths to commit

offences

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 offence not punishable with death;

(iii) to disturb the public peace;

(iv) to be 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 discovery 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.

65. A person who takes any such oath or engagement as is mentioned in the two last preceding sections cannot set up as a defence that he was compelled to do so, unless within fourteen days after taking it, or, if he is prevented by actual force or sickness, within fourteen days after the termination of such prevention, he declares by information on oath before a magistrate, or, if he is on actual service in the Defence Force or in the Zambia 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.

Compulsion: how far a defence

66. (1) Any person who- Unlawful drilling

(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.

(As amended by G.N. No. 303 of 1964 and S.I. No. 63 of 1964)

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

Publication of false

news with intent to
cause fear and
alarm to the public

(2) It shall be no defence to a charge under subsection (1) that he did not know or did not have reason to believe that the statement, rumour or report was false, unless he proves that, prior to publication, he took reasonable measures to verify the accuracy of such statement, rumour or report.

(No. 48 of 1938 as amended by No. 7 of 1958)

68. Any person who does any act or utters any words or publishes any writing, with intent to insult or bring into contempt or ridicule the official national anthem of Zambia, is guilty of an offence and is liable on conviction to imprisonment for a period not exceeding two years.

(No. 6 of 1965)

Insulting the
national anthem

69. Any person who, with intent to bring the President into hatred, ridicule or contempt, publishes any defamatory or insulting matter, whether by writing, print, word of mouth or in any other manner, is

Defamation of
President

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

(No. 6 of 1965)

70. (1) Any person who utters any words or publishes any writing expressing or showing hatred, ridicule or contempt for any person or group of persons wholly or mainly because of his or their race, tribe, place of origin or colour is guilty of an offence and is liable on conviction to imprisonment for a period not exceeding two years.

Expressing or
showing hatred,
ridicule or
contempt for
persons because of
race, tribe, place of
origin or colour

(2) A person shall not be prosecuted for an offence under this section without the written consent of the Director of Public Prosecutions.

(No. 6 of 1965)

CHAPTER VIII

OFFENCES AFFECTING RELATIONS WITH FOREIGN STATES AND EXTERNAL TRANQUILITY

71. 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 Zambia and the country to which such prince, potentate, ambassador or dignitary belongs, is guilty of a

misdemeanour.

(As amended by S.I. No. 63 of 1964)

Defamation of
foreign princes

72. Any person commits a misdemeanour who does any of the following acts without the authority of the President, that is to say:

(a) who prepares or fits out any naval or military expedition to proceed against the dominions of any friendly state, or is engaged in such preparation or fitting-out, or assists therein, or is employed in any capacity in such expedition; or

(b) who, being a Zambian subject, accepts or agrees to accept any commission or engagement in the military or naval service of any foreign state at war with any friendly state, or, whether a Zambian subject or not, induces any other person to accept or agree to accept any commission or engagement in the military or naval service of any

Foreign enlistment

foreign state as aforesaid; or

(c) who, being a Zambian subject, quits or goes on board any vessel with a view of quitting Zambia, with intent to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state, or, whether a Zambian subject or not, induces any other person to quit or to go on board any vessel with a view of quitting Zambia with the like intent; or

(d) who, being the master or owner of any vessel, knowingly either takes on board, or engages to take on board, or has on board such vessel any illegally enlisted person; or

(e) who, with intent or knowledge, or having reasonable cause to believe that the same will be employed in the military or naval service of any foreign state at war with any friendly state builds, agrees to build, causes to be built, equips, despatches, or causes or allows to be despatched, any vessel, or issues or delivers any commission for any vessel:

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

(i) upon a proclamation of neutrality being issued by the President, he forthwith gives notice to the President or the Minister responsible for foreign affairs that he is so building, causing to be built, or equipping such vessel, and furnishes such particulars of the contract and of any matters relating to, or done, or to be done under the contract as may be required by the President or the Minister responsible for foreign affairs; and

(ii) he gives such security, and takes and permits to be taken such other measures, if any, as the President or the Minister responsible for foreign affairs may prescribe for ensuring that such vessel shall not be

despatched, delivered, or removed without the licence of the President until the termination of such war as aforesaid.

(As amended by S.I. No. 63 of 1964)

73. Any person who is guilty of piracy or any crime connected with or relating or akin to piracy is liable to be tried and punished according to the law of England for the time being in force.

Piracy

CHAPTER IX

UNLAWFUL ASSEMBLIES, RIOTS AND OTHER OFFENCES AGAINST PUBLIC TRANQUILITY

74. (1) When three or more persons assemble with intent to commit an offence, or being assembled with intent to carry out some common purpose, conduct themselves in such a manner as to cause persons in the neighbourhood reasonably to fear that the persons so assembled will commit a breach of the peace, or 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.

Definition of

unlawful assembly

(2) When an unlawful assembly has begun to execute a common purpose 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.

(As amended by No. 20 of 1964)

Definition of riot

75. Any person who takes part in an unlawful assembly is guilty of a misdemeanour and is liable to imprisonment for five years.

(As amended by No. 26 of 1961)

Punishment of

unlawful assembly

76. Any person who takes part in a riot is guilty of a misdemeanour and is liable to imprisonment for seven years.

(As amended by No. 26 of 1961)

Punishment of riot

77. Any magistrate, or any police officer of or above the rank of Inspector, or any commissioned officer in the Defence Force, in whose view twelve or more persons are riotously assembled, or who apprehends that a riot is about to be committed by twelve or more persons assembled within his view, may make or cause to be made a proclamation in the President's name, in such form as he thinks fit, commanding the rioters or persons so assembled to disperse peaceably.

(As amended by No. 1 of 1956 and S.I. No. 63 of 1964)

Making

proclamation for

rioters to disperse

78. If upon the expiration of a reasonable time after such proclamation Dispersion of

rioters after

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

proclamation made

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

(As amended by No. 26 of 1961)

Rioting after

proclamation

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

(As amended by No. 26 of 1961)

Preventing or

obstructing the

making of

proclamation

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

Rioters

demolishing

buildings, etc.

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

Rioters injuring

buildings, etc.

83. All persons are guilty of a misdemeanour who, being riotously assembled, unlawfully and with force prevent, hinder or obstruct the loading or unloading of any railway, motor or other vehicle or vessel, or

Riotously
interfering with
railway, vehicle,
etc.

the starting or transit of any railway, motor or other vehicle, or the sailing or navigating of any vessel, or unlawfully and with force board any railway, motor or other vehicle or any vessel with intent so to do.

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

Going armed in
public

85. (1) Any person who, without lawful authority or excuse, the proof whereof shall lie upon him, has in his possession or in or upon any premises occupied by him any offensive weapon or any offensive material is guilty of an offence and is liable on conviction to imprisonment for a period not exceeding seven years.

Possession of
offensive weapons
or materials

(2) A police officer may arrest without warrant any person whom he has reasonable cause to believe to be committing an offence under this section.

(3) A person shall not be prosecuted for an offence under this section without the written consent of the Director of Public Prosecutions.

(4) In this section-

"offensive material" means any substance, material or article made or adapted for use for causing or threatening injury to the person or property, or intended by the person in question for such use, and includes-

(a) any explosive as defined in the Explosives Act; Cap. 115

(b) any ammunition as defined in the Firearms Act; Cap. 110

(c) any inflammable liquid or substance, and any acid or gas.

(No. 36 of 1969)

86. (1) Any person who, in order to take possession thereof, enters on any land 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,
Forcible entry

is guilty of the misdemeanour termed "forcible entry".

(2) 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.

87. 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".

Forcible detainer

88. Any person who takes part in a fight in a public place is guilty of a misdemeanour and is liable to imprisonment for six months or to a fine not exceeding seven hundred and fifty penalty units.

(As amended by Act No. 13 of 1994)

Affray

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

Challenge to fight a

duel

90. Any person who-

(a) threatens another with any injury to his 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 loaded firearms 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.

(No. 28 of 1937 as amended by No. 26 of 1961)

Threatening

violence

***91.** (1) Any person who, without lawful excuse, to any assembly makes any statement indicating or implying that it would be incumbent or desirable-

**On the expiry of Act No. 70 of 1953, the text of this section set out in*

Proposing violence
or breaches of the
law to assemblies

Act No. 22 of 1953 will be substituted.

(a) to do any acts calculated to bring death or physical injury to any person or to any class or community of persons; or

(b) to do any acts calculated to lead to destruction or damage to any property; or

(c) to commit an offence against any law in force in Zambia or in any part thereof;

is guilty of an offence and is liable to imprisonment for seven years:

Provided that a statement which expresses mere disapproval of a law shall, to that extent only, be held not to be a statement which indicates or implies that it would be incumbent or desirable to commit an offence against such law.

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

**On the expiry of Act No. 70 of 1953, the text of this section set out in Act No. 22 of 1953 will be substituted.*

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

(No. 70 of 1953 as amended by No. 26 of 1961 and S.I. No. 63 of 1964)

92. (1) Whenever the President is satisfied that any boycott is being conducted or is threatened or likely to be conducted in Zambia with the intention or effect of-

Wrongfully
inducing a boycott

(a) bringing into hatred or contempt, exciting disaffection against or undermining the lawful authority of the Government, or a local authority, or of persuading any such body to alter any law or rule, to appoint or dissolve any commission or committee or to take any action which it is not by law required to take;

(b) endangering law and order in the Republic;

(c) bringing the economic life of the Republic into jeopardy; or

(d) raising discontent or disaffection among the inhabitants of Zambia or engendering feelings of ill will or hostility between different classes or different races of the population of Zambia;

he may, by statutory notice, designate such boycott for the purposes of this section and may, by the same or in a subsequent such notice, specify in relation to a designated boycott any action which he is satisfied is likely to further that boycott, including (but without prejudice to the generality of the foregoing power) any action falling within any of the following classes of action, that is to say:

(i) abstaining from buying goods from or selling goods to any person or class of persons; or

(ii) abstaining from buying or selling any goods or class of goods; or

(iii) abstaining from entering or approaching or dealing at any premises at which any person or class of person carries on trade or business; or

(iv) abstaining from dealing with any person or class of person in the course of his trade or business or abstaining from using or providing any service or class of service; or

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

(vi) abstaining from letting, hiring or allowing the use of any land or building to any person or class of person; or

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

(2) Any person who, with intent to further any designated boycott-

(a) by word of mouth; or

(b) by making a publication as defined in subsection (6);

advises, induces or persuades or attempts to advise, induce or persuade any person or class of person to take any action which has been specified in relation to such boycott under the provisions of subsection (1), is guilty of an offence and is liable to imprisonment for a period not exceeding six months.

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

(4) Nothing in this section shall be construed so as to make unlawful any action lawfully taken by a party to a trade dispute as defined in the Industrial and Labour Relations Act, in contemplation or in furtherance of such dispute.

Cap. 269

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

(6) For the purposes of this section, "publication" has the meaning given to it by section *sixty-two*, and a person is said to make a publication if he prints, publishes, sells, distributes or reproduces such publication.

(7) For the purposes of this section, "boycott" means the withholding by a combination of persons of all relations or any particular relations from any person or class of persons.

(No. 29 of 1959 as amended by G.N. No. 268 of 1964, S.I. No. 63 of 1964 and No. 69 of 1965)

93. 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 written law relating to customs, are guilty of a misdemeanour and each of them is liable to imprisonment for six months or to a fine not exceeding three thousand penalty units.

Assembling for
the purpose of
smuggling

(As amended by Act No. 13 of 1994)

DIVISION II

OFFENCES AGAINST THE ADMINISTRATION OF LAWFUL AUTHORITY

CHAPTER X

OFFENCES AGAINST THE ADMINISTRATION OF LAWFUL AUTHORITY

94. Repealed by Act 14 of 1980

95. Repealed by Act 14 of 1980

96. Repealed by Act 14 of 1980

97. 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 in which he has such interest or with respect to the conduct of any person in relation thereto, is guilty of a misdemeanour and is liable to imprisonment for one year.

Officers charged
with administration
of property of a
special character of
with special duties

98. 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.

False claims by
officials

99. (1) Any person who, being employed in the public service, does or directs to be done, in abuse of the authority of his office, any arbitrary act prejudicial to the rights or interests of the Government or any other person, is guilty of a misdemeanour. If the act is done or directed to be done for purposes of gain, he is guilty of a felony and is liable to imprisonment for three years.

authority of
office

(2) A prosecution for any offence under this or either of the two last preceding sections shall not be instituted except by or with the sanction of the Director of Public Prosecutions.

(As amended by S.I. No. 63 of 1964 and Act No 29 of 1976)

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

False certificates
by public officers

101. 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.

False assumption
of authority

102. 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.

Personating public
officers

103. 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 to be interested, for the purpose of inducing that person to do any act, or to forbear or delay to do any act connected with the exercise of the public functions of such person, is guilty of a misdemeanour.

(No. 26 of 1940)

Threat of injury to
persons employed
in public service

103A. In this chapter, "public service" means service of the Government or a local authority, or of a statutory board or body including an institution of higher learning, corporation or company in which the Government has majority interest or control.

(As amended by Act No. 29 of 1976).

Definition

CHAPTER XI

OFFENCES RELATING TO THE ADMINISTRATION OF JUSTICE

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

Perjury

(2) It is immaterial whether the testimony is given on oath or under any

other sanction authorised by law.

