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# CHAPTER 10:01 CRIMINAL CODE

## Act No. 25 of 1933

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• Laws • Subsidiary Legislation •

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	Amended by	
Act No. 7 of 1937	Act No. 10 of 1963	Act No. 12 of 1983
Act No. 5 of 1938	(Section 12)	Act No. 6 of 1986
Act No. 14 of 1939	Act No. 17 of 1964	(Section 11)
Act No. 23 of 1939	Act No. 8 of 1965	Act No. 8 of 1986
Act No. 31 of 1939	Act No. 4 of 1968	Act No. 11 of 1986
Act No. 27 of 1940	(Section 5)	Act No. 9 of 1991
Act No. 38 of 1940	Act No. 5 of 1971	Act No. 7 of 1992
Act No. 2 of 1947	(Section 17)	Decree No. 86 of 1996
Act No. 11 of 1947	Act No. 22 of 1974	Act No. 18 of 2004
Act No. 6 of 1952	Act No. 13 of 1978	Act No. 3 of 2005
Act No. 17 of 1952	Act No. 7 of 1981	Act No. 5 of 2005
Act No. 11 of 1961	Act No. 12 of 1981	Act No. 18 of 2010

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

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## CHAPTER 10:01 CRIMINAL CODE

### **An Act to establish a Code of Criminal Law.**

[Act No. 25 of 1933 amended by Act No. 7 of 1937, Act No. 5 of 1938, Act No. 14 of 1939, Act No. 23 of 1939, Act No. 31 of 1939, Act No. 27 of 1940, Act No. 38 of 1940, Act No. 2 of 1947, Act No. 11 of 1947, Act No. 6 of 1952, Act No. 17 of 1952, Act No. 11 of 1961, Act No. 10 of 1963 (Section 12), Act No. 17 of 1964, Act No. 8 of 1965, Act No. 4 of 1968 (Section 5), Act No. 5 of 1971 (Section 17), Act No. 22 of 1974, Act No. 13 of 1978, Act No. 7 of 1981, Act No. 12 of 1981, Act No. 12 of 1983, Act No. 6 of 1986 (Section 11), Act No. 8 of 1986, Act No. 11 of 1986, Act No. 9 of 1991, Act No. 7 of 1992, Decree No. 86 of 1996, Act No. 18 of 2004, Act No. 3 of 2005, Act No. 5 of 2005, Act No. 18 of 2010.]

[Date of commencement: *1st October, 1934.*]

### PART I

#### *General Provisions*

### CHAPTER I

#### *Preliminary and Interpretation*

#### **1. Short title**

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

#### **2. Saving of certain laws**

Except where otherwise 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 The Gambia other than this Code;
- (b) the liability of a person to be tried or punished for an offence under the provisions of any law in force in The Gambia relating to the jurisdiction of the courts in respect of acts done beyond the ordinary jurisdiction of those courts;
- (c) the power of a court to punish a person for contempt of the court; or
- (d) the liability or trial of a person, or the punishment of a person under a sentence passed or to be passed, in respect of an act done or commenced before the commencement of this Code;
- (e) the power of the President to grant any pardon or to remit or commute in whole or in part or to respite the execution of a sentence passed or to be passed; or
- (f) any of the Acts, or regulations for the time being in force for the government of the military or police forces of The Gambia:

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

[Act No. 17 of 1964.]

#### **3. General rule of interpretation of Code**

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

[Act No. 17 of 1964.]

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

[Act No 7 of 1937.]

“**Act**” includes any orders or rules or regulations or by-laws made under the authority of an Act;

[Act No. 8 of 1955.]

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

[Act No. 17 of 1964.]

“**court**” means a court of competent jurisdiction;

“**dangerous harm**” means harm endangering life;

“**dwelling-house**” includes any building or structure or part of a building or structure which is for the time being kept by the owner or occupier for the residence therein of himself or herself, his or her 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 the building or structure and the dwelling-house, either immediate or by means of a covered and enclosed passage leading from the one to the other, but not otherwise;

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

“**grievous harm**” means any harm which amounts to a maim or dangerous harm, or seriously or permanently injures health or which is likely to injure health, or which extends to permanent disfigurement, or to a 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 a court, tribunal, commission of inquiry, or person, in which evidence may be taken on oath, or in or before a District Tribunal, whether such tribunal takes evidence on oath or not;

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

“**local authority**” means a local authority established under an Act;

“**maim**” means the destruction or permanent disabling of an external or internal organ, member or sense;

[Act No. 17 of 1964.]

“**Minister**” means the Minister responsible for the administration of this Act;

“**misdemeanour**” means an offence which is not a felony;

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

“**night**” or “**night-time**” means the interval between seven o’clock in the

evening and six o'clock in the morning;\*

**"oath"** includes affirmation or declaration;

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

**"person"** and **"owner"** and other like terms, when used with reference to property, include corporations of all kinds and any other association of persons capable of owning property, and also when so used include the President; **"person employed in the public service"** means a person holding any of the following offices or performing the duties thereof, whether as a deputy or otherwise, namely—

- (a) a civil office including the office of President, the power of appointing a person to which or of removing from which is vested in the President or a Public Commission or Board;
- (b) an office to which a person is appointed or nominated under an Act;
- (c) a 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 paragraphs (a) and (b) above of this definition; or
- (d) an office of arbitrator or umpire in any proceedings or matter submitted to arbitration by order or with the sanction of a court, or in pursuance of any Act,

and includes—

- (i) a Justice of the Peace,
- (ii) a member of a commission of inquiry appointed under or in pursuance of an Act,
- (iii) a person employed to execute a process of a court, including a District Tribunal,
- (iv) all persons belonging to the military forces of The Gambia,
- (v) all persons in the employment of any government department,
- (vi) a person acting as a minister of religion of whatsoever denomination, in so far as he or she 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,
- (vii) a person in the employ of a local authority;  
[Act No. 17 of 1964.]

**"police officer"** includes a member of The Gambia Police Force and a Badge Messenger;

[Act No. 17 of 1964.]

**"possession"**—

- (a) **"be in possession of"** or **"have in possession"** includes not only having in one's own personal possession, but also knowingly having anything in the actual possession, or custody of any other person, or having anything in a 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 her or

\* Whenever in any law, deed or other legal instrument, Government or public notice, there occurs any expression of time, the time referred to shall, unless the contrary intention be expressly stated, be held to signify Greenwich Mean Time, which is hereby declared to be the standard time for all purposes in The Gambia:  
Provided that the President may by Order published in the *Gazette* change or vary such declaration of standard time" (Section 32 of the Interpretation Act, Cap.4:01).

their custody or possession, it shall be deemed and taken to be in the custody and possession of each and all of them;

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

[Act No. 17 of 1964.]

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

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

**“public way”** includes a 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 a public place as to be seen by a person whether the person be or be not in a public place; or
- (b) that they are so done in a place not being a public place as to be likely to be seen by a person in a public place;

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

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

**“vehicle”** includes a bicycle;

[Act No. 17 of 1964.]

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

## CHAPTER II

### *Territorial Application of this Code*

#### **4. Extent of jurisdiction of courts of The Gambia**

(1) The jurisdiction of the courts of The Gambia for the purpose of this Code extends to every place within The Gambia.

[Act No. 17 of 1964, Act No. 4 of 1968.]

(2) When an act, which if done within The Gambia, would be an offence against this Code, is done by a person in the service of the Government of The Gambia or a statutory body beyond the territorial limits of The Gambia, the person may be tried and punished under this Code in the same manner as if the act had been done within The Gambia.

[Act No. 22 of 1974.]

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

within the jurisdiction.

[Act No. 22 of 1974.]

## CHAPTER III

### *General Rules as to Criminal Responsibility*

#### **5. Ignorance of law**

Ignorance of the law does not afford any excuse for an 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.

#### **6. *Bona fide* claim of right**

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 or her with respect to the property was done in the exercise of an honest claim of right and without intention to defraud.

#### **7. Intention: motive**

(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 or her will, or for an event which occurs by accident.

(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.

#### **8. Mistake of fact**

(1) 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 or she believed to exist.

(2) The operation of subsection (1) of this section may be excluded by the express or implied provisions of the law relating to the subject.

#### **9. Presumption of sanity**

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.

#### **10. Insanity**

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

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

#### **11. Intoxication**

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

(2) Intoxication shall be a defence to any criminal charge if by reason thereof the

person charged at the time of the act or omission complained of, did not know that such act or omission was wrong or did not know what he or she was doing and—

- (a) the state of intoxication was caused without his or her consent by the malicious or negligent act of another person; or
- (b) the person charged was by reason of intoxication insane, temporarily or otherwise, at the time of the act or omission.

(3) Where the defence under subsection (2) of this section 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) thereof, the provisions of section 142 of the Criminal Procedure Code shall apply.

[Cap. 11:01.]

(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 or she would not be guilty of the offence.

[Act No. 7 of 1937.]

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

[Act No. 7 of 1937.]

## **12. Immature age**

(1) A person under the age of seven years is not criminally responsible for an act or omission.

(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 or she had capacity to know that he or she 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.

## **13. Judicial officers**

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

## **14. Compulsion**

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

## **15. Necessity**

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

## **15A. Use of force in effecting arrest**

Where a person is charged with a criminal offence arising out of the arrest, or



attempted arrest, by him or her of a person who forcibly resists the 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 the person, have regard to the gravity of the offence which had been or was being committed by that person and the circumstances in which the offence had been or was being committed by the person.

[Act No. 17 of 1964.]

#### **16. Compulsion by husband**

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

#### **17. Person not to be punished twice for same offence**

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 or she causes the death of another person, in which case he or she may be convicted of the offence of which he or she is guilty by reason of causing such death, notwithstanding that he or she has already been convicted of some other offence constituted by the act or omission.

### CHAPTER IV

#### *Duties Relating to the Preservation of Life and Health*

#### **18. Responsibility of person who has charge of another**

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 or herself from such charge, and who is unable to provide himself or herself 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 or she 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.

#### **19. Duty of head of family**

It is the duty of every person who, as head of a family, has charge of a child under the age of eighteen years, being a member of his or her household, to provide the necessaries of life for the child; and he or she 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.

[Act No. 5 of 2005.]

#### **20. Duty of masters**

It is the duty of every person who as master or mistress has contracted to provide necessary food, clothing, or lodging for a 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.

#### **21. Duty of persons doing dangerous acts**

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 the act; and he or she shall be deemed to have caused any consequences which adversely affect the life or health of any person by reason of

any omission to observe or perform that duty.

## **22. Duty of persons in charge of dangerous things**

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

### CHAPTER V

#### *Parties to Offences*

## **23. Principal offenders**

(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—

- (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) every person who counsels or procures any other person to commit the offence.

(2) In any case falling within paragraph (d) of subsection (1) of this section, he or she may be charged either with committing the offence or with counselling or procuring its commission.

(3) 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.

(4) A person who procures another to do or omit to do any act of such a nature that, if he or she had himself or herself done the act or made the omission, the act or omission would have constituted an offence on his or her part, commits an offence of the same kind, and is liable to the same punishment, as if he or she had himself or herself done the act or made the omission; and he or she may be charged with doing the act or making the omission.

## **24. Offences committed by joint offenders in prosecution of common purpose**

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

## **25. Counselling another to commit an offence**

(1) When a person counsels another to commit an offence, and an offence is actually committed after the 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.

(2) The person who gave the counsel under subsection (1) is deemed to have counselled the other person to commit the offence actually committed by him or her.

## **26. Definition of accessories after the fact**

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

(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.

(3) A person who becomes an accessory after the fact to a felony commits a felony, and is liable on conviction, if no other punishment is provided, to imprisonment for a term of two years.

(4) A person who becomes an accessory after the fact to a misdemeanour commits a misdemeanour and is liable on conviction to imprisonment for a term of one year.

### **26A. Incitement**

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

[Act No. 17 of 1964.]

## CHAPTER VI

### *Punishments*

## **27. Different kinds of punishments**

The following punishments may be inflicted by a court—

- (a) death;
- (b) imprisonment;
- (c) corporal punishment;
- (d) fine;
- (e) payment of costs;
- (f) payment of compensation;
- (g) finding security to keep the peace and be of good behaviour, or to come up for judgement;
- (h) forfeiture.