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

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

(5) 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.

(6) 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.

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

Subornation of
perjury

104A. (1) Where a witness in any judicial proceeding, other than a person accused of an offence in a criminal proceeding, makes a statement on oath or affirmation on some fact relevant in the proceeding contradicting a material detail in a previous statement made on oath or affirmation by the same witness before any court or tribunal and, the court or tribunal is satisfied that either of the statements whether false or not was made with intent to deceive, shall be guilty of an offence and liable to imprisonment for two years.

Conflicting
statements on oath

(2) 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.

(3) 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, any such statement shall be admissible in any proceeding under this section.

(As amended by Act 3 of 1990)

105. Any person who, having been lawfully sworn as an interpreter in a judicial proceeding, wilfully makes a statement material in that proceeding which he knows to be false, or does not believe to be true, is guilty of the misdemeanour termed "perjury".

(No. 26 of 1940)

False statements by
interpreters

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

Punishment of
perjury and

subordination of
perjury

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

Evidence on
charge of perjury

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

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

(b) knowingly makes use of such fabricated evidence;

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

Fabricating
evidence

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

False swearing

110. Any person who practises 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.

Deceiving
witnesses

111. 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, wilfully 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.

(As amended by No. 26 of 1940)

Destroying
evidence

112. (1) Any person commits a felony who- Conspiracy to
defeat justice and

interference with
witnesses

(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.

(2) Any person guilty of a felony under sub-section (1) is liable to imprisonment for seven years.

(As amended by Act No. 29 of 1976)

113. 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
felonies

114. 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 mis-demeanour.

Compounding
penal actions

115. 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.

Advertisements for
stolen property

116. (1) Any person who- Contempt of court

(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 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) retakes possession of land from any person who has recently obtained possession by a writ of 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 a misdemeanour and is liable to imprisonment for six months or to a fine not exceeding seven hundred and fifty penalty units.

(2) When any offence against paragraph (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 may take cognizance of the offence and sentence the offender to a fine not exceeding six hundred penalty units or, in default of payment, to imprisonment without hard labour for one month.

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

(As amended by No. 26 of 1940 and Act No. 13 of 1994)

117. (1) No person shall- Prohibition on taking photographs, etc., in court

(a) take or attempt to take in any court any photograph, or, with a view to publication, make or attempt to make in any court any portrait or sketch, of any person, being a Judge of the court or a juror or a witness in or a party to any proceedings before the court, whether civil or criminal; or

(b) publish any photograph, portrait or sketch taken or made in contravention of the provisions of this subsection or any reproduction thereof;

and if any person acts in contravention of this subsection, he shall be liable to a fine not exceeding one thousand five hundred penalty units in respect of each offence;

Provided that this section shall not apply to photographs being taken on any occasion with the consent of the Chief Justice, or where the

occasion is the opening of any session of the High Court, with the consent of the Judge holding that session.

(2) For the purposes of this section-

(a) "court" means the High Court, any subordinate court, juvenile court, court of a coroner or a local court as defined in the Local Courts Cap. 29

Act;

(b) "Judge" includes registrar, magistrate, coroner and officer of such local court;

(c) a photograph, portrait or sketch shall be deemed to be a photograph, portrait or sketch taken or made in court if it is taken or made in the court-room or in the building or in the precincts of the building in which the court is held, or if it is a photograph, portrait or sketch taken or made of the person while he is entering or leaving the court-room or any such building or precincts as aforesaid.

(As amended by No. 53 of 1957, Act No. 3 of 1990 and No. 13 of 1994)

CHAPTER XII

RESCUES, ESCAPES AND OBSTRUCTING OFFICERS OF COURT OF LAW

118. (1) Any person who by force rescues or attempts to rescue from lawful custody any other person-

Rescue

(a) is, if such last-named person is under sentence of death or imprisonment for life or charged with an offence punishable with death or 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.

(2) 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 custody.

119. Any person who, being in lawful custody, escapes from such custody, is guilty of a misdemeanour.

Escape from lawful custody

120. 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.

Aiding prisoners to escape

121. 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.

Removal etc., of
property under
lawful seizure

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

Obstructing court
officers

CHAPTER XIII

MISCELLANEOUS OFFENCES AGAINST PUBLIC AUTHORITY

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

Frauds and
breaches of trust by
public officers

124. Repealed by Act No. 7 of 1990

125. 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-

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

False information
to public officer

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

is guilty of a misdemeanour and is liable to imprisonment for six months or to a fine of one thousand and five hundred penalty units or to both.

(As amended by No. 26 of 1933 and Act No. 13 of 1994)

126. Everyone who wilfully 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 Parliament to provide some other penalty for such disobedience, to imprisonment for two years.

Disobedience of
statutory duty

127. 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.

Disobedience of
lawful orders

DIVISION III

OFFENCES INJURIOUS TO THE PUBLIC IN GENERAL

CHAPTER XIV

OFFENCES RELATING TO RELIGION

128. 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.

Insult to religion of
any class

129. 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.

Disturbing
religious
assemblies

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

Trespassing on
burial places

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

131A. In this Part "child" means a person below the age of sixteen years.

Uttering words
with the intent to
wound religious
feelings

Definition of child

(As amended by Act No. 15 of 2005)

CHAPTER XV

OFFENCES AGAINST MORALITY

132. Any person who has unlawful carnal knowledge of a woman or

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

Definition of rape

133. Any person who commits the offence of rape is liable to imprisonment for life.

(As amended by No. 26 of 1933 and No. 20 of 1964)

Punishment of rape

134. Any person who attempts to commit rape is guilty of a felony and is liable to imprisonment for life.

(As amended by No. 26 of 1933)

Attempted rape

135. 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

person, takes her away, or detains her, against her will, is guilty of a felony and is liable to imprisonment for seven years.

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

Abduction of children

137. (1) Any person who unlawfully and indecently assaults any woman or girl is guilty of a felony and is liable to imprisonment for fourteen years.

Indecent assault

(2) It shall be no defence to a charge for an indecent assault on a girl under the age of twelve years to prove that she consented to the act of indecency:

Provided that it shall be a sufficient defence to any charge under this subsection if it shall be made to appear to the court 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 twelve years.

(3) Any person who is found in any building or dwelling-house or in any verandah or passage attached thereto or in any yard, garden or other land adjacent to or within the curtilage of such building or dwelling-house not being a public place-

Indecently insulting or annoying females

(a) for the purpose of and from motives of indecent curiosity gazing at or observing any woman or girl who may be therein while in a state of undress or semi-undress; or

(b) with intent to annoy or indecently to insult any woman or girl who may be therein;
is guilty of a misdemeanour and is liable to imprisonment for one year.

(As amended by No. 26 of 1933)

138. (1) Any person who unlawfully and carnally knows any child commits a felony and is liable, upon conviction, to a term of imprisonment of not less than fifteen years and may be liable to imprisonment for life.

(2) Any person who attempts to have unlawful carnal knowledge of any child commits a felony and is liable, upon conviction, to imprisonment for a term of not less than fourteen years and not exceeding twenty years.

(3) Any person who prescribes the defilement of a child as cure for an ailment commits a felony and is liable, upon conviction, to imprisonment for a term of not less than fifteen years and may be liable to imprisonment for life.

(4) A child above the age of twelve years who commits an offence under subsection (1) or (2) is liable, to such community service or counseling as the court may determine, in the best interests of both children.

(As amended by Act No. 15 of 2005)

139. Any person who, knowing a child or other person to be an imbecile or person with mental illness, has or attempts to have unlawful carnal knowledge of that child or other person in circumstances not amounting to rape, but which prove that the offender knew at the time of the commission of the offence that the child or other person was an idiot or imbecile commits a felony and is liable, upon conviction, to imprisonment for a term of not less than fourteen years and may be liable to imprisonment for life.

(As amended by No. 26 of 1933, repealed and replaced by Act No. 15 of 2005)

Defilement of
imbeciles or person
with mental illness

140. Any person who-

(a) procures or attempts to procure any child or other person to have unlawful carnal knowledge either in Zambia or elsewhere, with an person or other persons for pornography, bestiality or any other purpose;

(b) procures or attempts to procure any child or other person to become, either in Zambia or elsewhere, a common prostitute;

(c) procures or attempts to procure any child or person to leave Zambia, with the intent that the child or person may become an inmate of or frequent a brothel elsewhere; or

(d) procures or attempts to procure any child or person to leave that child's or other person's usual place of abode in Zambia with intent that the child or other person may, for the purposes of prostitution, become an inmate of or frequent a brothel either in Zambia or elsewhere;

Procuring child or
other person for
prostitution, etc.

commits a felony and is liable, upon conviction, to imprisonment for a term of not less than twenty years and may be liable to imprisonment for life:

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.

(As amended by No. 26 of 1933, No. 9 of 1954 and repealed and replaced by Act No. 15 of 2005)

141. Any person who-

(a) by threat or intimidation procures or attempts to procure any child or other person to have any unlawful carnal knowledge, either in Zambia or elsewhere;

(b) by false pretence or false representation procures any child or other person to have any unlawful carnal knowledge, either in Zambia or elsewhere; or

(c) applies, administers to, or causes to be taken by any child or other person any drug, matter or thing, with intent to stupefy or overpower so as thereby to enable any third person to have unlawful carnal knowledge with such child or other person;

commits a felony and is liable, upon conviction, to imprisonment for a term of not less than twenty years and may be liable to imprisonment for life:

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.

Procuring
defilement by
threat or fraud
administering
drugs

(As amended by No. 9 of 1954, repealed and replaced by Act No. 15 of 2005)

142. Any person who, being the owner or occupier of premises or having or acting or assisting in the management of control thereof, induces or knowingly permits any child to resort to or be upon such premises for the purpose of being unlawfully and carnally known by any other person, whether such carnal knowledge is intended to be with any particular person or generally, commits a felony and is liable, upon conviction, to imprisonment for a term of not less than twenty years and may be liable to imprisonment for life.

Householder, etc.,
permitting
defilement of child
on premises

(As repealed and replaced by Act No. 15 of 2005)

143. Any person who sells or traffics in a child or other person for any purpose or in any form commits an offence is liable, upon conviction, to imprisonment for a term of not less than twenty years: Provided that where it is proved during the trial of the accused person that the sale or trafficking in a child or other person was for the purpose of causing that child or person to be unlawfully and carnally known by any other person, whether such carnal knowledge was

intended to be with any particular person or generally, the person is liable, upon conviction, to imprisonment for life.

Selling or trafficking in children, etc.

(As repealed and replaced by Act No. 15 of 2005)

144. (1) Any person who detains any child or other person against that child or other person's will-

(a) in or upon any premises with intent that the child or other person may be unlawfully and carnally known by any third person, whether particularly or generally or for rituals or any other purpose; or

(b) in any brothel;

commits a felony and is liable, upon conviction, to imprisonment for a term of not less than twenty years and may be liable to imprisonment for life.

(2) When a child or person is in or upon any premises for the purposes of having any lawful carnal knowledge or in any brothel, another person shall be deemed to detain such a child or person in or upon such premises or in such brothel, if, with intent to compel or induce the child or person to remain in or upon such premises or in such brothel, such other person withholds from the child or person any wearing apparel or other property belonging to the child or person, or where wearing apparel has been lent or otherwise supplied to such child or person or by directions of such person, such other person threatens such person with legal proceedings for taking away the wearing apparel so lent or supplied.

(3) No legal proceedings, whether civil or criminal, shall be taken against any child or person for taking away or being found in possession of any such wearing apparel as was necessary to enable the child or person to leave such premises or brothel.

Detention with intent in premises or brothel

(As repealed and replaced by Act No. 15 of 2005)

145. (1) If it appears to any magistrate, on information made before the magistrate, on oath, by any parent, relative or guardian of any child or other person who, in the opinion of the magistrate, is acting *bona fide* in the interests of any child or person, that there is reasonable cause to suspect that such child or other person is

Power of search

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 child or person until the child or person can be brought before a magistrate.

(2) The magistrate before whom the child or person is brought in accordance with subsection (1) may cause the child or person to be delivered up to the child's parents or guardians, or be otherwise dealt with as circumstances may permit and require.

(3) A magistrate issuing a warrant under this section may, by the same or any other warrant, cause any person accused of so unlawfully detaining such child or person to be apprehended and brought before a magistrate and proceedings to be taken for punishing such person according to law.

(4) A child or person shall be deemed to be unlawfully detained for the purpose of being unlawfully and carnally known by any other person, whether any particular third person or generally; and

(a) in the case of the child whether the child consented to the detention or not; or

(b) if the person is of, or above the age of, sixteen years and is so detained against the person's will or against the will of the person's father or mother or of any person having the lawful care or charge of that person.

(5) Any person authorised by warrant under this section to search for any child 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 child or person from there.

(As amended by S.I. No. 63 of 1964, repealed and replaced by Act No. 15 of 2005)

146. (1) A person who-

(a) knowingly lives wholly or in part on the earnings of prostitution; or

(b) in any public place, persistently solicits or importunes for immoral purposes;

commits a felony and is liable, upon conviction, to imprisonment for a term not exceeding fifteen years;

Provided that a child who commits an offence under subsection is

Person living on
earnings of
prostitution or
persistently
soliciting

liable to such community service or counseling as the court may determine in the best interests of the child.

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

(As repealed and replaced by Act No. 15 of 2005)

147. (1) Every person who knowingly lives wholly or in part on the earnings of the prostitution of another or who is proved to have, for the purpose of gain, exercised control, direction or influence over the movements of a prostitute in such manner as to show that such person is aiding, abetting or compelling that person's prostitution with any other person, or generally, commits a felony and is liable, upon conviction, to imprisonment for a term not exceeding fifteen years.

(2) Where a person compels a child to become a prostitute that person commits an offence and is liable, upon conviction, to imprisonment for life.

Person living on
aiding, etc.,
prostitution of
another for gain

(As repealed and replaced by Act No. 15 of 2005)

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

Power of search

149. Any person who keeps a house, room, set of rooms, or place of any kind whatsoever for purposes of prostitution commits a felony and is liable, upon conviction, to imprisonment for a term of not less than fifteen years and not exceeding twenty five years.

Brothels

(As repealed and replaced by Act No. 15 of 2005)

150. Any person who conspires with another person to induce any person or child, by means of any false pretence or other fraudulent means, to permit any other person to have unlawful carnal knowledge of such person or child, commits a felony and is liable, Conspiracy to defile

upon conviction, to imprisonment for a term of not less than fifteen years and may be liable to imprisonment for life.

(As amended by No. 26 of 1933 and repealed and replaced by Act No. 15 of 2005)

151. Any person who, with intent to procure the miscarriage of a woman or female child, 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 whatsoever, commits a felony and is liable, upon conviction, to imprisonment for a term not exceeding seven years.

Attempts to

procure abortion

(As repealed and replaced by Act No. 15 of 2005)

152. (1) Every woman being pregnant who, with intent to procure her own miscarriage, unlawfully administers to herself any poison or other noxious thing, or uses force of any kind, or uses any other means whatever, or permits any such thing or means to be administered or used, commits a felony and is liable, upon conviction, to imprisonment for a term of fourteen years.

(2) Any female child being pregnant who, with intent to procure her own miscarriage, unlawfully administers to herself any poison or other noxious thing or uses any force of any kind commits an offence and is liable to such community service or counseling as the court may determine, in the best interests of the child:

Provided that where a female child is raped or defiled and becomes pregnant, the pregnancy may be terminated in accordance with the Termination of Pregnancy Act.

(As repealed and replaced by Act No. 15 of 2005)

Abortion by

pregnant woman or

female child

Cap. 304

153. Any person who unlawfully supplies to or procures for any person any thing whatsoever, knowing that it is intended to be unlawfully used to procure the miscarriage of a woman or female child, whether she is or is not with child, commits a felony and is liable, upon conviction, to imprisonment for a term not exceeding fourteen years.

Supplying drugs or instruments to procure abortion

(As repealed and replaced by Act No. 15 of 2005)

154. 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

Knowledge of age

of female

immaterial

girl was under that age, or believed that she was not under that age.

155. 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;

commits a felony and liable, upon conviction, to imprisonment for a term not less than fifteen years and may be liable to imprisonment for life:

Provided that where a person-

(i) has carnal knowledge of a child against the order of nature;

(ii) causes a child to have carnal knowledge of an animal; or

(iii) permits a male person to have carnal knowledge of a male or female child against the order of nature;

that person commits an offence and is liable, upon conviction, to imprisonment for not less than twenty-five years and may be liable to imprisonment for life.

(As amended by No. 26 of 1933 and repealed and replaced by Act No. 15 of 2005)

Unnatural offences

156. Any person who attempts to commit any of the offences specified in section *one hundred and fifty-five* commits a felony and is liable, upon conviction of not less than seven years but not exceeding fourteen years.

(As amended by No. 26 of 1933 and repealed and replaced by Act No. 15 of 2005)

157. (1) Any person who conducts or causes to be conducted a harmful cultural practice on a child commits a felony and is liable, upon conviction, to imprisonment for a term not less than fifteen years and may be liable to imprisonment for life.

(2) In this section "harmful cultural practice" includes sexual cleansing, female genital mutilation or in initiation ceremony that results in injury, the transmission of an infectious or life threatening disease or loss of life to a child but does not include circumcision on a male child.

Attempt to commit unnatural offences

Harmful cultural

practice

(As amended by No. 26 of 1933 and repealed and replaced by Act No. 15 of 2005)

158. (1) Any male who, whether in public or private, commits any act of gross indecency with a male child or person, or procures a male child or person to commit any act of gross indecency with him, or attempts to procure the commission of any such act by any male person with himself or with another male child or person, whether in public or private, commits a felony and is liable, upon conviction, to imprisonment for a term of not less than seven years and not exceeding fourteen years.

(2) Any female who, whether in public or private, commits any act of gross indecency with a female child or person, or procures a female child or person to commit any act of gross indecency with her, or attempts to procure the commission of any such act by any female person with himself or with another female child or person, whether in public or private, commits a felony and is liable, upon conviction, to imprisonment for a term of not less than seven years and not exceeding fourteen years.

(3) A child who, whether in public or private, commits any act of gross indecency with another child of the same sex or attempts to procure the commission of any such act by any person with the child's self or with another child or person of the same sex, whether in public or private, commits an offence and is liable, to such community service or counseling as the court may determine in the best interests of the child.

(As amended by No. 26 of 1933 and repealed and replaced by Act No. 15 of 2005)

159. (1) Any male person who has carnal knowledge of a female person who is to that person's knowledge his grandmother, mother, sister, daughter, grand-daughter, aunt or niece commits a felony and is liable, upon conviction, for a term of not less than twenty years and may be liable to imprisonment for life.

(2) Any female person who has carnal knowledge of a male person who is to that person's knowledge her grand-father, father, brother, son, grand-son, uncle or nephew commits a felony and is liable, upon conviction, for a term of not less than twenty years and may be liable to imprisonment for life.

(3) For the purposes of this section, it is immaterial that carnal knowledge was had with consent of the other person.

(4) Any person who attempts to commit incest commits a felony and is liable to imprisonment for a term of not less than ten years and not exceeding twenty-five years.

(As amended by No. 26 of 1933 and repealed and replaced by Act No. 15 of 2005)

Indecent practices
between persons of
the same sex
Incest

160. On the conviction before any court of any person of an offence under section *one hundred and fifty-nine*, or of an attempt to commit the same, against any child it shall be in the power of the court to divest the offender of all authority over such child, and, if the offender is the guardian of such child, to remove the offender from such guardianship, and in any case to appoint any person or persons to be the guardian or guardians of such child during the child's minority or any less period:

Provided that the High Court may at any time vary or rescind the order by the appointment of any other person as such guardian or in any other respect.

(As amended by No. 26 of 1933 and repealed and replaced by Act No. 15 of 2005)

161. (1) Any female person of or above the age of sixteen years who with consent permits her grandfather, father, brother, uncle, nephew, son or grandson to have carnal knowledge of her knowing him to be her grandfather, father, brother, uncle, nephew, son or grandson, as the case may be, commits a felony and is liable, upon conviction, to imprisonment for a term of not less than twenty years and may be liable to imprisonment for life:

Provided that a female child commits an offence under this subsection is liable to such community service or counseling as the court may determine in the best interests of the child.

(2) Any male person of or above the age of sixteen years who with consent permits his grandmother, mother, sister, auntie, niece, daughter or grand-daughter to have carnal knowledge of him knowing her to be her grandmother, mother, sister, aunt, niece, daughter or grand-daughter, as the case may be, commits a felony and is liable, upon conviction, to imprisonment for a term of not less than twenty years and may be liable to imprisonment for life:

Provided that a male child commits an offence under this subsection is liable to such community service or counseling as the court may determine in the best interests of the child.

(As amended by No. 26 of 1933 and repealed and replaced by Act No. 15 of 2005)

Order for
guardianship
Consent to incest

162. In sections *one hundred and fifty-nine* and *one hundred and sixty-one*, "brother" and "sister", respectively, include half-brother and half-sister, and the provisions of the said sections shall apply whether the relationship between the person charged with an offence and the person with whom the offence is alleged to have been committed is or is not traced through lawful wedlock.

Test of relationship

163. (1) If, on the trial of any information for or charge of rape, the court is satisfied that the defendant is guilty of an offence under section *one hundred and fifty-nine*, but is not satisfied that the defendant is guilty of rape, the court may acquit the defendant of rape and find him guilty of an offence under section *one hundred and fifty-nine*, and he shall be liable to be punished accordingly.

Conviction of
incest lawful on
charge of rape

(2) If, on the trial of any information for or charge of an offence under section *one hundred and fifty-nine*, the court is satisfied that the defendant is guilty of an offence under section *one hundred and thirty-eight* or *one hundred and thirty-nine*, but is not satisfied that the defendant is guilty of an offence under section *one hundred and fifty-nine*, the court may acquit the defendant of an offence under section *one hundred and fifty-nine* and find him guilty of an offence under

section *one hundred and thirty-eight* or *one hundred and thirty-nine*, and he shall be liable to be punished accordingly.

Conviction of
unlawful carnal
knowledge on
charge of incest

164. (1) A person shall not without the consent, in writing, given by or on behalf of a child or person publish or disclose to any person otherwise than in the course of duty, the contents of any documents, communication or information which relates to and which has come to that person's knowledge in the course of duty performed in relation to offences under this Part, including the handling, medical treatment or counseling of victims.

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine of not less than fifty thousand penalty units or to imprisonment for six months, or to both.

(As repealed and replaced by Act No. 15 of 2005)

Prohibition of
disclosure of
information

CHAPTER XVI

OFFENCES RELATING TO MARRIAGE AND DOMESTIC OBLIGATIONS

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

Fraudulent
pretence of
marriage

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

Bigamy

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

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

Marriage
ceremony
fraudulently gone
through without

lawful marriage

168. Any person who being the parent, guardian or other person having the lawful care or charge of a child being able to maintain such child, willfully and without lawful or reasonable cause deserts the child and leaves it without means of support commits an offence and is liable, upon conviction, for a first offence to imprisonment for a term not exceeding three years, or for a subsequent offence to imprisonment for a term not exceeding seven years.

(As repealed and replaced by Act No. 15 of 2005)

Desertion of
children

169. Any person who being the-

(a) parent;

Neglecting to
provide food, etc.,
for children

(b) guardian; or

(c) person in charge;

of a child that is unable to provide for itself, refuses or willfully neglects to provide, being able to do so, sufficient food, clothes, bedding or other necessities for such child, and thereby injures the health of such child, commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding three years or to both.

(As repealed and replaced by Act No. 15 of 2005)

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

Master not
providing for
servants or
apprentices

171. (1) 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 sixteen years, of the possession of such child-

Child stealing

(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 fourteen years.

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

(As amended by No. 20 of 1953 and Act No. 14 of 1981)

CHAPTER XVII NUISANCES AND OFFENCES AGAINST HEALTH AND CONVENIENCE

172. (1) 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.

Common nuisance

(2) 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.

173. (1) Every person who, with a view to compelling any other person to abstain from doing or to do any act which such other person has a legal right to do or abstain from doing, wrongfully and without legal authority-

Watching and
besetting

(a) uses violence to or intimidates such other person or members of his household, or injures his property; or

(b) persistently follows such other person about from place to place;
or

(c) hides any tools, clothes, or other property owned or used by such other person, or deprives him of or hinders him in the use thereof; or
(d) follows such other person in a disorderly manner; is guilty of an offence.

(2) Every person who, wrongfully and without legal authority, watches or besets-

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

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

(3) Every person who is guilty of an offence under the provisions of this section is liable to a fine not exceeding three thousand penalty units or to imprisonment for a period not exceeding six months, or to both.

(No. 60 of 1957 and Act No. 13 of 1994)

174. (1) Any person being the owner or occupier, or having the use of, any house, room or place, who shall open, keep or use the same for the purpose of unlawful gaming being carried on therein, and any person who, being the owner or occupier of any house, room or place, shall knowingly and wilfully permit the same to be opened, kept or used by

any other person for the purpose aforesaid, and any person having the care or management of or in any manner assisting in conducting the business of any house, room or place opened, kept or used for the purpose aforesaid, is said to keep a common gaming house.

Gaming houses

(2) In this section, "unlawful gaming" means any game the chances of which are not alike favourable to all the players, including the banker or other person or persons by whom the game is managed or against whom the other players stake, 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 one hundred and fifty penalty units for the first offence, and for each subsequent offence to a fine of six hundred penalty units or imprisonment for three months, or to both.

(As amended by Act No. 13 of 1994)

175. (1) Any house, room or place which is used for any of the purposes following, that is to say:

Betting houses

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

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

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

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

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

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

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

is called a common betting house.

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

Provided that-

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

(ii) nothing in this section shall be deemed to prohibit any lottery lawfully promoted and conducted under the provisions of the Lotteries Act.

(As amended by No. 15 of 1946 and Nos. 8 and 27 of 1957)

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176. 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 *one hundred and seventy-four* and *one hundred and seventy-five* is to be taken to be the keeper thereof, whether he is or is not the real keeper.

Keeper of premises

defined

177. (1) Any person who- *Obscene matters or things*

(a) 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 object tending to corrupt morals; or

(b) 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 five years or to a fine of not less than fifteen thousand penalty units nor more than seventy-five thousand penalty units.

(2) If, in respect of any of the offences specified in paragraph (a), (b), (c) or (d) of subsection (1), any constituent element thereof is committed in Zambia, such commission shall be sufficient to render the person

accused of such offence triable therefor in Zambia.