## **28. Sentence of death**

(1) The Minister may issue instructions as to the manner in which sentence of death shall be carried out:

Provided that it shall be the duty of the Minister to ensure, as far as he or she is able, that such executions are carried out expeditiously.

[Act No. 17 of 1964, Act No. 7 of 1981.]

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

[Cap. 11:01.]

## **29. Imprisonment**

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

[Act No. 7 of 1937.]

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

[Act No. 7 of 1937.]

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

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

[Cap. 11:01.]

### **30. Corporal punishment**

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

[Act No. 17 of 1964.]

(2) A sentence of corporal punishment shall not be passed on any of the following persons—

(a) females;

(b) males sentenced to death;

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

[Act No. 17 of 1964.]

(3) . . . . .

[Deleted by Act No. 5 of 2005.]

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

[Act No. 17 of 1964.]

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

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

(7) Nothing in subsection (6) of this section shall be deemed to authorise a court to inflict imprisonment for a term or fine of an amount exceeding that to which the accused is liable by the law under which he or she has been convicted, or that which the said court is competent to inflict.

[Act No. 5 of 2005.]

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

[Act No. 7 of 1937.]

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

(10) A sentence of corporal punishment shall not be carried out by instalments.

[Act No. 2 of 1947.]

(11) A sentence of corporal punishment shall not be imposed in default of payment of a fine.

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

[Act No. 7 of 1937.]

### **31. Fines, costs and compensation**

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

- (a) where no sum is expressed to which the fine may extend the amount of the fine which may be imposed is unlimited, but shall not be excessive;
- (b) in the case of an offence punishable with a fine or a term of imprisonment the imposition of a fine or a term of imprisonment shall be a matter for the discretion of the court;
- (c) a person liable to a fine of any amount may be sentenced to pay a fine of any lesser amount;
- (d) in the case of an offence punishable with imprisonment as well as a fine in which the offender is sentenced to a fine with or without imprisonment and in every case of an offence punishable with fine only in which the offender is sentenced to a fine the court passing sentence may, in its discretion, direct by its sentence that in default of payment of the fine the offender shall suffer imprisonment for a certain term, which imprisonment shall be in addition to any other imprisonment to which he or she may have been sentenced or to which he or she may be liable under a commutation of sentence.

(2) In addition to or in substitution for any other punishment, a court may adjudge a person to pay costs or compensation in the manner provided by sections 143, 144 and 145 of the Criminal Procedure Code and in default of payment of such costs or compensation or of distress, therefor as provided by law, may order that the person in default shall suffer imprisonment for a certain time.

[Cap. 11:01.]

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

[Cap. 11:01.]

(4) The term of imprisonment ordered by a court in respect of the non-payment of any sum of money adjudged to be paid by way of fine, costs or compensation or in respect of the default of a sufficient distress to satisfy the 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—

<i>Amount</i>	<i>Maximum Period</i>
Not exceeding D10	7 days
Exceeding D10 but not exceeding D50	14 days
Exceeding D50 but not exceeding D100	1 month
Exceeding D100 but not exceeding D200	2 months

Exceeding D200 but not exceeding D400	4 months
Exceeding D400 but not exceeding D1000	9 months
Exceeding D1000 but not exceeding D5000	1 year
Exceeding D5000	2 years

[Act No. 17 of 1964.]

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

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

[Act No. 11 of 1947.]

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

[Act No. 11 of 1947.]

### **32. Security to keep the peace and be of good behaviour or to come up for judgement**

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

[Cap. 11:01.]

### **33. Forfeiture**

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

[Act No. 17 of 1964.]

### **34. General punishment for misdemeanours**

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

PART II

*Crimes*

DIVISION I

*Offences against Public Order*

CHAPTER VII

*Treason and other Offences against the Sovereign's State*

**35. Treason**

(1) A person who—

- (a) prepares or endeavours to overthrow the Government by unlawful means;
- (b) prepares or endeavours to procure by force any alteration of the law or the policies of Government;
- (c) prepares or endeavours to carry out by force an enterprise which usurps the executive power of the State in any matter of both a public and a general nature;
- (d) incites or assists or procures a person to invade The Gambia with an armed force or unlawfully to subject any part of The Gambia to attack by land, sea or air or assists in the preparation of any such invasion or attack;
- (e) in the time of war and with intent to give assistance to the enemy, does any act which is likely to give such assistance;
- (f) causes or attempts to cause the death of a member of the Government or other citizen of The Gambia with a view to securing the overthrow of the Government or with intent to coerce any other citizen of The Gambia into opposing the Government or otherwise into withdrawing or withholding his or her support from the Government; or
- (g) conspires with any other person or persons to effect any of the purposes specified in paragraphs (a) to (f) of this subsection,

commits the offence of treason and, subject to subsection (2) of this section, is liable on conviction to be sentenced to death or to imprisonment for life.

[Act No. 8 of 1986.]

(2) Where a person commits an offence under paragraph (f) of subsection (1) of this section, he or she shall, on conviction, be sentenced to death.

**36. Concealment of treason**

A person who knowing that any other person intends to commit treason, does not—

- (a) give information thereof within all reasonable despatch to a Minister, a Magistrate, a police officer or a member of the Armed Forces; or
- (b) use other reasonable endeavour to prevent the commission of the offence,

commits an offence and is liable on conviction to imprisonment for life.

[Act No. 8 of 1986.]

**37. Spying**

(1) A person who, for any purpose prejudicial to the safety or interest of The Gambia—

- (a) makes any document which is intended to be or may be directly or indirectly useful to an enemy; or
- (b) obtains, collects photographs, records, publishes or communicates to any

other person any information or document of a confidential nature which is intended to be, or may be directly or indirectly useful to an enemy,

commits an offence and is liable on conviction to imprisonment for a term not exceeding fifteen years.

[Act No. 8 of 1986.]

(2) For the purposes of this section—

“**document**” includes any sketch, plan, photograph, model, article or note; and

“**information**” includes any secret official code word or password.

### **38. Corroboration**

A person charged under section 35, 36 or 37 of this Code shall not be convicted on the uncorroborated testimony of one witness.

[Act No. 8 of 1986.]

### **39. Consent of the Attorney-General required**

A person shall not be prosecuted for an offence under section 35, 36 or 37 of this Code without the written consent of the Attorney-General.

[Act No. 8 of 1986.]

### **40. Inciting to mutiny**

A person who attempts—

- (a) to seduce any person serving in the armed forces or any member of the police force from his or her duty and allegiance to the State;
- (b) to incite any such person 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,

commits an offence and is liable on conviction to imprisonment for life.

[Act No. 8 of 1986.]

### **41. Inciting to sedition or to disobedience of lawful order**

A person who incites a member of the armed forces or a member of the police force to sedition or to disobedience to any lawful order given by a superior officer, commits an offence and is liable on conviction to imprisonment for a term not exceeding five years.

[Act No. 8 of 1986.]

### **42. Inducing members of the armed forces or policemen to desert**

A person who, by any means whatsoever, directly or indirectly procures or persuades or attempts to procure or persuade to desert any member of the armed forces or the police force, commits an offence and is liable on conviction to imprisonment for life.

[Act No. 8 of 1986.]

### **43. Aiding prisoners of war to escape**

(1) A person who knowingly aids an alien enemy of The Gambia, whether the person is confined in a prison or elsewhere, or is at large on his or her parole, to escape from his or her prison or place of confinement, or, if he or she is at large on his or her parole, to escape from The Gambia, commits an offence and is liable on conviction to imprisonment for life.

(2) A person who negligently and unlawfully permits the escape of any such person as is mentioned in subsection (1) of this section commits an offence and is liable on conviction to imprisonment for a term of three years.



44. . . . .

[Repealed by Act No. 8 of 1986.]

45. . . . .

[Repealed by Act No. 8 of 1986.]

#### 46. Interpretation

For the purposes of sections 47 to 54 (both inclusive) of this Code—

[Act No. 17 of 1964.]

“import” includes—

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

[Act No. 17 of 1964.]

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

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

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

“seditious words” means words having a seditious intention.

#### 47. Power to prohibit importation of publications

(1) If the Minister is of opinion that the importation of any publication would be contrary to the public interest, he or she may, in his or her discretion, by Order published in the *Gazette* prohibit the importation of the publication, and in the case of a periodical publication may by the same or a subsequent Order prohibit the importation of any past or future issue of the publication.

[Act No. 17 of 1964.]

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

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

#### 48. Offences

(1) A person who imports, publishes, sells, offers for sale, distributes or reproduces any publication, the importation of which has been prohibited under section 47 of this Code, or any extract from the publication, commits an offence and is liable on conviction for a first offence to a fine not exceeding one thousand dalasis or to imprisonment for a term not exceeding two years or to both the fine and imprisonment and for a subsequent offence to imprisonment for a term not exceeding three years; and the publication or extract therefrom shall be forfeited to the State.

[Act No. 27 of 1940.]

(2) A person who without lawful excuse has in his or her possession any publication the importation of which has been prohibited under section 47 of this Code, or any extract therefrom, commits an offence and is liable on conviction for a first offence to a fine not exceeding five hundred dalasis or to imprisonment for a term not exceeding one year or to both the fine and imprisonment and for a subsequent offence to imprisonment for a term not exceeding two years; and the publication or extract therefrom shall be forfeited to the State.

[Act No. 27 of 1940.]

(3) In any proceedings taken under the provisions of this section, a certificate signed under the hand of the Minister to the effect that any publication which is the subject of any charge or count in the proceedings was published by a company, institution, firm or person, or in, or emanated from any country or place, shall on the bare production thereof by the prosecutor be final and conclusive as to the facts certified, therein and the facts shall not be further enquired into by any court.

[Act No. 17 of 1964.]

#### **49. Delivery of prohibited publication to police station or administrative officer**

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

[Act No. 17 of 1964.]

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

[Act No. 27 of 1940.]

#### **50. Power to examine packages**

(1) Any of the following officers—

- (a) the Managing Director of The Gambia Postal Services Corporation;
- (b) such other officer of the Corporation nominated in writing by the Inspector-General of Police for the purpose; and
- (c) a superior police officer, as defined in the Police Act,

[Act No. 17 of 1964, Cap. 18:01, Act No. 12 of 2005.]

may detain, open and examine any package or article which he or she suspects to contain any publication or extract therefrom which it is an offence under the provisions of section 48 of this Code to import, publish, sell, offer for sale, distribute, reproduce or possess, and during the examination may detain any person importing, distributing or, posting the package or article or in whose possession the package or article is found.

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

[Act No. 27 of 1940.]

## 51. Seditious intention

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

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

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

- (i) to show that the President has been misled or mistaken in any of his or her measures,
- (ii) to point out errors or defects in the Government or constitution of The Gambia as by law established or in legislation or in the administration of justice with a view to the remedying of the errors or defects,
- (iii) to persuade the inhabitants of The Gambia to attempt to procure by lawful means the alteration of any matter in The Gambia as by law established, or
- (iv) to point out, with a view to their removal, any matters which are producing or have a tendency to produce feelings of ill-will and enmity between different classes of the population of The Gambia.

[Act No. 27 of 1940, Act No. 17 of 1964.]

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

[Act No. 27 of 1940.]

## 52. Offences

(1) A person who—

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

commits an offence and is liable on conviction to a fine of not less than fifty thousand dalasis and not more than two hundred and fifty thousand dalasis or imprisonment for a term of not less than one year or to both the fine and imprisonment, and the seditious publication shall be forfeited to the State.

[Act No. 27 of 1940, Act No. 17 of 1964, Act No. 18 of 2004, Act No. 3 of 2005.]

(2) A person who, without lawful excuse, has in his or her possession any seditious publication commits an offence and is liable on conviction to a fine of not less than fifty thousand dalasis and not more than two hundred and fifty thousand dalasis or imprisonment for a term of not less than one year or to both the fine and imprisonment,

and the seditious publication shall be forfeited to the State.

[Act No. 18 of 2004, Act No. 3 of 2005.]

### **52A. Power to confiscate printing machines**

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

[Act No. 17 of 1964.]