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

(4) Any court may, on the application of a public prosecutor, 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) No prosecution for an offence under this section shall be instituted without the written consent of the Director of Public Prosecutions.

(No. 61 of 1970 and Act No. 13 of 1994)

177A. (1) Any person who engages a child or other person-

(a) in a pornographic performance;

(b) in the production of a pornographic film or other material; or

(c) in a pornographic activity of any nature;

commits an offence and is liable, upon conviction, to a term of imprisonment of not less than fifteen years and may be liable to imprisonment for life.

(2) Any person who-

(a) sells to a child pornographic material;

(b) compels a child to watch a pornographic film or view pornography on the internet or elsewhere or in any form intended to corrupt a child's morals;

commits an offence and is liable, upon conviction, to a term of imprisonment of not less than fifteen years.

(3) A child who commits an offence under subsection (2) is liable, to such community service or counseling as the court may determine in the best interests of the child.

Child

pornography

(As amended by Act No. 15 of 2005)

178. The following persons:

(a) every common prostitute behaving in a disorderly or indecent manner in any public place;

Idle and disorderly
persons

(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, not being an authorised lottery, for money or money's worth in any public place;

(d) every person wandering abroad and endeavouring by the exposure of wounds or deformity to obtain or gather alms;

(e) every person who, without lawful excuse, publicly does any indecent act;

(f) every person who publicly conducts himself in a manner likely to cause a breach of the peace; and

(g) every person who in any public place solicits for immoral purposes;

are deemed idle and disorderly persons, and are liable to imprisonment

for one month or to a fine not exceeding sixty penalty units or to both.
(As amended by No. 15 of 1938, No. 26 of 1940, No. 29 of 1948 and Act No. 13 of 1994)

179. Every person who uses insulting language or otherwise conducts himself in a manner likely to give such provocation to any person as to cause such person to break the public peace or to commit any offence against the person, is liable to imprisonment for three months or to a fine not exceeding four hundred and fifty penalty units or to both.
(No. 15 of 1938 and Act No. 13 of 1994)

Use of insulting
language

180. (1) Every person found drunk and incapable in any highway or other public place, or on any premises licensed under the Liquor Licensing Act, may be arrested without warrant and is liable to a penalty not exceeding one hundred and fifty penalty units, and on a second conviction within a period of twelve months is liable to a penalty not exceeding three hundred penalty units, and on a third or subsequent conviction within the said period of twelve months is liable to a penalty not exceeding six hundred penalty units.

Nuisances by
drunken persons,
etc.

Cap. 167

(2) Every person who, in any highway or other public place or on any premises licensed under the Liquor Licensing Act, is guilty while drunk of riotous or disorderly behaviour or who is drunk while in charge on any highway or railway or other public place of any horse, cattle, steam engine, locomotive, wagon, van, carriage or any other vehicle, other
Cap. 167

than a motor vehicle, or who is drunk when in possession of any loaded firearms, may be arrested without warrant and is liable to a penalty not exceeding seven hundred and fifty penalty units, or to imprisonment with or without hard labour for a period not exceeding three months.
(No. 21 of 1958 and Act No. 13 of 1994)

181. The following persons:

(a) every person convicted of an offence under section *one hundred and seventy-eight* after having been previously convicted as an idle and disorderly person:

Rogues and
vagabonds

(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; and

(d) every person found wandering in or upon or near any premises or in any road or highway or any place adjacent thereto or in any public place at such time and under such circumstances as to lead to the

conclusion that such person is there for an illegal or disorderly purpose; shall be deemed to be a rogue and vagabond, and are guilty of a misdemeanour and are liable for the first offence to imprisonment for three months, and for every subsequent offence to imprisonment for one year.

182. (1) In this section, unless the context otherwise requires-
"official uniform" means any uniform prescribed for or used by the Defence Force, the Zambia Police Force or any other force or service in Zambia, or such department of the Government as the President may, by statutory instrument, prescribe;
"uniform" includes any distinctive part of such uniform.

Offences relating
to official uniform

(2) Any person who unlawfully wears any official uniform, or any dress bearing any of the distinctive marks of any such official uniform-

Wearing of official
uniform with intent
to commit offence

(a) with intent to commit a felony is guilty of an offence and is liable upon conviction to imprisonment for a term not exceeding seven years;

or

(b) with intent to commit any offence other than a felony is guilty of an offence and is liable upon conviction to a fine not exceeding seven thousand five hundred penalty units or to imprisonment for a term not exceeding three years, or to both.

(3) Any person who, without authority, wears an official uniform, or any dress having the appearance or distinctive marks of such official uniform, is guilty of an offence and is liable upon conviction to a fine not exceeding seven hundred and fifty penalty units or to imprisonment for a term not exceeding two months, or to both.

Unauthorised
wearing of official
uniform

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

(4) Any person who, not being in the service of the Republic or having previously received the written permission of the President or other appropriate authority so to do, imports, manufactures or sells or has in his possession for sale any official uniform is guilty of an offence and is liable upon conviction to a fine not exceeding seven thousand five hundred penalty units or to imprisonment for a term not exceeding three years, or to both.

Unauthorised
importation,
manufacture or

sale of official
uniform, etc.

(5) Any person who wears or uses without authority any badge or insignia of office, decoration, medal or ribbon supplied to or authorised for use by any member of the Defence Force, the Zambia Police Force or any other force or service in Zambia, or of such department of the Government as is prescribed under subsection (1), is guilty of an offence and is liable upon conviction to a fine not exceeding seven hundred and fifty penalty units, or to imprisonment for a term not exceeding two months, or to both.

Unauthorised
wearing of badges,
etc.

(6) Any person who unlawfully wears any official uniform, or any dress having the appearance of or bearing any of the distinctive marks of any such official uniform, in such manner or in such circumstances as to be likely to bring contempt on that uniform or dress is guilty of an offence and is liable upon conviction to a fine not exceeding seven hundred and fifty penalty units or to imprisonment for a term not exceeding two months, or to both such fine and imprisonment.

(7) Any uniform, dress, button, badge or other thing which is the subject of an offence under this section is liable to forfeiture, unless the President otherwise directs.

(As amended by Federal Act No. 23 of 1955, G.N. No. 303 of 1964, S.I. No. 63 of 1964, Act No. 2 of 1987 and No. 13 of 1994)

Forfeiture of
official uniform,
etc.

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

Negligent act
likely to spread
infection

184. 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.

Adulteration of
food or drink
intended for sale

185. 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.

Sale of noxious
food or drink

186. 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, or 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.

Adulteration of
drugs

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

Sale of adulterated
drugs

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

189. 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.

Fouling air

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

Offensive trades

CHAPTER XVIII

DEFAMATION

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

Libel

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

Definition of
defamatory matter

Provided that no prosecution for the publication of defamatory matter

concerning a dead person shall be instituted without the consent of the Director of Public Prosecutions.

(As amended by S.I. No. 63 of 1964)

193. (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 dealt with, either by exhibition, reading, recitation, description, delivery, or otherwise, so that the defamatory meaning

Definition of
publication

thereof becomes known or is likely to become known to either the person defamed or any other person.

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

194. Any publication of defamatory matter concerning a person is unlawful within the meaning of this Chapter, unless-

(a) the matter is true and it was for the public benefit that it should be published; or

(b) it is privileged on one of the grounds hereafter mentioned in this Chapter.

Definition of
unlawful
publication

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

Cases in which
publication of
defamatory matter
is absolutely
privileged

(a) if the matter is published by the President, or by the Cabinet or the National Assembly in any official document or proceeding; or

(b) if the matter is published in the Cabinet or the National Assembly by a Minister or by any member of the National Assembly; or

(c) if the matter is published concerning a person subject to military or naval discipline for the time being, and relates to his conduct as a person subject to such discipline, and is published by some person having authority over him in respect of such conduct, and to some person having authority over him in respect of such conduct; or

(d) if the matter is published in the course of any judicial proceedings by a person taking part therein as a Judge or magistrate or commissioner or counsel or solicitor or assessor or witness or party thereto; or

(e) if the matter published is in fact a fair report of anything said,

done, or published in the Cabinet or the National Assembly; or
(f) 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 Zambia.

(As amended by No. 26 of 1940 and G.N. No. 303 of 1964)

196. 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 proceedings before any court:

Cases in which
publication of
defamatory matter
is conditionally
privileged

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 the last preceding section; 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 other person in respect of such conduct or matter, or having authority by law to inquire into or receive complaints respecting such conduct or matter; or

(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.

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

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

Explanation as to
good faith

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

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

198. If it is proved, on behalf of the accused person, that the defamatory matter was published under such circumstances that the

Presumption as to
good faith

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

199. Any person who by an unlawful act or omission causes the death of another person is guilty of the felony termed "man-slaughter". An unlawful omission is an omission amounting to culpable negligence to

discharge a duty tending to the preservation of life or health, whether such omission is or is not accompanied by an intention to cause death or bodily harm.

Manslaughter

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

Murder

201. (1) Any person convicted of murder shall be sentenced- Punishment for murder

(a) to death; or

(b) where there are extenuating circumstances, to any sentence other than death:

Provided that paragraph (b) of this subsection shall not apply to murder committed in the course of aggravated robbery with a firearm under section *two hundred and ninety-four*.

(2) For the purpose of this section-

(a) an extenuating circumstance is any fact associated with the offence which would diminish morally the degree of the convicted person's guilt;

(b) in deciding whether or not there are extenuating circumstances, the court shall consider the standard of behaviour of an ordinary person of a class of the community to which the convicted person belongs.

(As amended by Act No. 3 of 1990).

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

Punishment of manslaughter

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

(No. 26 of 1940)

Infanticide

204. 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;
(c) an intent to commit a felony;
(d) an intention by the act or omission to facilitate the flight or escape from custody of any person who has committed or attempted to commit a felony.

Malice
aforethought

205. (1) 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

Killing on
provocation
only.

(2) The provisions of this section shall not apply unless the court is satisfied that the act which causes death bears a reasonable relationship to the provocation.

(As amended by No. 28 of 1952)

206. (1) 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 or offered 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. For the purposes of this section, "an ordinary person" shall mean an ordinary person of the community to which the accused belongs.

Provocation
defined

(2) 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.

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

(4) 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.

(5) 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.

(As amended by No. 26 of 1933 and No. 26 of 1940)

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

following cases:

Causing death
defined

(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 bodily injury on another which would not have caused death if the injured person had submitted to proper surgical or medical treatment or had observed proper precautions as to his mode of living;

(c) If by actual or threatened violence he causes that other person to perform an act which causes the death of that 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 hastens 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.

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

When child
deemed to be a
person

209. (1) 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.

Limitation as to
time of death

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

(3) 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.

(4) 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

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

Responsibility of
person who has
charge of another

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

Duty of head of
family

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

Duty of masters
and mistresses

213. 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 shall be deemed to have caused any

Duty of persons
doing dangerous
acts

consequences which adversely affect the life or health of any person by reason of any omission to observe or perform that duty.

214. 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 stationery, of such a nature that, in the absence of care or precaution in its use or management, the life, safety, or health of any person may be endangered, to use reasonable care and take reasonable precautions to avoid such danger; and he shall be deemed to have caused any consequences which adversely affect the life or health of any person by reason of any omission to perform that duty.

Duty of persons in
charge of
dangerous things

CHAPTER XXI

OFFENCES CONNECTED WITH MURDER

215. 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

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

(As amended by No. 26 of 1933)

Attempt to murder

by convict

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

Accessory after the
fact to murder

218. 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.

Written threat to
murder

219. Any person who conspires with any other person to kill any Conspiracy to
murder

person, whether such person is in Zambia or elsewhere, is guilty of a
felony and is liable to imprisonment for fourteen years.

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

Concealing the
birth of children

221. (1) Subject as hereinafter in this subsection provided, any person
who, with intent to destroy the life of a child capable of being born alive,
by any wilful act causes a child to die before it has an existence
independent of its mother, is guilty of felony, to wit, of child
destruction, and is liable on conviction thereof to imprisonment for life:

Child destruction

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

(2) For the purposes of this section, evidence that a woman had at any

material time been pregnant for a period of twenty-eight weeks or more shall be *prima facie* proof that she was at that time pregnant of a child capable of being born alive.

(No. 28 of 1931)

CHAPTER XXII

OFFENCES ENDANGERING LIFE OR HEALTH

222. 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.

(As amended by No. 26 of 1933)

Disabling with
intent to commit
felony or
misdemeanour

223. Any person who, with intent to commit or to facilitate the commission of a felony or misdemeanour, or to facilitate the flight of an

Stupefying with
intent to commit
felony or

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.

misdemeanour

224. 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 means 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.

Acts intended to
cause grievous

harm or prevent
arrest

225. 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.

Preventing escape
from wreck

226. (1) Any person who, with intent either to injure or endanger the safety of any person travelling by any railway, whether a particular person or not, or to affect or endanger the free and safe use of any railway or who, with intent to derail or cause to be derailed any railway engine, tender, wagon or carriage-

Acts endangering
railways and
persons travelling
thereon

(a) places anything on such railway; or

(b) interferes with such railway or with anything whatsoever upon or near such railway; or

(c) shoots or throws anything at, into or upon, or causes anything to come into contact with, any person or thing on such railway; or

(d) shows any light or signal or in any way deals with any existing light or signal upon or near such railway; or

(e) wilfully fails to do any act which it is his duty to do;

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

(2) Subject to the provisions of the Juveniles Act, where a person has been convicted of an offence under subsection (1) and his intent was to derail or cause to be derailed any railway engine, tender, wagon or carriage, he shall be sentenced to not less than five years' imprisonment.

(No. 34 of 1960)

Cap. 53

227. (1) Any person who, save with the express authority of the Zambia Railways or with some other lawful authority or lawful excuse, enters or remains or is found upon any portion of the railway reserve is guilty of a misdemeanour and is liable to a fine not exceeding three thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Trespass on
railway

(2) Any person guilty of an offence under the provisions of subsection

(1) who was, at the time such offence was committed, in possession without lawful excuse of any article or implement capable of being used to destroy, damage or dismantle any railway line or part thereof or any railway engine or rolling stock using such railway line, is guilty of a

felony and is liable to imprisonment for a period not exceeding fourteen years.

(3) Without prejudice to any other defence which may be open to him, a person shall be deemed to have lawful authority for the purposes of this section if he proves

(a) that he was on a public way or an authorised path; or

(b) that he was on a portion of the railway reserve upon which members of the public are admitted for the purposes of the Zambia Railways.

(4) A Divisional Commander of Police may, in his discretion and after consultation with the Zambia Railways, authorise such paths across the railway reserve as he deems necessary for the passage of persons across such reserve, and any path so authorised-

(a) shall be entered in a register kept or caused to be kept by the Divisional Commander of Police concerned; and

(b) shall be signposted by the Zambia Railways in such manner as the Minister responsible for power, transport and works may from time to time, by statutory notice, prescribe.

(5) In any proceedings under the provisions of this section-

(a) the onus of proving that any person had express or other authority or had lawful excuse shall lie upon such person; and

(b) every railway line, other than the Zambesi Sawmills Railway Line, over which goods and passengers are carried for fee or reward shall be presumed to be owned by the Zambia Railways unless the contrary is proved; and

(c) any document purporting to be an extract or copy of any entry in a register kept under the provisions of subsection (4) and to be certified under the hand of a police officer of or above the rank of Sub-Inspector shall be received in evidence as to the matters stated therein.

(6) For the purposes of this section-

"authorised path" means a path entered in any register kept under the provisions of subsection (4);

"railway reserve" means the strip of land along any railway line owned by the Zambia Railways extending

(a) where the said line consists of a single track, for a distance of one hundred feet outwards from each rail; and

(b) where the said line consists of two or more tracks, for a distance of one hundred feet outwards from the outermost rail on each side of such tracks;

and including all the land between the outermost rails.

(No. 34 of 1960 as amended by G.N. No. 493 of 1964 and No. 24 of 1977)

228. Any person who, with intent either to injure or to endanger the safety of any person travelling in any motor vehicle as defined in the Roads and Road Traffic Act, shoots or throws anything at, into or upon or causes anything to come into contact with any such person or any

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

(No. 26 of 1961)

Acts endangering
the safety of
persons travelling
in motor vehicles.

Cap. 464

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

Grievous harm

230. 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.

Attempting to
injure by explosive
substances

231. 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.

Maliciously
administering
poison with intent
to harm

232. Any person who- Unlawful
wounding or
poisoning

(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 three years.

233. 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 endangered, or his health is or is likely to be permanently injured, is guilty of a felony and is liable to imprisonment for three years.

Failure to supply
necessaries

234. 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.

Responsibility as
to surgical
operation

235. 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.

Criminal
responsibility

236. Notwithstanding anything contained in section *two hundred and thirty-five*, 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.

Exception

CHAPTER XXIII

CRIMINAL RECKLESSNESS AND NEGLIGENCE

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

Reckless and
negligent acts

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

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

(c) does any act with fire or any combustible matter, or omits to take precautions against any probable danger from any fire or any combustible matter in his possession; or

(d) omits to take precautions against any probable danger from any animal in his possession; or

(e) gives medical or surgical treatment to any person whom he has undertaken to treat; or

(f) dispenses, supplies, sells, administers, 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;

is guilty of a misdemeanour.

(As amended by No. 45 of 1969)

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

Unlawful acts
causing harm

239. 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 not exceeding three thousand penalty units.

(No. 26 of 1940 and Act No. 13 of 1994)

Dealing with
poisonous
substances in
negligent manner

240. Any person who, by any unlawful act or omission not specified in section *two hundred and twenty-six*, causes the safety of any person travelling by any railway to be endangered, is guilty of a misdemeanour.

Endangering safety
of persons
travelling by
railway

241. 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.

light, mark or buoy

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

Conveying person
by water for hire in
unsafe or
overloaded vessel

243. (1) Any person who, without lawful cause or reasonable excuse, does any act with intent to obstruct or impede the navigation by any vessel of any waters capable of being used for navigation is guilty of an offence and is liable on conviction to imprisonment for a period not exceeding three years.

Obstruction of
waterways

(2) For the purposes of this section, "vessel" includes any canoe, boat, ship or raft.

(No. 18 of 1962)

244. 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.

Danger or
obstruction in
public way or line
of navigation

245. (1) Any person who enters upon an aerodrome is guilty of a misdemeanour unless such person proves-

Trespass on
aerodromes

(a) that he did not know that the land on which he entered was an aerodrome; or

(b) that he had reasonable cause for being on such aerodrome.

(2) Any person who, being in charge of an animal, causes or permits

such animal to trespass on an aerodrome is guilty of a misdemeanour.

(3) A misdemeanour under this section is punishable with imprisonment for a period not exceeding one month or with a fine not exceeding seven hundred and fifty penalty units, or both.

(4) For the purposes of this section, "aerodrome" includes an airport, landing ground, or other place normally used by aircraft for landing and taking off.

(No. 28 of 1949 and Act No. 13 of 1994)

246. (1) Any person who, without lawful cause or reasonable excuse, does any act with intent to obstruct, whether partially or otherwise, any road or runway is guilty of an offence and is liable on conviction to imprisonment for a period not exceeding three years.

Obstruction of
roads or runways

(2) For the purposes of this section-

"road" shall have the meaning assigned to it by section *two* of the Roads and Road Traffic Act;

"runway" includes any landing ground or other place ordinarily used by aircraft for landing or taking off.

(No. 18 of 1962)

Cap. 464

CHAPTER XXIV

ASSAULTS

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

Common assault

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

Assaults
occasioning actual
bodily harm

248A. Any person who commits an assault or battery on a child occasioning actual bodily harm commits an offence and is liable, upon conviction, to a term of imprisonment of not less than five years and not exceeding ten years.

Assault or
battering of child

(As amended by Act No. 15 of 2005)

249. 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

Assaults on
persons protecting
wrecks

on shore, or lying under water, is guilty of a felony and is liable to

imprisonment for seven years.

250. Any person who-

(a) assaults any person with intent to commit a felony or to resist or prevent the lawful apprehensive or detainer of himself or of any other person for any offence; or

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

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

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

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

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

Assaults

punishable with

five years'

imprisonment

CHAPTER XXV

OFFENCES AGAINST LIBERTY

251. Any person who conveys any person beyond the limits of Zambia 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 Zambia.

Definition of

kidnapping from

Zambia

252. 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.

Definition of

kidnapping from

lawful

guardianship

253. 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.

Definition of

abduction

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

Punishment for

kidnapping

255. Any person who kidnaps or abducts any person in order that such

person may be murdered, or may be so disposed of as to be put in danger of being murdered, is guilty of a felony and is liable to imprisonment for ten years.

Kidnapping or
abducting in order
to murder

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

Kidnapping or
abducting with
intent to confine
person

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

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

258. 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.

Wrongfully
concealing or
keeping in
confinement
kidnapped or
abducted person

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

Kidnapping or
abducting child
under fourteen
with intent to steal
from its person

260. Whoever wrongfully confines any person is guilty of a misdemeanour and is liable to imprisonment for one year or to a fine not exceeding six thousand penalty units.

(No. 26 of 1940 and Act No. 13 of 1994)

Punishment for
wrongful

confinement

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

disposing of any person as a slave

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

Habitual dealing in slaves

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

Unlawful compulsory labour

DIVISION V

OFFENCES RELATING TO PROPERTY

CHAPTER XXVI

THEFT

264. (1) Every inanimate thing whatever which is the property of any person, and which is movable, is capable of being stolen.

Things capable of being stolen

(2) 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.

(3) 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.

(4) Animals wild by nature, of a kind which is not ordinarily found in a condition of natural liberty in Zambia, 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.

(5) Animals wild by nature, of a kind which is ordinarily found in a condition of natural liberty in Zambia, 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.

(6) 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.

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

(8) Everything produced by or forming part of the body of an animal

capable of being stolen is capable of being stolen.

265. (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.

Definition of theft

(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.

(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.

(6) For the purposes of this section, "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.

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

Special cases

(2) When a servant, contrary to his master's orders, takes from his possession any food in order that it may be given to an animal belonging

to or in the possession of his master, such taking is not deemed to be theft.

267. When a person receives, either alone or jointly with another person, any money or valuable security or a power of attorney for the Funds, etc., held under direction

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.

(As amended by No. 9 of 1968)

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

Funds, etc.,
received by agents
for sale

269. 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.

Money received
for another

270. 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.

Theft by persons
having an interest
in the thing stolen

271. 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.

Husband and wife

272. Any person who steals anything capable of being stolen is guilty of the felony termed "theft", and, unless owing to the circumstances of the theft or the nature of the thing stolen some other punishment is provided, is liable to imprisonment for five years.

(As amended by Act No. 29 of 1974)

General
punishment for
theft

273. If the thing stolen is a testamentary instrument, whether the testator is living or dead, the offender is liable to imprisonment for ten years.

(As amended by No. 28 of 1931)

Stolen wills

274. 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 postal
matter, etc.

275. (1) If the thing stolen is any of the following, that is to say: a horse, mare, gelding, ass, mule, camel, ostrich, ram, ewe, wether, goat or pig, or the young of any such animal, the offender is liable-

Stock theft

(a) in the case of a first offence, to imprisonment not exceeding fifteen years;

(b) in the case of a second and subsequent offence to imprisonment for a period of not less than seven years and not exceeding fifteen years.

(2) If the thing stolen is a bull, cow or ox, or the young of any such animal, the offender is liable to imprisonment for a period-

(a) in the case of a first offence, of not less than five years and not exceeding fifteen years;

(b) in the case of a second or subsequent offence, of not less than seven years and not exceeding fifteen years.

275A. (1) Notwithstanding subsection (2) of section *twenty-six*, if the thing stolen is copper cathodes, copper bars, cobalt, lead, zinc or vanadium the offender is liable to imprisonment for a period not exceeding fifteen years.

Stealing copper
cathodes, copper
bars, cobalt, lead,

zinc or vanadium

(2) Where a person is convicted of an offence under this Act the court which convicts him shall, in addition to any other penalty imposed under subsection (1), order the forfeiture of all the property which is the subject of that offence or which has been used for the commission of that offence:

Provided that no conveyance which has been used for the commission of the offence shall be forfeited if the offence was committed by a person other than the owner or person in charge of the conveyance and it is proved to the court that the use of the conveyance for the commission of the offence was without the consent and knowledge of the owner or person in charge of the conveyance and was not due to any neglect, default or lack of reasonable care by the owner or the person in charge of the conveyance.

(3) Where it is proved to the satisfaction of the court that an offence has been committed under this Section, the court shall make an order for the forfeiture of all property which is the subject matter of that offence or which has been used for the commission of that offence, notwithstanding that no person may have been convicted of the offence: Provided that the proviso to subsection (2) shall apply in relation to an order for forfeiture under this subsection.

(As amended by Act No. 23 of 1993)

276. 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 one hundred and fifty fee units 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;
Stealing from the
person; stealing
goods in transit,
etc.
- (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 stolen is attached to or forms part of a railway;
- (e) if the thing is stolen from a vessel which is in distress or wrecked or stranded;
- (f) if the thing is stolen from a public office in which it is deposited or kept;
- (g) if the offender, in order to commit the offence, opens any locked room, box, or other receptacle, by means of a key or other instrument; the offender is liable to imprisonment for seven years.

(As amended by Act No. 13 of 1994)

277. If the offender is a person employed in the public service and the thing stolen is the property of the Government, a local authority or a

corporation, body or board, including an institution of higher learning in which the Government has a majority or con-trolling interest, or came into his possession by virtue of his employment, he is liable to imprisonment for fifteen years.

(As amended by Act No. 29 of 1974)

Stealing by persons
in public service

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

Stealing by clerks
and servants

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

Stealing by
directors or
officers of
companies

280. 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 deposition 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;

Stealing by agents
etc.

(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 has been received by the offender by virtue of a power of attorney for such disposition, such power of attorney having been received by the offender with a direction that such proceeds should be applied to any purpose or paid to any person specified in the direction;

the offender is liable to imprisonment for seven years.

281. 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 one hundred and fifty fee units, he is liable to imprisonment for seven years.

Stealing by tenants
or lodgers

(As amended by Act No. 13 of 1994)

281A. (1) If the thing stolen is a motor vehicle, the offender is liable to

imprisonment for a period-

Stealing of motor
vehicle

(a) in the case of a first offence, of not less than five years and not exceeding fifteen years;

(b) in the case of a second or subsequent offence, of not less than seven years and not exceeding fifteen years.