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

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

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

- (a) the machine or any part of it to be removed; or
- (b) any part of the machine to be sealed so as to prevent its use:

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

And provided further that the Inspector-General of Police shall not be liable for any damage caused to the machine confiscated under this section either by neglect or otherwise except where the Inspector-General or his or her agents have wilfully damaged the machine.

(5) A person who uses or attempts to use a printing machine confiscated under subsection (1) of this section commits an offence and is liable on conviction to imprisonment for a term not exceeding three years.

### **53. Legal proceedings**

(1) Prosecution for an offence under section 52 of this Code shall not be begun except within six months after the offence is committed:

Provided that where a person—

- (a) commits such an offence from outside The Gambia; or
- (b) leaves The Gambia within a period of six months of committing such an offence,

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

[Act No. 27 of 1940, Act No. 17 of 1964.]

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

[Act No. 27 of 1940.]

### **54. Evidence necessary for conviction**

A person shall not be convicted of an offence under section 52 of this Code on the uncorroborated testimony of one witness.

[Act No. 27 of 1940.]

### **55. Unlawful oaths to commit capital offences**

A 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 an offence punishable on conviction with death; or
- (b) takes any such oath or engagement, not being compelled to do so,

commits a felony and is liable on conviction to imprisonment for life.

## **56. Other unlawful oaths to commit offences**

A person who—

- (a) administers, or is present at and consents to the administering of, any oath or engagement in the nature of an oath, purporting to bind the person who takes it to act in any of the following ways, that is to say—
  - (i) to engage in a mutinous or seditious enterprise,
  - (ii) to commit an 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 order or commands of a committee or body of persons not lawfully constituted, or of a leader or commander or other person not having authority by law for that purpose,
  - (vi) not to inform or give evidence against an associate confederate or other person,
  - (vii) not to reveal or discover an unlawful association, society or confederacy, or an illegal act done or to be done, or an illegal oath or engagement that may have been administered or tendered to or taken by himself or herself or any other person, or the import of the oath or engagement; or
- (b) takes an oath or engagement, not being compelled to do so,

commits a felony, and is liable on conviction to imprisonment for a term of seven years.

## **57. Compulsion, how far a defence**

A person who takes the oath or engagement as is mentioned in sections 55 and 56 of this Act cannot set up as a defence that he or she was compelled to do so, unless within fourteen days after taking it, or, if he or she is prevented by actual force or sickness, within fourteen days after the termination of such prevention, he or she declares by information on oath before a Magistrate, or, if he or she is on actual service in the Armed Forces of The Gambia or in the Police Force, either by such information or by information to his or her Commanding Officer, the whole of what he or she 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.

[Act No. 17 of 1964.]

## **58. Unlawful drilling**

(1) A person who—

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

persons to the use of arms or the practice of military exercises, movements or evolutions,

commits a felony, and is liable on conviction to imprisonment for a term of seven years.

[Act No. 17 of 1964.]

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

[Act No. 17 of 1964.]

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

(1) A person who publishes or reproduces any statement, rumour or report which is likely to cause fear and alarm to the public or to disturb the public peace, knowing or having reason to believe that the statement, rumour or report is false, commits a misdemeanour and is liable on conviction to imprisonment for a term of two years.

[Act No. 14 of 1939.]

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

[Act No. 14 of 1939.]

## **59A. Wrongfully inducing a designated boycott**

(1) Whenever the President is satisfied that a boycott is being conducted or is threatened or is likely to be conducted in The Gambia with the intention or effect of—

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

[Act No. 11 of 1961.]

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

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

- (a) abstaining from buying goods from or selling goods to a person or class of persons;
- (b) abstaining from buying or selling any goods or class of goods;
- (c) abstaining from entering or approaching or dealing at any premises at which a person or class of persons carries on trade or business;
- (d) abstaining from dealing with a person or class of persons in the course of his or her trade or business;
- (e) abstaining from using or providing a service or class of services;
- (f) abstaining from working for or employing a person or class of persons; or

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

[Act No. 11 of 1961.]

(3) The President may in designating a boycott, by the same or any subsequent Notification specify in relation to the boycott any action additional to those specified in subsection (2) of this section which he or she is satisfied is likely to further that boycott.

[Act No. 11 of 1961.]

(4) A person who with intent to further a designated boycott—

(a) by word of mouth; or

(b) by making a publication,

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

[Act No. 11 of 1961.]

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

[Act No. 11 of 1961.]

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

[Act No. 11 of 1961, Cap. 56:01.]

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

[Act No. 11 of 1961.]

(8) For the purposes of this section—

“**local authority**” includes Banjul City Council, a District Authority, a Seyfo appointed pursuant to the provisions of the Local Government Act, and any other body specified as such in the *Gazette* for the purposes of this section by the President;

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

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

[Act No. 11 of 1961, Act No. 5 of 2002.]

## **59B. Incitement to violence**

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

(a) to do any acts calculated to bring death or physical injury to a 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,

commits an offence for which he or she may be arrested by a police officer without warrant and is liable on conviction to imprisonment for a term of three years.

[Act No. 11 of 1961.]

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

[Act No. 11 of 1961.]

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

[Act No. 11 of 1961.]

### **59C. Watching and besetting**

(1) A person who watches or besets—

(a) a premises or the approaches to the premises with a view to preventing any other person from doing any act which that other person has a legal right to do at the premises; 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 the house or place with a view to preventing that other person from doing or compelling him or her to do any act which that other person has a legal right to do or abstain from doing,

[Act No. 11 of 1961.]

commits an offence and is liable on conviction to a fine not exceeding one thousand dalasis or to imprisonment for a term not exceeding six months or to both the fine and imprisonment:

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

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

[Act No. 11 of 1961.]

## CHAPTER VIII

### *Offences Affecting Relations with Foreign States and External Tranquillity*

### **59D. Subversion against foreign States**

(1) A person who, in relation to any friendly state—

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



- (b) prepares or endeavours to procure by force any alteration of the laws or the policies of Government;
- (c) prepares or endeavours to carry out by force an enterprise which usurps the executive power of the State in any matter of both a public and a general nature;
- (d) incites or assists or procures a person to invade the State with an armed force or unlawfully to subject any part of the State to attack by land, sea or air or assists in the preparation of the invasion or attack;
- (e) causes or attempts to cause the death of a member of the Government or other citizen of the State with a view to securing the overthrow of the Government or with intent to coerce any other citizen of the State into opposing the Government or otherwise into withdrawing or withholding his or her support from the Government; or
- (f) conspires with any other person or persons to effect any of the purposes specified in paragraphs (a) to (e) of this subsection,

commits an offence and is liable on conviction to be sentenced to imprisonment for life.

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

[Act No. 9 of 1991.]

## **60. Defamation of foreign princes**

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

[Act No. 17 of 1964.]

## **61. Foreign enlistment**

A person commits a misdemeanour who does any of the following acts without the licence of the President signified by Proclamation, that is to say—

- (a) who prepares or fits out a naval or military expedition to proceed against the dominions of a friendly state, or is engaged in the preparation or fitting-out, or assists therein, or is employed in any capacity in such expedition;
- (b) who, being a citizen of The Gambia, accepts or agrees to accept any commission or engagement in the military or naval service of a foreign state at war with a friendly state, or, whether a citizen of The Gambia or not, induces any other person to accept or agree to accept any commission or engagement in the military or naval service of the foreign state as aforesaid;
- (c) who, being a citizen of The Gambia, quits or goes on board a vessel with a view of quitting The Gambia, with intent to accept any commission or engagement in the military or naval service of a foreign state at war with a friendly state, or, whether a citizen of The Gambia or not, induces any other person to quit or to go on board a vessel with a view of quitting The Gambia with the like intent;
- (d) who, being the master or owner of a vessel, knowingly either takes on board, or engages to take on board, or has on board the 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 a foreign state at war with a friendly state, builds, agrees to build, causes to be built, equips,

despatches, or causes or allows to be despatched, a 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 mentioned in this section, 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) on a Proclamation of neutrality being issued by the President, he or she forthwith gives notice to the President that he or she is so building, causing to be built, or equipping the 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, and
- (ii) he or she gives such security, and takes and permits to be taken such other measures, if any, as the President may prescribe for ensuring that the vessel shall not be despatched, delivered, or removed without the licence of the President until the termination of the war as aforesaid.

## **62. Piracy**

A person who is guilty of piracy or any crime connected with or relating or akin to piracy which would have been, immediately before the eighteenth day of February, 1965, an offence against the law of England shall be punished according to the law in force at that time.

[Act No. 17 of 1964.]

## CHAPTER IX

### *Unlawful Assemblies, Riots and other Offences against Public Tranquillity*

## **63. to 68. . . . .**

[Repealed by section 17 of the Societies Act, No. 5 of 1971.]

## **69. Definitions**

*Unlawful assembly.*—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 a manner that causes persons in the neighbourhood reasonably to fear that the persons so assembled will commit a breach of the peace, or will by the assembly needlessly and without any reasonable occasion provoke other persons to commit a breach of the peace, they are an unlawful assembly.

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

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

## **70. Punishment of unlawful assembly**

A person who takes part in an unlawful assembly commits a misdemeanour, and is liable on conviction to imprisonment without hard labour for one year.

## **71. Punishment of riot**

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

## **72. Making proclamation for rioters to disperse**

A Magistrate or, in his or her absence, a commissioned officer of police, or a

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

[Act No. 17 of 1964.]

### **73. Dispersion of rioters after proclamation made**

If on the expiration of a reasonable time after the proclamation is made, or after the making of the proclamation has been prevented by force, twelve or more persons continue riotously assembled together, a person authorised to make proclamation, or a police officer, or any other person acting in aid of the 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 a person makes resistance, may use all such force as is reasonably necessary for overcoming the resistance, and shall not be liable in any criminal or civil proceeding for having, by the use of such force, caused harm or death to any person.

### **74. Rioting after proclamation**

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 the proclamation, takes or continues to take part in the riot or assembly, commits a felony, and is liable on conviction to imprisonment for a term of five years.

### **75. Preventing or obstructing the making of proclamation**

A person who forcibly prevents or obstructs the making of the proclamation as is mentioned in section 72 of this Code, commits a felony, and is liable on conviction 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 on conviction to imprisonment for a term of five years.

### **76. Rioters demolishing buildings, etc.**

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

### **77. Rioters injuring buildings, machinery, etc.**

Any persons who, being riotously assembled together, unlawfully damage any of the things mentioned in section 76 of this Code commit a felony, and each of them is liable on conviction to imprisonment for a term of seven years.

### **78. Riotously interfering with vehicle or vessel**

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

### **79. Going armed in public**

A person who goes armed in public without lawful occasion in a manner that causes terror to any person commits a misdemeanour, and his or her arms may be forfeited.

### **80. Forcible entry**

A person who, in order to take possession thereof, enters on any lands or tenements in a violent manner, whether the 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, commits the misdemeanour termed forcible entry.

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

### **81. Forcible detainer**

A 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 commits the misdemeanour termed forcible detainer.

### **82. Affray**

A person who takes part in a fight in a public place, commits a misdemeanour, and is liable on conviction to imprisonment for one year.

### **83. Challenge to fight a duel**

A 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, commits a misdemeanour.

### **84. Threatening violence**

A person who—

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

commits an offence and is liable on conviction to imprisonment for a term not exceeding three years.

[Act No. 11 of 1961.]

### **85. Assembling for the purpose of smuggling**

Any two or more persons who assemble together, for the purpose of unshipping, carrying or concealing any goods subject to customs duty and liable to forfeiture under any law relating to the customs, commit a misdemeanour, and each of them is liable on conviction to a fine not exceeding one thousand dalasis or to imprisonment for a term of six months.

## DIVISION II

### Offences against the Administration of Lawful Authority

## CHAPTER X

### *Corruption and the Abuse of Office*

### **86. Official corruption**

A person who—

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

or to procure, or attempt to procure, to, upon, or for any person employed in the public service, or to, upon, or for any other person, any property or benefit of any kind on account of the act or omission on the part of the person so employed,

commits a felony, and is liable on conviction to imprisonment for a term of seven years.