(2) In this section, "motor vehicle" means a motor vehicle or trailer-

(a) which is registered or registrable under the provisions of section *sixty-six* of the Roads and Road Traffic Act; or

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(b) which is exempted from the need for registration under any of the provisions of the Roads and Road Traffic Act or any regulation made thereunder.

(3) Where a person is convicted of an offence under subsection (1) the court which convicts the person shall, in addition to any other penalty imposed under that subsection, order the forfeiture of all the property

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which has been used for or derived from the commission of that offence:

Provided that no property which has been used for the commission of the offence shall be forfeited if the offence was committed by a person other than the owner or person in charge of the property and it is proved to the court that the use of the property for the commission of the offence was without the consent and knowledge of the owner or person in charge of the property.

(4) Where a person is charged with an offence under subsection (1) the trial court may, notwithstanding that the person was not originally charged with that offence, convict the person of a lesser offence and the person shall, upon such conviction, be liable to a fine of not less than fifty-eight thousand penalty units or to imprisonment for a term of not less than five years, or to both.

281B. (1) A police officer may, without a warrant, stop, search and arrest any person found driving, or in possession, charge or control of a motor vehicle, where the officer believes, on reasonable grounds, that the vehicle is stolen.

(2) Where an arrest is made under subsection (1) the police officer may seize the vehicle and any documents relating to the vehicle.

(3) A police officer who arrests any person or seizes a motor vehicle under this section shall as soon as practicable take the person, the vehicle and any documents relating to the nearest police station.

(4) A person arrested and any motor vehicle seized under this section shall, within forty-eight hours of arrest and seizure, be brought before a court.

(5) Any motor vehicle-

(a) returned, by the court, to the police at the conclusion of the case;

or

(b) found abandoned on any road or in any public place or premises;

and of which the owner is not known or cannot be found, may be removed to a police station, and if not previously claimed by its owner, shall be dealt with in accordance with the provisions of subsection (6).

(6) The Officer-In-Charge of the police station to which a motor vehicle is removed in terms of subsection (5) shall cause to be published, once in the *Gazette*, and once in a newspaper of general circulation in Zambia, a notice containing-

- (a) particulars of the vehicle concerned; or
- (b) where no particulars are available, fair description of the vehicle; and
- (c) a warning that if the vehicle remains unclaimed within six months from

the date of publication of the notice, it shall be forfeited to the

Search, seizure and
arrest of person in
relation to theft of
motor vehicle

State

and dealt with as the Minister may, by notice in the *Gazette*, direct,

which may include sale by public auction.

(As amended by Act No. 9 of 1974 and No. 20 of 2000)

282. Repealed by Act No. 29 of 1974

CHAPTER XXVII

OFFENCES ALLIED TO STEALING

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

Concealing
registers

284. 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 wills

285. 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.

Concealing deeds

286. 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.

Killing animals
with intent to steal

287. 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.

Severing with
intent to steal

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

Fraudulent
disposition of
mortgaged goods

(2) In this section, "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.

289. Notwithstanding subsection (2) of section *twenty-six*, any person who takes, conceals, or otherwise disposes of any ore or any metal or mineral with intent to defraud any person, is guilty of a felony and is liable to imprisonment for a period not exceeding fifteen years.

289B. (1) Any person who-

(a) takes, conceals, sells, or otherwise disposes of a motor vehicle or any part of it with intent to defraud any person;

or

(b) knowing or believing that a motor vehicle is stolen, dishonestly receives such motor vehicle or undertakes or assists in its retention, removal disposal or realisation by or for the benefit of another person or arranges to do so; commits an offence and is liable, upon conviction, to a fine of not less than twenty-eight thousand penalty units but not exceeding fifty-six thousand penalty units or imprisonment for a term of five years or to both.

(2) Where a person is convicted of an offence under this section the court which convicts the person shall, in addition to any penalty imposed under subsection (1), order the forfeiture of all property which is used for or derived from the commission of the offence.

(3) Any sentence imposed under subsection (1) shall be consecutive to, and not concurrent with, any sentence imposed on the convicted person and no part of such sentence shall be suspended.

(As amended by Act No. 23 of 1993 and No. 20 of 2000)

Fraudulently
dealing with metals
or minerals

Fraudulently
dealing with motor
vehicles

290. Any person who fraudulently abstracts or diverts to his own use or to the use of any other person any mechanical, illuminating, or

electrical power derived from any machine, apparatus, or substance, the property of another person, is guilty of a felony and is liable to imprisonment for five years.

Fraudulent
appropriation of
power

291. Any person who unlawfully and without colour of right, but not so as to be guilty of theft, takes or converts to his use or to the use of any other person any draught or riding animal or any vehicle or cycle however propelled, or any vessel, is guilty of a misdemeanour and is liable to imprisonment for six months or to a fine not exceeding one thousand five hundred penalty units, or to both.

(As amended by Act No. 13 of 1994)

Conversion not
amounting to theft

CHAPTER XXVIII

ROBBERY AND EXTORTION

292. 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 to obtain or retain the thing stolen or to prevent or overcome resistance to its being stolen or retained, is guilty of the felony of robbery and is liable on conviction to imprisonment for fourteen years.

(No. 18 of 1963)

Robbery

293. Any person who assaults any person with intent to steal anything is guilty of a felony and is liable on conviction to imprisonment for seven years.

(No. 18 of 1963)

Assault with intent
to steal

294. (1) Any person who, being armed with any offensive weapon or instrument, or being together with one person or more, 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 to obtain or retain the thing stolen or to prevent or overcome resistance to its being stolen or retained, is guilty of the felony of aggravated robbery and is liable on conviction to imprisonment for life, and, notwithstanding subsection (2) of section *twenty-six*, shall be sentenced to imprisonment for a period of not less than fifteen years.

Aggravated
robbery

(2) Notwithstanding the provisions of subsection (1), the penalty for the felony of aggravated robbery under subsection (1) shall be death-

(a) where the offensive weapon or instrument is a firearm, unless the court is satisfied by the evidence in the case that the accused person was not armed with a firearm and-

(i) that he was not aware that any of the other persons involved in

committing the offence was so armed; or
(ii) that he dissociated himself from the offence immediately on becoming so aware; or
(b) where the offensive weapon or instrument is not a firearm and grievous harm is done to any person in the course of the offence, unless the court is satisfied by the evidence in the case that the accused person neither contemplated nor could reasonably have contemplated that grievous harm might be inflicted in the course of the offence.
(3) In this section "firearm" has the meaning assigned to it in section *two* of the Firearms Act.

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(No. 18 of 1963 as amended by No. 40 of 1969 and Act No. 29 of 1974)

295. Any person who, being armed with any offensive weapon or instrument, or being together with one person or more, assaults any person with intent to steal anything, is guilty of a felony and is liable on conviction to imprisonment for a period (notwithstanding subsection (2) of section *twenty-six*) of not less than ten years and not exceeding twenty years.

(No. 18 of 1963 as amended by No. 40 of 1969)

Aggravated assault
with intent to steal

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

Demanding
property by written
threats

297. (1) Any person who, with intent to extort or gain anything from any person-

Attempts at
extortion by threats

(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 death or 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 fourteen years. In any other case the offender is liable to imprisonment for three years.

(2) 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.

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

Procuring
execution of deeds,
etc., by threats

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

(b) to write any name or impress or affix any seal upon or to any paper or parchment, in order that it may be afterwards made or converted into or used or dealt with as a valuable security;

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

299. 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 five years.

Demanding
property with
menaces with
intent to steal

CHAPTER XXIX

BURGLARY, HOUSEBREAKING AND SIMILAR OFFENCES

300. (1) 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.

Definition of
breaking and
entering

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

(3) 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.

301. Any person who-

(a) breaks and enters any dwelling house with intent to commit a felony therein; or

(b) having entered any dwelling house with intent to commit a felony therein, or having committed a felony in any such dwelling house, breaks out thereof;

is guilty of the felony termed "housebreaking" and is liable to imprisonment for seven years. If the offence is committed in the night, it is termed "burglary" and the offender is liable to imprisonment for ten years.

House-breaking
and burglary

(As amended by Act No. 3 of 1990)

302. (1) Any person who enters or is in any dwelling house with intent to commit a felony in it is guilty of a felony and liable upon conviction to imprisonment for a period not exceeding five years or if the offence is committed at night to imprisonment for a period not exceeding seven years.

Entering dwelling
house or other
building with
intent to commit
felony

(2) Any person who enters or is in any building other than a dwelling house, with intent to commit a felony in it is guilty of a felony and liable upon conviction to imprisonment for a period not exceeding five years or if the offence is committed at night to imprisonment for a period not exceeding seven years.

(As amended by Act No. 3 of 1990)

303. Any person who-

(a) breaks and enters into any building other than a dwelling house and commits a felony in it; or

(b) having committed a felony in any building other than a dwelling house, breaks out of it, is guilty of a felony and is liable to imprisonment for seven years;

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

(As amended by Act No. 3 of 1990)

Breaking into
building and
committing felony

304. Any person who breaks and enters a schoolhouse, shop, warehouse, store, office, or counting-house, or a building which is adjacent to a dwelling-house and occupied with it but is not part of it, or any building used as a place of worship with intent to commit a felony therein, is guilty of a felony and is liable to imprisonment for five years.

Breaking into
building with
intent to commit
felony

305. Any person who is found under any of the circumstances following, that is to say:

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

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

(c) having in his possession by night without lawful excuse, the
Persons found
armed, etc., with
intent to commit
felony

proof of which lies on him, any instrument of housebreaking, explosive or petroleum;

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

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

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

(g) being in any building whatever by day with intent to commit a felony therein, and having taken precautions to conceal his presence; is guilty of a felony and is liable to imprisonment for three years. If the offender has been previously convicted of a felony relating to property, he is liable to imprisonment for seven years.

(As amended by No. 7 of 1960)

306. Any person who-

(a) unlawfully enters into or upon any property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property;

(b) 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 the misdemeanour termed "criminal trespass" and is liable to imprisonment for three months. If the property upon which the offence is committed is any building, tent or vessel 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 one year.

(No. 26 of 1940)

Criminal trespass

307. When any person is convicted of an offence under this Chapter, the court shall order that any dangerous or offensive weapon or instrument of housebreaking carried or used in connection with any such offence shall be forfeited.

(As amended by S.I. No. 63 of 1964 and No. 5 of 1972)

Forfeiture

CHAPTER XXX

FALSE PRETENCES

308. Any representation made by words, writing or conduct, of a matter of fact or of law, either past or present, including a representation as to the present intentions of the person making the representation or of any other person, 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.

(As amended by No. 5 of 1972)

Definition of false

pretence

309. 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 goods

by false pretences

309A. (1) Any person who, by any false pretence, dishonestly obtains for himself or another any pecuniary advantage, is guilty of a misdemeanour and is liable to imprisonment for five years.

Obtaining

pecuniary

advantage by false

pretences

(2) The cases in which a pecuniary advantage within the meaning of this section is to be regarded as obtained for a person are cases where-

(a) any debt or charge for which he makes himself liable or is or may become liable (including one not legally enforceable) is reduced or in whole or in part evaded or deferred; or

(b) he is allowed to borrow by way of overdraft, or to take out any policy of insurance or annuity contract, or obtains an improvement of the terms on which he is allowed to do so; or

(c) he is given the opportunity to earn remuneration or greater remuneration in an office or employment, or to win money by betting.

(No. 5 of 1972)

310. Any person who, by any false pretence and with intent to defraud, induces any person to execute, make, accept, endorse, alter, or destroy the whole or any part of any valuable security, or to write any name or impress or affix any seal upon or to any paper or parchment in order that

it may be afterwards made or converted into or used or dealt with as a valuable security, is guilty of a misdemeanour and is liable to

Obtaining
execution of a
security by false
pretences

imprisonment for three years.

310A. An intent to deceive exists where one person induces another person-

(a) to believe that a thing is true which is false, and which the person practising the deceit knows or believes to be false; or

(b) to believe a thing to be false which is true, and which the person practising the deceit knows or believes to be true;

and in consequence of having been so induced does or omits to do an act whether or not any injury or loss is thereby suffered by any person.

(As amended by Act No. 5 of 1972)

Intent to deceive

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

Cheating

312. 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, conceals, sells or removes any part of his property after or within three 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.

Obtaining credit,

etc., by false

pretences

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

Conspiracy to

defraud

314. Any person who, being a seller or mortgagor of any property, or being the solicitor or agent of any such seller or mortgagor, with intent

Frauds on sale or mortgage of

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.

property

315. Any person who for gain or reward undertakes to tell fortunes, or pretends from his skill or knowledge in any occult science to discover where or in what manner anything supposed to have been stolen or lost may be found, is guilty of a misdemeanour.

Pretending to tell fortunes

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

Obtaining registration, etc., by false pretences

317. 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.

False declaration for passport

CHAPTER XXXI

RECEIVING PROPERTY STOLEN OR UNLAWFULLY OBTAINED AND LIKE OFFENCES

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

Receiving stolen property, etc.

(2) Any person who received 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

Receiving property unlawfully obtained

misdemeanour and is liable to the same punishment as the offender by whom the property was unlawfully obtained, converted or disposed of.