### **87. Extortion by public officers**

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

### **88. Public officers receiving property to show favour**

A person who, being employed in the public service, receives any property or benefit of any kind for himself or herself, on the understanding, express or implied, that he or she shall favour the person giving the property or conferring the benefit, or any one in whom that person is interested, in a transaction then pending, or likely to take place, between the person giving the property or conferring the benefit, or any one in whom he or she is interested, and any person employed in the public service, commits a misdemeanour, and is liable to imprisonment for a term of six months.

### **89. False claims by officials**

A person who, being employed in the public service in such a capacity as to require him or her to furnish returns or statements touching any sum payable or claimed to be payable to himself or herself 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 a person, makes a return or statement touching the matter which is, to his or her knowledge, false in any material particular, commits a misdemeanour.

### **90. Abuse of office**

(1) A person who, being employed in the public service, does or directs to be done, in abuse of the authority of his or her office, any arbitrary act prejudicial to the rights of another, commits a misdemeanour.

(2) If the act is done or directed to be done for purposes of gain he or she commits a felony, and is liable on conviction to imprisonment for three years.

(3) A prosecution for an offence under this section, or section 88 or section 89 of this Code shall not be instituted except by or with the sanction of the Attorney-General.

### **91. False certificates by public officers**

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

### **92. False assumption of authority**

A person who—

- (a) not being a judicial officer, assumes to act as a judicial officer;
- (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 or herself 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 or she is not, and knows that he or she is not, in fact, so authorised,

commits a misdemeanour.

### **93. Personating public officers**

A 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 or her employment; or
- (b) falsely represents himself or herself 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,

commits a misdemeanour, and is liable on conviction to imprisonment for a term of three years.

### **94. Threat of injury to public servant**

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

## CHAPTER XI

### *Offences Relating to the Administration of Justice*

### **95. Perjury and subornation of perjury**

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

[Act No. 7 of 1937.]

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

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

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

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

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

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

(3) A person who commits perjury or suborns perjury is liable on conviction to imprisonment for a term of seven years.

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

[Act No. 17 of 1964.]

#### **96. False statements by interpreters**

If a person, who is lawfully sworn as an interpreter in any judicial proceedings, wilfully makes a statement material in the proceedings, which he or she knows to be false, or does not believe to be true, he or she commits perjury.

[Act No. 7 of 1937.]

#### **97. Evidence on charge of perjury**

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

#### **98. Fabricating evidence**

A person who, with intent to mislead any tribunal in any judicial proceedings—

- (a) fabricates evidence by any means other than perjury or subornation of perjury; or
- (b) knowingly makes use of the fabricated evidence,

commits a misdemeanour, and is liable on conviction to imprisonment for a term of seven years.

[Act No. 7 of 1937.]

#### **99. False swearing**

A person who swears falsely or makes a false affirmation or declaration before any person authorised to administer an oath or take a declaration on a matter of public concern under such circumstances that the false swearing or declaration if committed in any judicial proceedings would have amounted to perjury, commits a misdemeanour.

#### **100. Deceiving witnesses**

A person who practises any fraud or deceit on, or knowingly makes or exhibits any false statement, representation, token, or writing, to a person called or to be called as a witness in any judicial proceedings, with intent to affect the testimony of that person as a witness, commits a misdemeanour.

#### **101. Destroying evidence**

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

#### **102. Conspiracy to defeat justice and interference with witnesses**

A person commits a misdemeanour who—

- (a) conspires with any other person to accuse any person falsely of a crime or to do anything to obstruct, prevent, pervert or defeat the course of justice;
- (b) in order to obstruct the due course of justice, dissuades, hinders or prevents a person lawfully bound to appear and give evidence as a witness from so appearing and giving evidence, or endeavours to do so; or
- (c) obstructs or in any way interferes with or knowingly prevents the execution of any legal process, civil or criminal.

#### **103. Compounding felonies**

A person who asks, receives, or obtains, or agrees or attempts to receive or obtain,

a property or benefit of any kind for himself or herself or any other person on any agreement or understanding that he or she will compound or conceal a felony, or will abstain from, discontinue or delay a prosecution for a felony, or will withhold any evidence thereof, commits a misdemeanour.

#### **104. Compounding penal actions**

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

#### **105. Advertisements for stolen property**

A 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;
- (b) publicly offers a return to a person who may have bought or advanced money by way of loan on any stolen or lost property the money so paid or advanced, or any other sum of money or reward for the return of the property; or
- (c) prints or publishes any such offer,

commits a misdemeanour.

#### **106. Offences relating to judicial proceedings**

(1) A person who—

- (a) within the premises in which any judicial proceedings are being had or taken, or within the precincts of the same, shows disrespect, in speech or manner, to or with reference to the proceedings, or a person before whom such proceedings are being had or taken;
- (b) having been called on to give evidence in any judicial proceedings, 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 the proceedings are being had or taken, after the witnesses have been ordered to leave such room;
- (c) causes an obstruction or disturbance in the course of any judicial proceedings;
- (d) while judicial proceedings are pending, makes use of any speech or writing misrepresenting proceedings or capable of prejudicing a person in favour of or against any parties to the proceeding, or calculated to lower the authority of the person before whom the proceedings are being had or taken;
- (e) publishes a report of the evidence taken in any judicial proceedings which has been directed to be held in private;
- (f) attempts wrongfully to interfere with or influence a witness in any judicial proceedings, either before or after he or she has given evidence, in connection with such evidence;
- (g) dismisses a servant because he or she has given evidence on behalf of a certain party to any judicial proceedings;
- (h) wrongfully retakes possession of land from a person who has recently obtained possession by a writ of court; or



- (i) commits any other act of intentional disrespect to any judicial proceedings, or to a person before whom the proceedings are being had or taken,

commits an offence, and is liable on conviction to imprisonment for a term of three months.

(2) Notwithstanding anything in this or any other law contained, where any of the offences set out in paragraph (a), (b), (c), (d), (f) or (i) of subsection (1) of this section is committed in the face of a court, the court may forthwith, or at or after the conclusion of the proceedings in which the offence is committed, summarily convict and sentence the offender to imprisonment for a term not exceeding one month, or may fine such offender in any sum not exceeding five hundred dalasis.

[Act No. 17 of 1964.]

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

## CHAPTER XII

### *Rescues and Escapes and Obstructing Officers of Court of Law*

#### **107. Rescue**

A person, who by force rescues or attempts to rescue from lawful custody any other person—

- (a) if such last-named is under sentence of death or imprisonment for life, or charged with an offence punishable with death or imprisonment for life, commits a felony, and is liable on conviction to imprisonment for life;
- (b) if such other person is imprisoned on a charge or under sentence for any offence other than those specified above, commits a felony, and is liable on conviction to imprisonment for a term of seven years; and
- (c) in any other case, commits a misdemeanour.

If the person rescued is in the custody of a private person, the offender must have notice of the fact that the person rescued is in such custody.

#### **108. Escape**

A person who, being in lawful custody, escapes from such custody, commits a misdemeanour.

#### **109. Aiding prisoners to escape**

A person who—

- (a) aids a prisoner in escaping or attempting to escape from lawful custody;
- (b) wilfully or negligently permits a person within his or her lawful custody to escape; or
- (c) conveys anything or causes anything to be conveyed into a prison with intent to facilitate the escape of a prisoner,

commits a misdemeanour, and is liable on conviction to imprisonment for a term of two years.

#### **110. Removal, etc., of property under lawful seizure**

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

### **111. Obstructing court officers**

A person who wilfully obstructs or resists a person lawfully charged with the execution of an order or warrant of a court, commits a misdemeanour, and is liable on conviction to imprisonment for a term of one year.

## CHAPTER XIII

### *Miscellaneous Offences against Public Authority*

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

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

### **113. Neglect of official duty**

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

### **114. False information to public servant**

A person who gives to any public servant any information which he or she knows or believes to be false, intending thereby to cause, or knowing it to be likely that he or she will thereby cause the public servant—

- (a) to do or omit anything which the public servant ought not to do or omit if the true state of facts, respecting which the information is given, were known to him or her; or
- (b) to use the lawful power of the public servant to the injury or annoyance of any person,

commits a misdemeanour and is liable on conviction to a fine of five hundred dalasis or to imprisonment for a term of six months or to both the fine and imprisonment.

### **115. Disobedience of statutory duty**

A person who wilfully disobeys any Act by doing an act which it forbids, or by omitting to do an act which it requires to be done, and which concerns the public or any part of the public, commits a misdemeanour, and is liable on conviction, unless it appears from the Act that it was the intention of the Legislature to provide some other penalty for the disobedience, to imprisonment for a term of two years.

### **116. Disobedience of lawful orders**

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

## DIVISION III

### *Offences Injurious to the Public in General*

## CHAPTER XIV

### *Offences Relating to Religion*

### **117. Insult to religion of any class**

A person who destroys, damages or defiles a place of worship or any object which is held sacred by that class of persons with the intention of thereby insulting the religion of the 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, commits a misdemeanour.

### **118. Disturbing religious assemblies**

A person who voluntarily causes disturbance to an assembly lawfully engaged in the performance of religions worship or religious ceremony, commits a misdemeanour.

### **119. Trespassing on burial places**

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

### **120. Uttering words with the intent to wound religious feelings**

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

## CHAPTER XV

### *Offences against Morality*

### **121. Definition of rape**

A 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, commits the felony termed rape.

### **122. Punishment of rape**

A person who commits the offence of rape is liable on conviction to be punished with imprisonment for life or sentenced to death.

[Act No. 18 of 2010.]

### **123. Attempt**

A person who attempts to commit rape is guilty of a felony, and is liable on conviction to imprisonment for a term of seven years.

### **124. Abduction**

A 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, commits a felony, and is liable on conviction to imprisonment for a term of seven years.

### **125. Abduction of girls under eighteen**

A person who unlawfully takes or causes to be taken an unmarried girl under the age

of eighteen years out of the custody or protection of her father or mother, or other person having the lawful care or charge of her, and against the will of the father or mother or other person, commits a misdemeanour.

[Act No. 5 of 2005.]

#### **126. Indecent assault on females**

(1) A person who unlawfully and indecently assaults a woman or girl commits a misdemeanour, and is liable on conviction to imprisonment for a term of two years.

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

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

[Act No. 5 of 2005.]

(3) A person who, intending to insult the modesty of a woman, utters any word, makes any sound or gesture, or exhibits any object, intending that the word or sound shall be heard, or that the gesture or object shall be seen, by the woman, or intrudes upon the privacy of the woman commits a misdemeanour, and is liable on conviction to imprisonment for a term of one year.

#### **127. Defilement of girls under eighteen**

(1) A person who unlawfully and carnally knows a girl under the age of eighteen years commits a felony, and is liable on conviction to imprisonment for a term of fourteen years.

(2) A person who attempts to have unlawful carnal knowledge of a girl under the age of eighteen years commits a felony, and is liable on conviction to imprisonment for a term of three years:

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

[Act No. 5 of 2005.]

#### **128. Defilement of idiots or imbeciles**

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

#### **129. Procuration**

A person who—

- (a) procures or attempts to procure a girl or woman under the age of twenty-one years to have unlawful carnal connection, either in The Gambia or elsewhere, with any other person or persons;
- (b) procures or attempts to procure a woman or girl to become, either in The Gambia or elsewhere, a common prostitute;
- (c) procures or attempts to procure a woman or girl to leave The Gambia, with intent that she may become an inmate of or frequent a brothel elsewhere; or
- (d) procures or attempts to procure a woman or girl to leave her usual place of abode in The Gambia, with intent that she may for the purposes of prostitution become an inmate of or frequent a brothel either in The Gambia

or elsewhere, commits a misdemeanour:

Provided that a person shall not be convicted of any offence under this section on the evidence of one witness only, unless the witness be corroborated in some material particular by evidence implicating the accused.

[Act No. 8 of 1952, Act No. 17 of 1964.]

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

A person who—

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

commits a misdemeanour:

Provided that a person shall not be convicted of an offence under this section on the evidence of one witness only, unless the witness be corroborated in some material particular by evidence implicating the accused.

[Act No. 6 of 1952, Act No. 17 of 1964.]

**131. Householder, etc., permitting defilement of girl under eighteen years on his or her premises**

A person who, being the owner or occupier of premises or having or acting or assisting in the management or control thereof, induces or knowingly suffers a girl under the age of eighteen years to resort to or be upon the premises for the purpose of being unlawfully and carnally known by any man, whether the carnal knowledge is intended to be with any particular man or generally, commits a felony, and is liable on conviction to imprisonment for a term of five years:

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

[Act No. 5 of 2005.]

**132. . . . .**

[Deleted by reason of duplicity due to amendment of section 131 by Act No. 5 of 2005.]

**133. Detention with intent or in brothel**

A person who detains a woman or girl against her will—

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

commits a misdemeanour.

**133A. Constructive detention by withholding clothes\***

(1) When a woman or girl is in or upon a premises or in a brothel for the purpose of having any unlawful carnal connection, a person shall be deemed to detain the woman or girl in or upon the premises or in the brothel if, with intent to compel or induce her

\* Previously part of section 133.

to remain in or upon the premises or in the brothel, that person withholds from the woman or girl any wearing apparel or other property belonging to her, or where wearing apparel has been lent or otherwise supplied to the woman or girl by or by the directions of that person, the person threatens the woman or girl with legal proceedings if she takes away with her the wearing apparel so lent or supplied.

(2) Legal proceedings, whether civil or criminal, shall not be taken against the woman or girl for taking away or being found in possession of the wearing apparel as was necessary to enable her to leave the premises or brothel.

#### **134. Power of search**

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

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

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

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

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

#### **135. Male person living on earnings of prostitution or persistently soliciting**

(1) A male person who—

- (a) knowingly lives wholly or in part on the earnings of prostitution; or
- (b) in a public place persistently solicits or importunes for immoral purposes,

commits a misdemeanour.

[Act No. 6 of 1952.]

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

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

A woman who knowingly lives wholly or in part on the earnings of prostitution, or who

is proved to have, for the purpose of gain, exercised control, direction or influence over the movements of a prostitute in a manner that shows that she is aiding, abetting or compelling her prostitution with any person, or generally, commits a misdemeanour.

### **137. Suspicious premises**

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

### **138. Brothels**

A person who keeps a house, room, set of rooms, or place of any kind whatsoever for purposes of prostitution commits a misdemeanour.

### **139. Conspiracy to defile**

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

### **140. Attempts to procure abortion**

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

### **141. Attempts by woman with child to procure her own abortion**

A woman who, being with child, with intent to procure her own miscarriage, unlawfully administers to herself a poison or other noxious thing, or uses force of any kind, or uses a 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 to her, commits a felony, and is liable on conviction to imprisonment for a term of seven years.

### **142. Supplying drugs or instrument to procure abortion**

A person who unlawfully supplies to or procures for another person anything whatever, knowing that it is intended to be unlawfully used to procure the miscarriage of a woman, whether she is or is not with child, commits a felony, and is liable on conviction to imprisonment for a term of three years.

### **143. Knowledge of age of female immaterial**

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

### **144. Unnatural offences**

(1) A 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 any person to have carnal knowledge of him or her or her against

the order of nature,  
commits a felony, and is liable on conviction to imprisonment for a term of fourteen years.

[Act No. 3 of 2005.]

(2) In this section—

**“carnal knowledge of any person against the order of nature”** includes—

- (a) carnal knowledge of the person through the anus or mouth of the person;
- (b) inserting any object or thing into the vulva or anus of the person for the purpose of simulating sex; and
- (c) committing any other homosexual act with the person.

[Act No. 3 of 2005.]

#### **145. Attempts to commit unnatural offences**

A person who attempts to commit any of the offences specified in section 144 of this Act commits a felony, and is liable on conviction to imprisonment for a term of seven years.

#### **146. Indecent assault of boys under eighteen**

A person who unlawfully and indecently assaults a boy under the age of eighteen years commits a felony, and is liable on conviction to imprisonment for a term of seven years.

[Act No. 5 of 2005.]

#### **147. Indecent practices between males**

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

(2) A female person who, whether in public or private, commits an act of gross indecency with another female person, or procures another female person to commit an act of gross indecency with her, or attempts to procure the commission of any such act by any female person with herself or with another female person, whether in public or private, commits a felony and is liable on conviction to imprisonment for a term of five years.

(3) In this section—

**“act of gross indecency”** includes any homosexual act.

[Act No. 3 of 2005.]

#### **148. Incest by males**

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

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

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

(3) If a male person attempts to commit the offence as aforesaid he commits a misdemeanour.



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

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

#### **149. Incest by females**

A female person of or above the age of eighteen years who with consent permits her grandfather, father, brother, or son to have carnal knowledge of her (knowing him to be her grandfather, father, brother or son, as the case may be) commits a felony, and is liable on conviction to imprisonment for a term of five years.

[Act No. 5 of 2005.]

#### **150. Test of relationship**

In sections 148 and 149 of this Code, the expressions "brother" and "sister" respectively include half-brother and half-sister, and the provisions of those 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.

#### **151. Proceedings *in camera***

The proceedings under sections 148 and 149 of this Code may be held *in camera*.

#### **152. Sanction of Attorney-General**

A prosecution for an offence under section 148 or section 149 of this Code shall not be commenced without the sanction of the Attorney-General.

### CHAPTER XVI

#### *Offences Relating to Marriage and Domestic Obligations*

#### **153. Fraudulent pretence of marriage**

A person who wilfully and by fraud causes a 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, commits a felony, and is liable on conviction to imprisonment for a term of ten years.

#### **154. Bigamy**

A 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 that husband or wife, commits a felony and is liable on conviction to imprisonment for a term of five years:

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

#### **155. Marriage ceremony fraudulently gone through without lawful marriage**

A person who dishonestly or with a fraudulent intention goes through the ceremony of marriage, knowing that he or she is not thereby lawfully married, commits a felony, and is liable on conviction to imprisonment for a term of five years.

### **156. Desertion of children**

A person who being the parent, guardian or other person having the lawful care or charge of a child under the age of eighteen years, and being able to maintain the child, wilfully and without lawful or reasonable cause deserts the child and leaves it without means of support, commits a misdemeanour.

[Act No. 5 of 2005.]

### **157. Neglecting to provide food, etc., for children**

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

### **158. Master not providing for servants or apprentices**

A 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 the apprentice or servant so that the life of the apprentice or servant is endangered or that his or her health has been or is likely to be permanently injured, commits a misdemeanour.

### **159. Child stealing**

(1) A 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 eighteen years, of the possession of the child—

- (a) forcibly or fraudulently takes or entices away, or detains the child; or
- (b) receives or harbours the child knowing it to have been so taken or enticed away or detained,

commits a felony, and is liable on conviction to imprisonment for a term of seven years.

(2) It is a defence to a charge of any of the offences defined in subsection (1) of 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.

[Act No. 5 of 2005.]

## CHAPTER XVII

### *Nuisances and Offences against Health and Convenience*

### **160. Common nuisance**

(1) A 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 a term of one year.

(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.

### **161. Gaming houses**

(1) A person being the owner or occupier or, having the use of, a house, room or place, who opens, keeps or uses the same for the purpose of unlawful gaming being carried on therein and a person who, being the owner or occupier of a house room or

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

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

(3) A person who keeps a common gaming house commits a misdemeanour.

(4) A 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 commits a misdemeanour, and is liable on conviction to a fine of fifty dalasis for the first offence, and for each subsequent offence to a fine of two hundred dalasis or imprisonment for a term of three months or to both the fine and imprisonment.

## **162. Betting houses**

(1) A house, room or place which is used for any of the purposes following, that is to say—

- (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 a person using the place, or
  - (ii) a person procured or employed by or acting for or on behalf of the owner, occupier or keeper, or person using the place, or
  - (iii) a 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 the 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 the event or contingency,

is called a common betting house.

(2) A person who, being the owner or occupier of a 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, commits a misdemeanour, and is liable on conviction to imprisonment for a term of one year:

Provided always that nothing contained in this section shall make illegal the use of a totalisator by a race club, gymkhana club or sports club recognised by the Government at any public meeting, with the approval in each case of the Inspector-General 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:

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

[Cap. 85:02.]

### **163. Lotteries**

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

\*(1A) A lottery may be authorised in pursuance of this section subject to such conditions as the Inspector-General of Police or an officer acting on his or her behalf as aforesaid may see fit to impose.

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

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

[Act No. 17 of 1964.]

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

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

### **164. Keeper of premises defined**

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

### **165. Traffic in obscene publications**

(1) A person who—

- (a) sells, lets to hire, distributes, or in any manner puts into circulation, or for purposes of sale, hire, distribution, public exhibition or circulation makes, produces or has in his or her possession an obscene book, pamphlet, paper, drawing, painting, representation or figure or any other obscene object whatsoever;
- (b) imports, exports or conveys an obscene object for any of the purposes aforesaid, or knowing or having reason to believe that any such object will be sold, let to hire, distributed or publicly exhibited or in any manner put into circulation;
- (c) takes part in or receives profits from any business in the course of which he or she knows or has reason to believe that any such obscene objects are, for any of the purposes aforesaid, made, produced, purchased, kept, imported, exported, conveyed, publicly exhibited, or in any manner put into circulation;
- (d) advertises or makes known by any means whatsoever that a person is engaged or is ready to engage in any act which is an offence under this section, or that any such obscene object can be procured from or through a person; or
- (e) exhibits any indecent show or performance in a public place,

\* Previously numbered part of subsection (1).

commits a misdemeanour.

(2) A person committing a misdemeanour as aforesaid forfeits to the State all obscene books, pamphlets, papers, drawings, paintings, representations or figures or any other obscene objects whatsoever connected with the committing of the misdemeanour.

#### **166. Idle and disorderly persons\***

The following persons—

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

are deemed to be idle and disorderly persons, and are liable on conviction to a fine not exceeding twenty dalasis or imprisonment for a term of one month or to both the fine and imprisonment.

#### **167. Rogues and vagabonds**

The following persons—

- (a) a person convicted of an offence under section 166 of this Code after having been previously convicted of an offence against this Code;
- (b) a 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) a suspected person or reputed thief who has no visible means of subsistence and cannot give a good account of himself or herself;
- (d) a person found wandering in or on or near any premises or in a road or highway or a place adjacent thereto or in a public place at such time and under such circumstances as to lead to the conclusion that the person is there for an illegal or disorderly purpose,

are deemed to be rogues and vagabonds, and commit a misdemeanour, and are liable on conviction for the first offence to imprisonment for a term of three months, and for every subsequent offence to imprisonment for a term of one year.

[Act No. 17 of 1964.]

#### **168. Criminal charms**

(1) A person who—

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

\* There is also another class of idle and disorderly persons mentioned in section 35 of the Police Act (Cap. 18:01).

excuse (the proof of which excuse shall lie on the person) the fetish or charm as aforesaid,

commits a felony and is liable on conviction to imprisonment for a term of three years.

[Act No. 31 of 1939.]

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

[Act No. 31 of 1939.]

### **169. Wearing of uniform without authority prohibited**

(1) A person who, not being a person serving in the Armed Forces or any foreign Force stationed in The Gambia wears without the permission of the President, the uniform of any of those Forces or any dress having the appearance or bearing any of the regimental or other distinctive marks on such uniform, commits a misdemeanour, and is liable on conviction to a fine of two hundred and fifty dalasis or to imprisonment for a term of one month:

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

[Act No. 7 of 1937, Act No. 17 of 1964.]

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

[Act No. 17 of 1964.]

(3) A person who, not being in the service of The Gambia or having previously received the written permission of the President so to do, imports, sells or has in his or her possession any such uniform as aforesaid or any cloth having the appearance or bearing any of the regimental or other distinctive marks of the uniform, or the buttons or badges appropriate thereto, commits a misdemeanour, and is liable on conviction to a fine of one thousand dalasis or to imprisonment for a term of six months.

[Act No. 17 of 1964, Act No. 7 of 1992.]

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

[Act No. 17 of 1964.]