(As amended by No. 26 of 1940)

319. Any person who shall be brought before a court charged with-
(a) having in his possession anything which may be reasonably suspected of having been stolen or unlawfully obtained; or
(b) conveying in any manner anything which may be reasonably suspected of having been stolen or unlawfully obtained;
and who shall not give an account to the satisfaction of such court of how he came by the same, is guilty of a misdemeanour.

(No. 22 of 1969)

Person suspected
of having or
conveying stolen
property

320. Every 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 Zambia 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 Zambia, is guilty of an offence of the like degree (whether felony or misdemeanour) and is liable to imprisonment for seven years.

(No. 26 of 1940)

Receiving goods
stolen outside
Zambia

CHAPTER XXXII

ILLEGAL POSSESSION OF DIAMONDS AND EMERALDS

321. (1) Any person who, without the written permission of the Chief Mining Engineer, has in his possession or disposes of any diamond or emerald shall be guilty of a misdemeanour.

Illegal possession
of diamonds or
emeralds

(2) For the purposes of this section-

"Chief Mining Engineer" means the person appointed as such in pursuance of section *six* of the Mines and Minerals Act, 1969;

"diamond" means any rough or uncut diamond and includes any diamond which has been partially cut, shaped or polished out of the rough;

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"emerald" means any rough or uncut emerald and includes any emerald which has been partially cut, shaped or polished out of the rough.

(3) Any police officer of or above the rank of Sub Inspector may arrest without warrant any person reasonably suspected by him of having committed or of attempting to commit an offence under this section.

322. (1) When a person has been found guilty by a court of an offence under section *three hundred and twenty one* in addition to any other

punishment imposed on the accused person, the diamonds or emeralds in respect of which the offence has been committed shall be forfeited to the state upon such finding by the court.

Forfeiture on conviction

(2) Any diamonds or emeralds which have been forfeited under subsection (1) shall be released to the Minister of Finance or such other person as may be authorised by him in writing.

(As amended by Act No. 5 of 1972)

CHAPTER XXXIII

FRAUDS BY TRUSTEES AND PERSONS IN A POSITION OF TRUST, AND FALSE ACCOUNTING

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

Trustees
fraudulently
disposing of trust
property

(2) For the purposes of this section, "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.

324. 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:

Directors and
officers of
corporations or
companies
fraudulently
appropriating
property or
keeping fraudulent
accounts or

falsifying books or
accounts

(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 seven years.

325. 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 seven years.

False statements by
officials of
companies

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

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

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

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

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

Fraudulent false
accounting

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

DIVISION VI
MALICIOUS INJURIES TO PROPERTY

False accounting
by public officer

CHAPTER XXXIV
OFFENCES CAUSING INJURY TO PROPERTY

328. Any person who wilfully and unlawfully sets fire to-
(a) any building or structure whatever, whether completed or not; or
(b) any vessel or any motor vehicle as defined in the Roads and Road Traffic Act, whether completed or not; or
(c) any stack of cultivated vegetable 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.
(As amended by No. 26 of 1961)

Arson
Cap. 464

329. Any person who-
(a) attempts unlawfully to set fire to any such thing as is mentioned in the last preceding section; or
(b) wilfully and unlawfully sets fire to anything which is so situated that any such thing as is mentioned in the last preceding section is likely to catch fire from it;
is guilty of a felony and is liable to imprisonment for fourteen years.

Attempts to
commit arson

330. Any person who wilfully and unlawfully sets fire to-
(a) a crop of cultivated produce, whether standing, picked or cut; or
(b) a crop of hay or grass under cultivation, whether the natural or indigenous product of the soil or not, and whether standing or cut; or
(c) any standing trees, saplings, or shrubs, whether indigenous or not, under cultivation;
is guilty of a felony and is liable to imprisonment for fourteen years.
(As amended by No. 26 of 1940)

Setting fire to crops
and growing plants

331. Any person who-
(a) attempts unlawfully to set fire to any such thing as is mentioned in the last preceding section; or
(b) wilfully and unlawfully sets fire to anything which is so situated that any such thing as is mentioned in the last preceding section is likely to catch fire from it;
is guilty of a felony and is liable to imprisonment for seven years.

Attempts to set fire
to crops, etc.

332. Any person who-
(a) wilfully and unlawfully casts away 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.

Casting away
vessels

(As amended by No. 26 of 1933)

333. 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.

(As amended by No. 26 of 1933)

Attempts to cast
away vessels

334. (1) Any person who wilfully and unlawfully kills, maims or wounds any animal capable of being stolen is guilty of an offence.

Injuring animals

(2) If the animal in question is a horse, mare, gelding, ass, mule, camel, bull, cow, ox, goat, pig, ram, ewe, wether, or ostrich, 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.

335. (1) Any person who wilfully and unlawfully destroys or damages any property is guilty of an offence, which, unless otherwise stated, is a misdemeanour and he is liable, if no other punishment is provided, to imprisonment for two years.

Punishment for
malicious injuries
in general

(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-

In special cases destroying

or

damaging an
inhabited house or
a vessels with
explosives

(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) If the property in question- River bank or wall,

or navigation
works, or bridges

(a) 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) is a railway or is a bridge, viaduct, or aqueduct which is constructed over a highway, railway, or canal, or over which a railway, highway, or canal passes, and the property is destroyed; or

(c) being a railway or being any such bridge, viaduct, or aqueduct, is damaged, and the damage is done with intent to render the railway, bridge, viaduct, or aqueduct, or the highway, or canal passing over or under the same or any part thereof, dangerous or impassable, and the same or any part thereof is thereby rendered dangerous or impassable; the offender is guilty of a felony and is liable to imprisonment for life.

(4) If the property in question is a testamentary instrument, whether the testator is living or dead, or a register which is authorised or required by law to be kept for authenticating or recording the title to any property or for recording births, baptisms, marriages, deaths, or burials, or a copy of any part of any such register which is required by law to be sent to any public officer, the offender is guilty of a felony and is liable to imprisonment for fourteen years.

Wills and registers

(5) If the property in question is a vessel in distress or wrecked, or stranded, or anything which belongs to such vessel, the offender is guilty of a felony and is liable to imprisonment for seven years.

Wrecks

(6) If the property in question is any part of a railway, or any work connected with a railway, the offender is guilty of a felony and is liable to imprisonment for fourteen years.

Railways

(7) If the property in question- Other things of special value

(a) being a vessel, whether completed or not, is destroyed; or

(b) 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) 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) is a bank or wall of a river, canal, aqueduct, reservoir, or inland water, or a work which appertains to a dock, canal, aqueduct, reservoir, or inland water, or which is used for the purposes of lading or unlading goods; or

(e) being a railway, or being a bridge, viaduct, or aqueduct which is constructed over a highway, railway, or canal, or over which a highway, railway, or canal passes, is damaged, and the damage is done with intent to render the railway, bridge, viaduct, or aqueduct, or the highway, railway, or canal passing over or under the same, or any part thereof, dangerous or impassable; or

(f) 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) 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) 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) 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) 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) 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) is a well, or bore for water, or the dam, bank, wall, or floodgate of a millpond or pool;

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

(8) 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.

(As amended by No. 26 of 1933)

Deeds and records

336. Any person who, unlawfully and with intent to destroy or damage any property, puts any explosive substance in any place whatever, is guilty of a felony and is liable to imprisonment for fourteen years.

Attempts to
destroy property by
explosives

337. Any person who wilfully and unlawfully causes, or is concerned in causing, or attempts to cause, any infectious disease to be communicated to or among any animal or animals capable of being stolen, is guilty of a felony and is liable to imprisonment for seven years.

Communi-cating
infectious diseases
to animals

338. Any person who wilfully and unlawfully, and with intent to defraud, removes or defaces any object or mark which has been lawfully erected or made as an indication of the boundary of any land, is guilty of a felony and is liable to imprisonment for three years.

Removing
boundary marks
with intent to
defraud

339. Any person who-

(a) wilfully removes, defaces or injures any survey mark or boundary mark which shall have been made or erected by or under the direction of any Government department or in the course of or for the purposes of a Government survey; or

(b) being under an obligation to maintain in repair any boundary mark made or erected as aforesaid, neglects or refuses to repair the same; or

(c) wilfully removes, defaces or injures 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 six hundred penalty units, 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.

(As amended by No. 13 of 1994)

Wilful damage,
etc., to survey and
boundary marks

340. Any person who-

(a) wilfully damages, injures, or obstructs any work, way, road, building, turnstile, gate, toll bar, fence, weighing machine, engine, tender, carriage, wagon, truck, material or plant, acquired for or belonging to any railway works; or

(b) pulls up, removes, defaces, or destroys, or in any way interferes with, any poles, stakes, flags, pegs, lines, marks, or anything driven or placed in or upon the ground, trees, stones, or buildings, or any other material, belonging to any railway works; or

(c) commits any nuisance or trespass in or upon any land, buildings, or premises, acquired for or belonging to any railway works; or

(d) wilfully molests, hinders, or obstructs the officer in charge of any railway or his assistants or workmen in the execution of any work done or to be done in reference to the construction or maintenance of any such railway;

is guilty of a misdemeanour and is liable to imprisonment for three months or to a fine of six hundred penalty units.

(As amended by No. 13 of 1994)

Penalties for
damage, etc., to
railway works

341. Any person who, knowing the contents thereof, sends, delivers, utters or directly or indirectly causes to be received any letter or writing threatening to burn or destroy any house, barn, or other building, or any rick or stack of grain, hay, or straw, or other agricultural produce, whether in or under any building or not, or any vessel, or to kill, maim, or wound any cattle, is guilty of a felony and is liable to imprisonment for ten years.

Threats to burn or

destroy

DIVISION VII

FORGERY, COINING, COUNTERFEITING AND SIMILAR OFFENCES

CHAPTER XXXV

DEFINITIONS

342. Forgery is the making of a false document with intent to defraud or to deceive.

(As amended by No. 26 of 1940)

Definition of
forgery

343. In this Division, "document" does not include a trade mark or any other sign used in connection with articles of commerce though they may be written or printed.

Definition of
document

344. 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-
- Making a false
document
- (i) in the name of any person without his authority whether such name is or is not the same as that of the person signing;
 - (ii) in the name of any fictitious person alleged to exist, whether the fictitious person is or is not alleged to be of the same name as the person signing;
 - (iii) in the name represented as being the name of a different person from that of the person signing it and intended to be mistaken for the name of that person;
 - (iv) in the name of a person personated by the person signing the document, provided that the effect of the instrument depends upon the identity between the person signing the document and the person whom he professes to be.

344A. An intent to deceive exists where one person induces another person-

- (a) to believe that a thing is true which is false, and which the person practising the deceit knows or believes to be false; or
 - (b) to believe a thing to be false which is true, and which the person practising the deceit knows or believes to be true;
- and in consequence of having been so induced does or omits to do an act whether or not any injury or loss is thereby suffered by any person.

Intent to deceive

(No. 5 of 1972)

345. An intent to defraud is presumed to exist if it appears that, at the time when the false document was made, there was in existence a specific person ascertained or unascertained capable of being defrauded thereby, and this presumption is not rebutted by proof that the offender took or intended to take measures to prevent such person from being defrauded in fact, nor by the fact that he had or thought he had a right to the thing to be obtained by the false document.

Intent to defraud

CHAPTER XXXVI

PUNISHMENTS FOR FORGERY

346. In this Chapter, "currency notes" includes any notes (by whatever name called) which are legal tender in the country in which they are issued.

(No. 48 of 1938)

Definition of
currency notes

347. 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.

General
punishment for
forgery

348. 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.

(As amended by S.I. No.63 of 1964)

Forgeries
punishable by
imprisonment for
life

349. Any person who forges any judicial or official document is liable to imprisonment for seven years.

Forgery of judicial
or official
document

350. Any person who-

(a) forges any stamp, whether impressed or adhesive, used for the purpose of revenue or accounting by any Government department; or

Forgeries
punishable by
imprisonment for
seven years

(b) without lawful excuse, the proof whereof shall lie upon him,

makes or has knowingly in his possession any die or instrument capable of making the impression of any such stamp; or

(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.

351. Any person who, without lawful authority or excuse, the proof whereof lies upon him-

(a) makes, uses, or knowingly has in his custody or possession any paper intended to resemble and pass as special paper such as is provided and used for making any currency note or bank 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 any wise makes upon any plate, wood, stone, or other material, any words, figures, letters, marks, lines or devices, the print whereof resembles in whole or in part any words, figures, letters, marks, lines or devices peculiar to and used in or on any bank note, or in or on any document entitling or evidencing the title of any person to any share or interest in any public stock, annuity, fund, or debt of the

Making or having
in possession paper
or implements for
forgery

Republic or of any foreign state, or in any stock, annuity, fund or debt of any body corporate, company or society, whether within or without the Republic;

(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 any wise made as aforesaid; or

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

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

(No. 48 of 1938 as amended by S.I. No. 63 of 1964)

352. 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 false
documents

353. 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.

Uttering cancelled
or exhausted
documents

354. 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.

Procuring
execution of
documents by false
pretences

355. 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.

Obliterating
crossings on
cheques

356. Any person who, with intent to defraud or to deceive-

(a) without lawful authority or excuse, makes, signs, or executes,

Making documents

without authority

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.

(As amended by No. 26 of 1940)

357. 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.