### **170. Negligent act likely to spread infection of disease dangerous to life**

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

### **171. Adulteration of food or drink intended for sale**

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

### **172. Sale of noxious food or drink**

A person who sells, or offers or exposes for sale, as food or drink, an 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, commits a misdemeanour.

### **173. Adulteration of drugs**

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

### **174. Sale of adulterated drugs**

A person who, knowing any drug or medical preparation to have been adulterated in a manner that lessens 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 a person not knowing of the adulteration, commits a misdemeanour.

### **175. Fouling water**

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

### **176. Fouling air**

A 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, commits a misdemeanour.

### **177. Offensive trades**

A 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 on conviction to be punished as for a common nuisance.

## CHAPTER XVIII

### *Defamation*

### **178. Definition of libel**

A person who by print, writing, printing, effigy, caricature, cartoon or depiction or by any means, otherwise than solely by gestures, spoken words, or other sounds, unlawfully publishes any defamatory matter concerning another person with the intent to defame that person, commits the offence termed "libel" and is liable on conviction to a fine of not less than fifty thousand dalasis and not more than two hundred and fifty thousand dalasis or imprisonment for a term of not less than one year or to both the fine and imprisonment.

[Act No. 18 of 2004, Act No. 3 of 2005.]

### **179. Definition of defamatory matter**

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

Provided that a prosecution for the publication of defamatory matter concerning a dead person shall not be instituted without the consent of the Attorney-General.

[Act No. 18 of 2004.]

### **180. Definition of publication**

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

[Act No. 18 of 2004.]

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

### **181. Definition of unlawful publication**

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

### **181A. False publication and broadcasting**

(1) A person who wilfully, negligently or recklessly, or having no reason to believe that it is true, publishes or broadcasts any information or news which is false in any material particular commits an offence and is liable on conviction to a fine of not less than fifty thousand dalasis and not more than two hundred and fifty thousand dalasis or imprisonment for a term of not less than one year or to both the fine and imprisonment.

[Act No. 18 of 2004, Act No. 3 of 2005.]

(2) It shall be no defence to a charge under subsection (1) that the person did not know that the information or news was false, unless it is proved that adequate measures were taken to verify the accuracy of the information or news.

[Act No. 18 of 2004.]

### **182. Cases in which publication of defamatory matter is absolutely privileged**

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

- (a) if the matter is published by the President or by the Cabinet or the National Assembly, in any official document or proceeding;
- (b) if the matter is published in the Cabinet or the National Assembly by any member of those bodies;
- (c) if the matter is published by order of the President as advised by the Cabinet;
- (d) if the matter is published concerning a person subject to naval or military discipline for the time being, and relates to his or her conduct as a person subject to that discipline, and is published by some person having authority over him or her in respect of that conduct, and to some person having authority over him or her in respect of that conduct;
- (e) if the matter is published in the course of any judicial proceedings by a person taking part in the proceedings as a Judge, Magistrate, Commissioner, counsel, witness or party thereto; or
- (f) if the matter published is in fact a fair report of anything said, done or published in the Cabinet or the National Assembly.

[Act No. 7 of 1937, Act No. 17 of 1964, Act No. 18 of 2004.]

(2) Where a publication is absolutely privileged, it is immaterial for the purposes of this Chapter whether the matter is true or false, and whether it is or is not known or



believed to be false, and whether it is or is not published in good faith:

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

[Act No. 17 of 1964.]

**183. Cases in which publication of defamatory matter is conditionally privileged**

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

- (a) . . . . .  
[Deleted by Act No. 18 of 2004.]
- (b) if the matter published is in fact a fair report of anything said, done or shown in any civil or criminal inquiry or proceedings before any court:  
  
Provided that if the court prohibits the publication of anything said or shown before it, on the ground that it is seditious, immoral, or blasphemous, the publication thereof shall not be privileged;
- (c) if the matter published is a copy or reproduction, or in fact a fair abstract, of any matter which has been previously published, and the previous publication of which was or would have been privileged under section 182 of this Code;
- (d) . . . . .  
[Deleted by Act No. 18 of 2004.]
- (e) . . . . .  
[Deleted by Act No. 18 of 2004.]
- (f) if the matter is an expression of opinion in good faith as to the conduct of a person as disclosed by evidence given in any public legal proceeding, whether civil or criminal, or as to the conduct of a person as a party, witness or otherwise in the proceedings, or as to the character of a person so far as it appears in any such conduct as in this paragraph mentioned;
- (g) if the matter is an expression of opinion in good faith as to the merits of any book, writing, painting, speech, or other work, performance or act published or publicly done or made or submitted by a person to the judgement of the public, or as to the character of the person so far as it appears therein;
- (h) . . . . .  
[Deleted by Act No. 18 of 2004.]
- (i) if the matter is a complaint or accusation made by a person in good faith against another person in respect of his or her conduct in any matter, or in respect of his or her character so far as it appears in such conduct, to a person having authority, by contract or otherwise, over that other person in respect of the conduct or matter, or having authority by law to inquire into or receive complaints respecting the conduct or matter; or
- (j) . . . . .  
[Deleted by Act No. 18 of 2004, Act No. 17 of 1964.]

**184. Explanation as to good faith**

(1) A publication or broadcast of defamatory matter shall not be deemed to have been made in good faith by a person, within the meaning of section 183 of this Code, if it is made to appear that the matter was untrue.

(2) It shall be a defence to a charge under subsection (1) that the person took reasonable care to ascertain that the defamatory matter was true or untrue.

[Act No. 18 of 2004.]

**185. . . . .**

[Deleted by Act No. 18 of 2004.]

DIVISION IV

*Offences against the Person*

CHAPTER XIX

*Murder and Manslaughter*

**186. Manslaughter**

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

**187. Murder**

A person who of malice aforethought causes the death of another person by an unlawful act or omission commits murder.

**188. Punishment of murder**

A person convicted of murder shall be sentenced to death.

**189. Punishment of manslaughter**

A person who commits the felony of manslaughter is liable on conviction to imprisonment for life.

**190. Malice aforethought**

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 a person, whether the 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 the person is the person actually killed or not, although the knowledge is accompanied by indifference whether death or grievous bodily harm is caused or not, or by a wish that it may not be caused;
- (c) using violent measures in the commission of, or attempt at, a felony;  
[Act No. 17 of 1964.]
- (d) an intention by the act or omission to facilitate the flight or escape from custody of a person who has committed or attempted to commit a felony.

**191. Killing on provocation**

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 or her passion to cool, he or she commits manslaughter only.

**192. Provocation defined**

(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 to an ordinary person,

or in the presence of an ordinary person to another person who is under his or her immediate care, or to whom he or she stands in a conjugal, parental, filial, or fraternal relation, or in the relation of master or servant, to deprive him or her of the power of self-control and to induce him or her to assault the person by whom the act or insult is done or offered.

(2) When the 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 the relation as aforesaid, the former is said to give to the latter provocation for an assault.

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

(4) An act which a person does in consequence of incitement given by another person in order to induce him or her 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.

### **192A. Diminished responsibility**

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

[Act No. 17 of 1964.]

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

[Act No. 17 of 1964.]

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

[Act No. 17 of 1964, Cap. 11:01.]

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

[Act No. 17 of 1964.]

### **192B. Suicide pacts**

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

[Act No. 17 of 1964.]

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

[Act No. 17 of 1964.]

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

[Act No. 17 of 1964.]

### **193. Causing death defined**

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

- (a) if he or she 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 or she 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 or her mode of living;
- (c) if by actual or threatened violence he or she causes the other person to perform an act which causes the death of that person, the 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 or she hastened the death of a person suffering under any disease or injury which apart from the act or omission would have caused death;
- (e) if his or her 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.

### **194. When child deemed to be a person**

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.

### **195. Limitation as to time of death**

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.

### **196. Reckoning of period**

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

(2) 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.

(3) 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

### *Infanticide and Child Destruction*

### **197. Infanticide**

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 commits the felony of infanticide, and may for the offence be dealt with and punished on conviction as if she had been guilty of the offence of manslaughter of the child.

### **198. Child destruction**

Subject as hereinafter in this section provided, a 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, commits the felony of child destruction, and shall be liable on conviction to imprisonment for life:

Provided that a person shall not be found guilty of an offence under this section unless it is proved that the act which caused the death of the child was not done in good faith for the purpose only of preserving the life of the mother.

### **199. Evidence of pregnancy**

For the purposes of section 198 of this Code, 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.

## CHAPTER XXI

### *Other Offences Connected with Murder and Suicide*

### **200. Attempt to murder**

A 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 or her duty to do, the act or omission being of a nature as to be likely to endanger human life,

commits a felony, and is liable on conviction to imprisonment for a term of seven years.

### **201. Attempt to murder by convict**

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

### **202. Accessory after the fact to murder**

A person who becomes an accessory after the fact to murder commits a felony, and is liable on conviction to imprisonment for life.

[Act No. 7 of 1937, Act No. 17 of 1964.]

### **203. Written threats to murder**

A person who, knowing the contents thereof, directly or indirectly causes any person to receive any writing threatening to kill any person commits a felony, and is liable on conviction to imprisonment for a term of seven years.

### **204. Conspiracy to murder**

A person who conspires with any other person to kill any person, whether the person is in The Gambia or elsewhere, commits a felony, and is liable on conviction to imprisonment for a term of fourteen years.

[Act No. 17 of 1964.]

### **205. Aiding suicide**

A person who—

- (a) procures another to kill himself or herself;

- (b) counsels another to kill himself or herself and thereby induces him or her to do so; or
- (c) aids another in killing himself or herself,

commits a felony, and is liable on conviction to imprisonment for life.

#### **206. Attempting suicide**

A person who attempts to kill himself or herself commits a misdemeanour.

#### **207. Concealing the birth of children**

A 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 his or her birth, commits a misdemeanour.

### CHAPTER XXII

#### *Offences Endangering Life and Health*

#### **208. Disabling in order to commit felony or misdemeanour**

A 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, commits a felony, and is liable on conviction to imprisonment for life, with or without corporal punishment.

#### **209. Stupefying in order to commit felony or misdemeanour**

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

#### **210. Exposing, etc., children**

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

#### **211. Suffocation of infants**

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

#### **212. Acts intended to cause grievous harm or prevent arrest**

A person who, with intent to maim, disfigure, or disable a person, or to do some grievous harm to a person, or to resist or prevent the lawful arrest or detention of a person—

- (a) unlawfully wounds or does any grievous harm to any person by any means

whatever;

- (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;
- (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;
- (e) causes any such substance or thing to be taken or received by any person;
- (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 on any person, or otherwise applies any such fluid or substance to the person of any person,

commits a felony, and is liable on conviction to imprisonment for life.

### **213. Preventing escape from wreck**

A 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 or her endeavours to save his or her life; or
- (b) obstructs any person in his or her endeavours to save the life of any person so situated,

commits a felony and is liable on conviction to imprisonment for life.

### **214. Grievous harm**

A person who unlawfully does grievous harm to another commits a felony, and is liable on conviction to imprisonment for a term of seven years.

### **215. Attempting to injure by explosive substances**

A person who unlawfully, and with intent to do any harm to another, puts any explosive substance in any place whatever, commits a felony, and is liable on conviction to imprisonment for fourteen years.

### **216. Maliciously administering poison with intent to harm**

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

### **217. Wounding and similar acts**

A person who—

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

commits a felony and is liable on conviction to imprisonment for a term of three years.

### **218. Failure to supply necessities**

A person who, being charged with the duty of providing for another the necessities

of life, without lawful excuse fails to do so, whereby the life of that other person is or is likely to be endangered, or his or her health is or is likely to be permanently injured, commits a felony, and is liable on conviction to imprisonment for a term of three years.

### **219. Surgical operation**

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 or her benefit, if the performance of the operation is reasonable, having regard to the patients' state at the time, and to all the circumstances of the case.

### **220. Excess of force**

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

### **221. Consent**

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

## CHAPTER XXIII

### *Criminal Recklessness and Negligence*

#### **221A. Rash or negligent act causing death**

A person who by any rash or negligent act not amounting to manslaughter causes the death of another person is liable on conviction to imprisonment for a term of ten years.

[Act No. 17 of 1964, Act No. 7 of 1992.]

#### **222. Reckless and negligent acts**

A 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—

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

commits a misdemeanour.

#### **223. Other negligent acts causing harm**



A person who unlawfully does any act, or omits to do any act which it is his or her duty to do, not being an act or omission specified in section 222 of this Code, by which act or omission harm is caused to a person, commits a misdemeanour, and is liable on conviction to imprisonment for a term of six months.

#### **224. Exhibition of false light, mark or buoy**

A person who exhibits any false light, mark or buoy, intending or knowing it to be likely that the exhibition will mislead any navigator, is liable on conviction to imprisonment for a term of seven years.

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

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

#### **226. Danger or obstruction in public way or line of navigation**

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

### CHAPTER XXIV

#### *Assaults*

#### **227. Common assault**

A person who unlawfully assaults another commits a misdemeanour, and, if the assault is not committed in circumstances for which a greater punishment is provided in this Code, is liable on conviction to imprisonment for a term of one year.

#### **228. Assaults causing actual bodily harm**

A person who commits an assault occasioning actual bodily harm commits a misdemeanour, and is liable on conviction to imprisonment for a term of five years.

#### **229. Assaults on persons protecting wreck**

A person who assaults and strikes or wounds a Magistrate, officer, or other person lawfully authorised in or on account of the execution of his or her duty in or concerning the preservation of a vessel in distress, or of a vessel or goods or effects wrecked, stranded, or cast on shore, or lying under water, commits a misdemeanour, and is liable on conviction to imprisonment for a term of seven years.

#### **230. Assaults punishable with two years' imprisonment**

A person who—

- (a) assaults a person with intent to commit a felony or to resist or prevent the lawful apprehension or detainer of himself or herself or of any other person for any offence;
- (b) assaults, resists, or wilfully obstructs a police officer in the due execution of his or her duty, or a person acting in aid of the officer;
- (c) assaults a person in pursuance of any unlawful combination or conspiracy to raise the rate of wages, or respecting any trade, business, or manufacture or respecting a person concerned or employed therein;
- (d) assaults, resists or obstructs a person engaged in lawful execution of process, or in making a lawful distress, with intent to rescue any property lawfully taken under the process or distress; or

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

commits a misdemeanour, and is liable on conviction to imprisonment for a term of two years.

### **230A. Slave-dealing; various forms**

A person who—

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

commits an offence, and is liable on conviction to imprisonment with or without hard labour for a term not exceeding seven years.

### **230B. Presumption of intention to treat as a slave**

A person bringing a slave into The Gambia, or purchasing, selling, or giving or taking in barter, a slave or other person, shall be presumed to have bought, sold, or otherwise dealt with the person in order that the person may be held or treated as a slave, unless the contrary be shown.

### **230C. Slaves brought into The Gambia to be reported**

(1) A person who, with whatever intention—

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

shall report the matter forthwith, in the City of Banjul or the Kanifing Municipality to the Inspector-General of Police and elsewhere to the Governor of the Region in which the person resides or into which the slave is brought; and, in case of failure to do so,

commits an offence and shall be liable on conviction to be punished therefor as for an offence under section 230A of this Code.

(2) It shall be the duty of the Inspector General of Police or the Governor of the Region, as the case may be, to inquire into the facts of any case so reported to him or her, and—

- (a) where he or she is of opinion that an offence against this Code has been committed, to take proceedings for the punishment of the offenders;
- (b) in every case to make suitable arrangements to secure the liberty of the slave.

[Act No. 13 of 2007.]

### **230D. Vessels employed to be forfeited**

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

## CHAPTER XXV

### *Offences against Liberty*

### **231. Definition of kidnapping from The Gambia**

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

[Act No. 17 of 1964.]

### **232. Definition of kidnapping from lawful guardianship**

A person who takes or entices another person under the age of eighteen years, or any person of unsound mind, out of the keeping of a lawful guardian of that person, without the consent of the guardian, is said to kidnap that person from lawful guardianship.

[Act No. 5 of 2005.]

### **233. Definition of abduction**

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

### **234. Punishment for kidnapping**

A person, who kidnaps another person from The Gambia or from lawful guardianship, commits a felony, and is liable on conviction to imprisonment for a term of seven years.

[Act No. 17 of 1964.]

### **235. Kidnapping or abducting in order to murder**

A person who kidnaps or abducts another person in order that the person may be murdered, or may be so disposed of as to be put in danger of being murdered, commits a felony, and is liable on conviction to imprisonment for a term of ten years.

### **236. Kidnapping or abducting with intent to confine person**

A person who kidnaps or abducts another person with intent to cause that person to be secretly and wrongfully confined, commits a felony, and is liable on conviction to imprisonment for a term of seven years.

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

A person who kidnaps or abducts another person in order that the 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 the person will be so subjected or disposed of, commits a felony, and is liable on conviction to imprisonment for a term of ten years.

**238. Wrongfully concealing or keeping in confinement kidnapped or abducted person**

A person who, knowing that another person has been kidnapped or has been abducted, wrongfully conceals or confines the person, commits a felony, and shall be punished on conviction in the same manner as if he or she had kidnapped or abducted that person with the same intention or knowledge, or for the same purpose, as that with or for which he or she conceals or detains the person in confinement.

**239. Kidnapping or abducting child under eighteen years with intent to steal from its person**

A person who kidnaps or abducts a child under the age of eighteen years with the intention of taking dishonestly any movable property from the person of the child, commits a felony, and is liable on conviction to imprisonment for a term of seven years.

[Act No. 5 of 2005.]

**240. Buying or disposing of any person as a slave**

A person who imports, exports, removes, buys, sells or disposes of another person as a slave, or accepts, receives, or detains against his or her will any person as a slave, commits a felony, and is liable on conviction to imprisonment for a term of seven years.

**241. Habitual dealing in slaves**

A person who habitually imports, exports, removes, buys, sells, traffics or deals in slaves commits a felony, and is liable on conviction to imprisonment for a term of ten years.

**242. Unlawful compulsory labour**

A person who unlawfully compels another person to labour against the will of that person commits a misdemeanour.

**243. Intimidation**

A person who, with a view to compel another person to abstain from doing or to do any act which that other person has a legal right to do or abstain from doing, wrongfully and without legal authority—

- (a) uses violence to or intimidates such other person or his or her wife or husband or children, or injures his or her property;
- (b) persistently follows that other person about from place to place;
- (c) hides any tools, clothes, or other property owned or used by that other person, or deprives him or her of or hinders him or her in the use thereof; or
- (d) follows that other person with two or more other persons in disorderly manner in or through any street or road,

commits an offence, and is liable on conviction to a fine not exceeding two hundred dalasis or to imprisonment for a term not exceeding three months.

[Act No. 38 of 1940, Act No. 11 of 1961.]

DIVISION V

*Offences Relating to Property*

## CHAPTER XXVI

### *Theft*

#### **244. Things capable of being stolen**

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

(2) Every inanimate thing which is the property of a 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 subsequently tamed, which is the property of a 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 The Gambia, which are the property of a 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.

[Act No. 17 of 1964.]

(5) Animals wild by nature, of a kind which is ordinarily found in a condition of natural liberty in The Gambia, which are the property of a 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.

#### **245. Definition of theft**

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

(2) A person who takes or converts anything capable of being stolen is deemed to do so fraudulently if he or she 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 or she may intend afterwards to repay the amount to the owner.

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

(3) When a thing stolen is converted, it is immaterial whether it is taken for the purpose of conversion, or whether it is at the time of the conversion in the possession

of the person who converts it. It is also immaterial that the person who converts the thing in question is the holder of a power of attorney for the disposition of it, or is otherwise authorised to dispose of it.

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

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

#### **246. Special cases**

(1) When a factor or agent pledges or gives a lien on any goods or document of title to goods entrusted to him or her for the purpose of sale or otherwise for any sum of money not greater than the amount due to him or her from his or her 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 or her for or on account of his or her principal, such dealing with the goods or document of title is not deemed to be theft.

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

#### **247. Funds, etc., held under direction**

When a person receives, either alone or jointly with another person, any money or valuable security or a power of attorney for the sale, mortgage, pledge, or other disposition of any property, whether capable of being stolen or not, with a direction in either case that the 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 the security, or of the mortgage, pledge or other disposition, shall be applied to any purpose or paid to any person specified in the direction, the 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.

#### **248. Funds, etc., received by agents for sale**

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

#### **249. Money received for another**

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.

#### **250. Theft by person having an interest in the thing stolen**

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

that he or she is lessee of the thing, or that he or she is one of two or more joint owners of the thing, or that he or she is a director or officer of a corporation or company or society who are the owners of it.

### **251. Husband and wife**

A person who, while a man and his wife are living together, procures either of them to deal with anything which is, to his or her 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.

### **252. General punishment for theft**

A person who steals anything capable of being stolen commits the felony termed theft, and is liable on conviction, unless owing to the circumstances of the theft or the nature of the thing stolen, some other punishment is provided, to imprisonment for a term of five years.

[Act No. 17 of 1964.]

### **253. Stealing wills**

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

### **254. Stealing postal matter, etc.**

If the thing stolen is postal matter or any chattel, money or valuable security contained in any postal matter, the offender is liable on conviction to imprisonment for a term of ten years.

### **255. Penalty for stealing of cattle, etc.**

A person convicted of stealing a horse, mare, gelding, ass, mule, camel, ostrich, bull, cow, ox, ram, ewe, wether, goat or pig, is liable on conviction to imprisonment for a term not exceeding seven years.

[Act No. 12 of 1983.]

### **255A. Stealing vehicles**

If the thing stolen is a vehicle, the offender is liable to imprisonment for a term of ten years.

[Act No. 17 of 1964.]

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

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 fifty dalasis, or the offender at or immediately before or after the time of stealing uses or threatens to use violence to any person in the dwelling-house;
- (c) if the thing stolen is from any kind of vessel or vehicle;

\* But see section 10 (3) of Married Women's Property Act, Cap. 41:05, which provides "No criminal proceeding shall be taken by any wife against her husband by virtue of this Act, while they are living together, as to or concerning any property claimed by her, nor while they are living apart as to or concerning any act done by the husband while they were living together, concerning property claimed by the wife, unless such property shall have been wrongfully taken by the husband when leaving or deserting or about to leave or desert his wife."

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

- (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 on conviction to imprisonment for a term of seven years.

[Act No. 17 of 1964.]

### **257. Stealing by persons in public service**

If the offender is a person employed in the public service and the thing stolen is the property of the State or came into the possession of the offender by virtue of his or her employment, he or she is liable on conviction to imprisonment for a term of ten years.

[Act No. 11 of 1986.]

### **258. Stealing by clerks and servants**

If the offender is a clerk or servant, and the thing stolen is the property of his or her employer, or came into the possession of the offender on account of his or her employer, he or she commits an offence, and is liable on conviction to imprisonment for a term of ten years.

[Act No. 11 of 1986.]

### **259. Stealing by directors or officers of companies**

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 or she is liable on conviction to imprisonment for a term of seven years.

### **260. Stealing by agents, etc.**

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

- (a) property which has been received by the offender with a power of attorney for the disposition thereof;
- (b) property which has been entrusted to the offender either alone or jointly with any other person for him or her to retain in safe custody or to apply, pay, or deliver for any purpose or to any person the same or any part thereof or any proceeds thereof;
- (c) property which has been received by the offender either alone or jointly with any other person for or on account of any other person;
- (d) the whole or part of the proceeds of any valuable security which has been received by the offender with a direction that the proceeds thereof should be applied to any purpose or paid to any person specified in the direction;
- (e) the whole or part of the proceeds arising from any disposition of any property which have been received by the offender by virtue of a power of attorney for the disposition, the power of attorney having been received by the offender with a direction that the proceeds should be applied to any purpose or paid to any person specified in the direction,

the offender is liable on conviction to imprisonment for a term of seven years.

### **261. Stealing by tenants or lodgers**

If the thing stolen is a fixture or chattel let to the offender to be used by him or her with a house or lodging, and its value exceeds fifty dalasis, he or she is liable on conviction to imprisonment for a term of seven years.



## **262. Stealing after previous conviction**

If the offender, before committing the theft, had been convicted of a theft punishable under section 252 of this Code, he or she is liable on conviction to imprisonment for a term of seven years.