Demanding
property upon
forged
testamentary
instrument

358. Any person who, without lawful authority or excuse, the proof of which lies on him, purchases or receives from any person, or has in his possession a forged bank note or currency note, whether filled up or in blank, knowing it to be forged, is guilty of a felony and is liable to imprisonment for seven years.

Purchasing forged
notes

359. Any person who, being employed in the public service, knowingly and with intent to defraud makes out or delivers to any person a warrant for the payment of any money payable by public authority, for a greater or less amount than that to which the person on whose behalf the warrant is made out is entitled, is guilty of a felony and is liable to imprisonment for seven years.

Falsifying warrants
for money payable
under public
authority

360. 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.

Falsification of
register

361. Any person who signs or transmits to a person authorised by law to register marriages, a certificate of marriage, or any document purporting to be a certificate of marriage, which in any material particular is to his knowledge false, is guilty of a felony and is liable to

Sending false
certificate of
marriage to
registrar

imprisonment for seven years.

362. Any person who, knowingly and with intent to procure the same to be inserted in a register of births, deaths, or marriages, makes any false

statement touching any matter required by law to be registered in any such register, is guilty of a felony and is liable to imprisonment for three years.

False statements
for registers of
births, deaths and
marriages

CHAPTER XXXVII

OFFENCES RELATING TO COIN

363. In this Chapter- Definitions of
counterfeit coin
and current coin

"counterfeit coin" means coin not genuine but resembling or apparently intended to resemble or pass for genuine current coin; and includes genuine current coin prepared or altered so as to pass for current coin of a higher denomination;

"current", applied to any coin, includes any coin coined in Zambia or lawfully current in Zambia or any coin lawfully current in any foreign country.

(No. 48 of 1938 as amended by S.I. No. 63 of 1964)

364. Any person who makes or begins to make any counterfeit coin is guilty of a felony and is liable to imprisonment for life.

(As amended by No. 48 of 1938)

Counterfeiting coin

365. 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-

Preparations for
coining

- (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 Zambia 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 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 marking coin round the edges with marks or figures apparently resembling those on the edges of any

coin, knowing the same to be so adapted and intended; or
(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 and is liable to imprisonment for life.

(As amended by No. 48 of 1938)

366. Any person who deals with any current coin in such a manner as to diminish its weight, 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.

(As amended by No. 48 of 1938)

Clipping

367. Any person who melts down, breaks up, defaces by stamping thereon any name, word or mark, or uses otherwise than as currency, any silver coin current for the time being in Zambia, is guilty of a misdemeanour and is liable to imprisonment for six months or to a fine not exceeding three thousand penalty units, or to both.

(As amended by Act No. 26 of 1940 and No. 13 of 1994)

Melting down of
currency

368. 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.

Possession of
clippings

369. Any person who utters any counterfeit coin, knowing it to be counterfeit, is guilty of a misdemeanour.

(As amended by No. 48 of 1938)

Uttering
counterfeit coin

370. 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) has in his possession three or more pieces of counterfeit coin, knowing them to be counterfeit, and with intent to utter any of them;
is guilty of a felony and is liable to imprisonment for three years.

(As amended by No. 48 of 1938)

Repeated uttering

371. Any person who, with intent to defraud, utters as and for current coin-

(a) any coin which is not such current coin; or

(b) any medal or piece of metal, whether a coin or not, which is of less value than the current coin as and for which it is uttered; is guilty of a misdemeanour and is liable to imprisonment for one year.

(As amended by No. 48 of 1938)

Uttering foreign
coin or metal as
current coin

372. 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 Zambia, any counterfeit coin whatever, knowing it to be counterfeit, is guilty of a felony and is liable to imprisonment for fourteen years.

Exporting
counterfeit coin

(As amended by No. 48 of 1938)

373. When any person is convicted of an offence under this Chapter, or Chapter XXXVI, the court shall order the forfeiture of any forged bank note or currency note or of any counterfeit coin, or any stamp, mould, tool, instrument, machine, press, or any coin, bullion or metal used or employed in the commission of any such offence.

(As amended by No. 48 of 1938 and S.I. No. 63 of 1964)

Forfeiture

CHAPTER XXXVIII COUNTERFEIT STAMPS

374. 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 postal administration in Zambia, 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 lines 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, any stamp or part of a stamp which has been in any way removed from any other material, or out of or from any other stamp; or
(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 Possession of die
used for purpose of
making stamps
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 public revenue, uses for any purpose a stamp issued by Government for the purposes of revenue which he knows to have been previously 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.

(As amended by No. 26 of 1940, G.N. No. 303 of 1964 and S.I. No. 63 of 1964)

375. (1) Any person who, without lawful authority or excuse, the proof of which lies on him-

Paper and dies for
postage stamps

(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 the Republic, 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 one thousand and five hundred penalty units, and any stamps and any other such things as aforesaid, which are found in his possession, shall be forfeited.

(2) For the purposes of this section, a stamp purporting to denote a rate of postage of any country is to be taken to be a stamp used for postal purposes in that country until the contrary is shown.

(As amended by S.I. No. 63 of 1964 and Act No. 13 of 1994)

CHAPTER XXXIX COUNTERFEITING TRADE MARKS

376. A trade mark is- Definition of trade
mark

(a) a mark lawfully used by any person to denote any chattel to be an article or thing of the manufacture, workmanship, production, or

merchandise of such person or to be an article or thing of any peculiar or particular description made or sold by such person;

(b) any mark or sign which in pursuance of any written law in force for the time being relating to registered designs is to be put or placed upon or attached to any chattel or article during the existence or continuance of any copyright or other sole right acquired under the provision of such law.

377. (1) Any person who does any of the following things with intent to defraud or to enable another to defraud any person, that is to say:

Counterfeiting

trade marks a

misdemeanour

(a) forges or counterfeits any trade mark;

(b) applies any trade mark or any forged or counterfeited trade mark to any chattel or article not being the merchandise of any person whose trade mark is so forged or counterfeited;

(c) applies any trade mark or any forged or counterfeited trade mark to any chattel or article not being the particular or peculiar description of merchandise denoted or intended to be denoted by such trade mark or by such forged or counterfeited trade mark;

(d) applies any trade mark or any forged or counterfeited trade mark to any thing intended for any purpose of trade or manufacture, or in, on, or with which any chattel or article is intended to be sold, or is sold or offered or exposed for sale;

(e) encloses or places any chattel or article in, upon, under, or with anything to which any trade mark has been falsely applied, or to which any forged or counterfeit trade mark has been applied;

(f) applies or attaches any chattel or article to any case, cover, reel, ticket, label, or other thing to which any trade mark has been falsely applied, or to which any false or counterfeit trade mark has been applied;

(g) encloses, places, or attaches any chattel or article in, upon, under, with, or to any thing having thereon any trade mark of any other person;

is guilty of a misdemeanour.

(2) Every person committing any such misdemeanour as mentioned in subsection (1) shall forfeit-

(a) all chattels and articles to which any such trade mark or counterfeit trade mark is applied or caused or procured to be applied;

(b) every instrument for applying any such trade mark or counterfeit trade mark in his possession or power;

(c) the chattels and articles and the things mentioned in paragraphs

(d), (e) and (g) of subsection (1), and all similar things made to be used in like manner in his possession or power.

(As amended by S.I. No. 63 of 1964)

CHAPTER XL

PERSONATION

378. (1) Any person who, with intent to defraud any person, falsely represents himself to be some other person, living or dead, is guilty of a misdemeanour.

Personation in
general

(2) 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.

379. 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.

Falsely
acknowledging
deeds,
recognizances, etc.

380. Any person who 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 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

Personation of
person named in
certificate

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.

381. 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.

Lending, etc.,
certificate for
personation

382. 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.

Personation of
person named in
testimonial of
character

383. Any person who, being a person to whom any such document as is mentioned in the last preceding section has been given, gives, sells, or lends such document to another person with the intent that that other person may utter such document for the purpose of obtaining any employment, is guilty of a misdemeanour.

DIVISION VIII

Lending, etc.,
testimonial for
personation

CHAPTER XLI

384. Repealed by Act 14 of 1980.

385. Repealed by Act 14 of 1980.

386. Repealed by Act 14 of 1980.

387. Repealed by Act 14 of 1980.

388. Repealed by Act 14 of 1980.

DIVISION IX

ATTEMPTS AND CONSPIRACIES TO COMMIT CRIMES,
AND ACCESSORIES AFTER THE FACT

CHAPTER XLI I

ATTEMPTS

389. (1) When a person, intending to commit an offence, begins to put his intention into execution by means adapted to its fulfilment, and manifests his intention by some overt act, but does not fulfil his intention to such an extent as to commit the offence, he is deemed to attempt to commit the offence.

Definition of
attempt

(2) 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.

(3) It is immaterial that by reason of circumstances not known to the offender it is impossible in fact to commit the offence.

390. Any person who attempts to commit a felony or misdemeanour is guilty of an offence which, unless otherwise stated, is a misdemeanour.

Attempts to
commit offences

391. Any person who attempts to commit a felony of such a kind that a person convicted of it is liable to the punishment of death or imprisonment for a term of fourteen years or upwards, with or without other punishment, is guilty of a felony and is liable, if no other punishment is provided, to imprisonment for seven years.

Punishment of
attempts to commit
certain felonies

392. (1) Any person who attempts to procure another to do an act or

make an omission of such a nature that if he himself were to do the act or make the omission he would be guilty of an offence, is himself to be deemed guilty of attempting to commit such offence and to be

Attempts to
procure
commission of
criminal acts

punishable accordingly.

(2) Any person who, while in Zambia, attempts to procure another to do an act or make an omission at a place not in Zambia of such a nature-

(a) that if he were himself to do the act or make the omission in Zambia he would be guilty of an offence; and

(b) that if he were himself to do the act or make the omission at the place where the act or omission is proposed to be done or made he would himself be guilty of an offence under the laws in force at that place;

is guilty of an offence of the same kind and is liable to the same punishment as if he were himself to attempt to do the same act or make the same omission in Zambia.

(No. 28 of 1931)

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

Neglect to prevent
commission of a
felony

CHAPTER XLIII CONSPIRACIES

394. 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 Zambia would be a felony, and which is an offence under the laws in force in the place where it is proposed to be done, is guilty of a felony and is liable, if no other punishment is provided, to imprisonment for seven years, or, if the greatest punishment to which a person convicted of the felony in question is liable is less than imprisonment for seven years, then to such lesser punishment.

Conspiracy to
commit felony

395. 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 Zambia would be a misdemeanour, and which is an offence under the laws in force in the place where it is proposed to be done, is guilty of a misdemeanour.

Conspiracy to
commit
misdemeanour

396. 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; 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:

Other conspiracies

Provided that an agreement or combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute, as defined in the Industrial and Labour Relations Act, shall not be punishable under the provisions of this section if such act committed by one person would not be punishable as a crime.

(As amended by No. 1 of 1952 and No. 7 of 1958)

Cap. 269

CHAPTER XLIV

ACCESSORIES AFTER THE FACT

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

Definition of
accessories after
the fact

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

398. 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 after
the fact to felonies

399. Any person who becomes an accessory after the fact to a misdemeanour is guilty of a misdemeanour.

Punishment of

accessories after
the fact to
misdemeanours

SCHEDULE

(No. 23 of 1952 as amended by No. 6 of 1965 and Repealed by No. 10 of 2003)

SECOND SCHEDULE

(Section 33)

PARTICULARS OF NON CITIZEN CONVICTED OF OFFENCES

1. Full name of the accused
2. Postal address
3. Residential address
4. Sex
5. Date and place of birth
6. Father's full name
7. Date of first entry into Zambia
8. Duration of stay in Zambia
9. Occupation in Zambia
10. Offence for which accused was charged and convicted
11. Term of Imprisonment
12. Date on which accused commenced serving imprisonment
13. Previous Conviction (if any)
14. Offence for which previously convicted
15. Sentence for the previous conviction
16. Race or declared national status
17. Name of the country of which he is a citizen
18. Passport Number (if any)
19. Date and place of issue
20. Dated at this day of 19.....

SUBSIDIARY LEGISLATION

SECTION 227-SIGNPOSTING OF AUTHORISED PATHS ACROSS THE RAILWAY RESERVE

Notice by the Minister

Government

Notice

261 of 1960

It is hereby prescribed that any path authorised by a Divisional Commander of Police under the powers conferred upon him by subsection (4) of section *two hundred and twenty-seven* of the Penal Code for the passage of persons across the railway reserve shall be signposted by the Zambia Railways in the following manner:

- (a) a signpost shall be erected where an authorised path enters the railway reserve on each side of the railway track or tracks and it shall bear a circular sign of approximately thirty inches in diameter facing outwards from such reserve;
- (b) the design of such circular sign and the figure thereon shall be as set forth in the Schedule;
- (c) the background colour of such circular sign shall be yellow and

it shall have a band approximately three inches wide and coloured red around its circumference;

(d) there shall be placed centrally within the red band a figure coloured black representing a man walking. The figure shall be approximately fifteen inches in height.

SCHEDULE

SIGN INDICATING AUTHORISED PEDESTRIAN CROSSING

Diameter of sign-approximately 30 inches.

Width of outer band-approximately 3 inches.

Height of figure representing a man walking-approximately 15 inches.

Background colour-yellow.

Colour of outer band-red.

Colour of figure representing a man walking-black.

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INDEX TO PENAL CODE

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