### CHAPTER XXVII

#### *Offences Allied to Stealing*

## **263. Concealing registers**

A person who, with intent to defraud, conceals or takes from its place of deposit 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 the register which is required by law to be sent to any public office, commits a felony, and is liable on conviction to imprisonment for a term of ten years.

## **264. Concealing wills**

A person who, with intent to defraud, conceals any testamentary instrument, whether the testator is living or dead, commits a felony, and is liable on conviction to imprisonment for a term of ten years.

## **265. Concealing deeds**

A 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, commits a felony, and is liable on conviction to imprisonment for three years.

## **266. Killing animals with intent to steal**

A person who kills an animal capable of being stolen with intent to steal the skin or carcass, or any part of the skin or carcass, commits an offence, and is liable on conviction to the same punishment as if he or she had stolen the animal.

## **267. Severing with intent to steal**

A person who makes anything movable with intent to steal it commits an offence, and is liable on conviction to the same punishment as if he or she had stolen the thing after it had become movable.

## **268. Fraudulent disposition of mortgaged goods**

(1) A 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, commits a misdemeanour.

(2) In this section, the term "**mortgaged goods**" includes 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 an Act or of a written instrument, to a valid charge or lien by way of security for a debt or obligation.

## **269. Fraudulently dealing with minerals in mines**

A person who takes, conceals, or otherwise disposes of any ore or any metal or mineral in or about a mine, with intent to defraud any person, commits a felony, and is liable on conviction to imprisonment for a term of five years.

## **270. Fraudulent appropriation of power**

A person who fraudulently abstracts or diverts to his or her own use or to the use of

another person any mechanical, illuminating, or electrical power derived from any machine, apparatus or substance, the property of another person, commits a felony, and is liable on conviction to imprisonment for a term of five years.

#### **271. Unlawful use of vehicles, animals, etc.**

A person who unlawfully and without colour or right, but not so as to be guilty of stealing, takes or converts to his or her own use or to the use of another person, any draught or riding animal or any vehicle or cycle, however propelled, or any vessel, commits of a misdemeanour, and is liable on conviction to a fine of five hundred dalasis or to imprisonment for a term of six months or to both the fine and imprisonment.

### CHAPTER XXVIII

#### *Robbery and Extortion*

#### **272. Definition of robbery**

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

#### **273. Punishment of robbery**

(1) A person who commits the felony of robbery is liable on conviction to imprisonment for a term of fifty years with hard labour.

[Act No. 18 of 2010.]

(2) If the offender is armed with any dangerous or offensive weapon or instrument, or is in company with one or more other person or persons, or if, at or immediately before or immediately after the time of the robbery, he or she wounds, beats, strikes, or uses any other personal violence to a person, he or she is liable on conviction be sentenced to death.

[Act No. 18 of 2010.]

#### **274. Attempted robbery**

(1) A person who assaults a person with intent to steal anything, and, at or immediately before or immediately after the time of the assault, uses or threatens to use actual violence to a person or property in order to obtain the thing intended to be stolen or to prevent or overcome resistance to its being stolen, commits a felony, and is liable on conviction to imprisonment for a term of seven years.

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

#### **275. Assault with intent to steal**

A person who assaults a person with intent to steal anything commits a misdemeanour, and is liable on conviction to imprisonment for a term of two years.

#### **276. Demanding property by written threats**

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

## **277. Attempts at extortion by threats**

- (1) A person who, with intent to extort or gain anything from a person—
- (a) accuses or threatens to accuse the person of committing a felony or misdemeanour, or of offering or making any solicitation or threat to a person as an inducement to commit or permit the commission of a felony or misdemeanour;
  - (b) threatens that the person shall be accused by another person of a felony or misdemeanour, or of any such act; or
  - (c) knowing the contents of the writing, causes the person to receive any writing containing any such accusation or threat as aforesaid,

commits 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;
- (ii) any of the offences defined in Chapter XV of this Code, or an attempt to commit the offences;
- (iii) an assault with intent to have carnal knowledge of any person against the order of nature, or an unlawful and indecent assault on 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 on conviction to imprisonment for a term of fourteen years.

(2) In any other case the offender is liable on conviction to imprisonment for a term of three years.

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

## **278. Procuring execution of deeds, etc., by threats**

A 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 a felony or misdemeanour, or by offering or making any solicitation or threat to a person as an inducement to commit or permit the commission of any offence, compels or induces a person—

- (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,

commits a felony, and is liable on conviction to imprisonment for a term of fourteen years.

## **279. Demanding property with menaces with intent to steal**

A person who, with intent to steal anything, demands it from a person with menaces or force, commits a felony, and is liable on conviction to imprisonment for a term of five years.

### CHAPTER XXIX

#### *Burglary, Housebreaking and Similar Offences*

## **280. Definitions**

(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.

(2) A person is deemed to enter a building as soon as any part of his or her body or any part of any instrument used by him or her 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.

## **281. Housebreaking and burglary**

(1) A person who—

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

commits the felony termed housebreaking, and is liable on conviction to imprisonment for a term of seven years.

(2) If the offence is committed in the night, it is termed burglary, and the offender is liable on conviction to imprisonment for a term of ten years.

## **282. Entering dwelling-house with intent to commit felony**

(1) A person who enters or is in any building, tent or vessel used as a human dwelling with intent to commit a felony therein, commits a felony, and is liable on conviction to imprisonment for a term of five years.

(2) If the offence is committed in the night, the offender is liable on conviction to imprisonment for a term of seven years.

## **283. Breaking into building and committing felony**

A person who—

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

commits a felony, and is liable on conviction to imprisonment for a term of seven years.

## **284. Breaking into building with intent to commit felony**

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

## **284A. Penalty when certain offences committed by armed persons**

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

[Act No. 17 of 1964.]

### **285. Persons found armed, etc., with intent to commit felony**

(1) A person who is found under any of the circumstances following, that it so 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 or her possession by night without lawful excuse, the proof of which lies on him or her, any instrument of housebreaking;
- (d) having in his or her possession by day any such instrument with intent to commit a felony;
- (e) having his or her 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 or her presence,

commits a felony, and is liable on conviction to imprisonment for a term of three years.

(2) If the offender has been previously convicted of a felony relating to property, he or she is liable on conviction to imprisonment for a term of seven years.

### **285A. Criminal trespass**

A person who—

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

commits an offence for which he or she may be arrested by a police officer without warrant and is liable on conviction to imprisonment for a term of one year.

[Act No. 11 of 1961.]

### **286. Forfeiture of housebreaking instruments, etc.**

When a person is convicted of an offence under this Chapter, the court may order that any dangerous or offensive weapon or instrument of housebreaking carried or used in connection with the offence shall be forfeited to the State.

## CHAPTER XXX

### *False Pretences*

### **287. Definition of false pretence**

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

### **288. Obtaining goods by false pretences**

A person who by any false pretence, and with intent to defraud, obtains from another person anything capable of being stolen, or induces another person to deliver to a person anything capable of being stolen commits a misdemeanour, and is liable on conviction to imprisonment for a term of three years.

### **289. Obtaining execution of a security by false pretences**

A person who by any false pretence, and with intent to defraud, induces a 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, commits a misdemeanour, and is liable on conviction to imprisonment for a term of three years.

### **290. Cheating**

A person who by means of any fraudulent trick or device obtains from another person anything capable of being stolen, or induces another 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 or she would have paid or delivered but for such trick or device, commits a misdemeanour, and is liable on conviction to imprisonment for a term of three years.

### **291. Obtaining credit, etc., by false pretences**

A person who—

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

commits a misdemeanour, and is liable on conviction to imprisonment for a term of one year.

### **292. Conspiracy to defraud**

A 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, commits a misdemeanour, and is liable on conviction to imprisonment for a term of three years.

### **293. Frauds on sale or mortgage of property**

A person who, being a seller or mortgagor of any property, or being the legal practitioner or agent of the seller or mortgagor, with intent to induce the purchaser or mortgagee to accept the title offered or produced to him or her, and with intent to defraud—

- (a) conceals from the purchaser or mortgagee any instrument material to the title, or any incumbrance;
- (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,

commits a misdemeanour, and is liable on conviction to imprisonment for a term of two

years.

#### **294. Pretending to exercise witchcraft or tell fortunes**

A person who for gain or reward pretends to exercise or use any kind of witchcraft, sorcery, enchantment, or conjuration, or undertakes to tell fortunes, or pretends from his or her 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, commits a misdemeanour, and is liable on conviction to imprisonment for a term of one year.

#### **295. Obtaining registration, etc., by false pretence**

A person who wilfully procures or attempts to procure for himself or herself or another person any registration, licence or certificate under any law by any false pretence, commits a misdemeanour, and is liable on conviction to imprisonment for a term of one year.

#### **296. False declaration for passport**

A person who makes a statement which is to his or her knowledge untrue for the purpose of procuring a passport, whether for himself or herself or for any other person commits a misdemeanour.

#### **296A. Issue of false cheques**

- (1) A person who—
- (a) without reasonable excuse, the proof of which shall be on him or her, issues any cheque drawn on any bank with which he or she has no account;
  - (b) issues any cheque in respect of any account with any bank when he or she has no reasonable ground (proof of which shall be on him or her) to believe that there are funds or adequate funds in the account to pay the amount specified on the cheque within the normal course of banking business; or
  - (c) with intent to defraud stops or countermands any cheque previously issued by him or her,

commits an offence and is liable on conviction for a first offence to a fine of not less than ten thousand dalasis and not more than twenty-five thousand dalasis or imprisonment for a term of twelve months or to both the fine and imprisonment and in the case of any subsequent offence to a fine of not less than twenty-five thousand dalasis and not more than fifty thousand dalasis or to a term of imprisonment not exceeding five years.

(2) A person is not guilty of an offence under subsection (1) (b) in respect of a cheque which is presented for payment later than three months after the date specified on the cheque for payment.

(3) Where a person is convicted of an offence under subsection (1) (c), the court may, if satisfied that there are adequate funds in the account of the person in respect of which the cheque in question was issued to meet the amount specified on the cheque, order the bank in question to honour the cheque and any bank complying with such an order shall not be liable to any claim in respect of the act.

[Decree No. 86 of 1996.]

### CHAPTER XXXI

#### *Receiving Property Stolen or Unlawfully Obtained and Like Offences*

#### **297. Receiving stolen property, etc.**

(1) A 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, commits a felony, and is liable on conviction to imprisonment for a term of seven years.

(2) A person who receives or retains any chattel, money, valuable security or other

property whatsoever, knowing or having reason to believe the same to have been unlawfully taken, obtained, converted or disposed of in a manner which constitutes a misdemeanour, commits a misdemeanour, and is liable on conviction to the same punishment as the offender by whom the property was unlawfully obtained, converted or disposed of.

(3) A person shall not be convicted of an offence under this section unless it is proved that the chattel, money, valuable security or other property to which the charge relates has in fact been unlawfully taken, obtained, converted or disposed of, as the case may be.

### **298. Receipt or possession of property stolen abroad**

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

[Act No. 17 of 1964.]

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

[Act No. 17 of 1964.]

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

[Act No. 17 of 1964.]

### **298A. Suspected stolen property**

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

[Act No. 17 of 1964.]

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

[Act No. 17 of 1964.]

### **299. Evidence of guilty knowledge, etc.**

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

- (a) the fact that other property stolen within the period of twelve months preceding the date of the offence charged was found or had been in his or her possession;
- (b) the fact that within the five years preceding the date of the offence charged he or she has been convicted of any offence involving fraud or dishonesty:

Provided that the fact referred to in paragraph (b) of this section may not be proved unless—

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



## CHAPTER XXXII

### *Frauds by Trustees and Persons in a Position of Trust, and False Accounting*

#### **300. Trustees fraudulently disposing of trust property**

(1) A 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, commits a felony, and is liable on conviction to imprisonment for a term of seven years.

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

- (a) trustees upon express trusts created by a deed, will, or instrument in writing, whether for a public or private or charitable purpose;
- (b) trustees appointed by or under the authority of an Act for any such purpose;
- (c) persons upon whom the duties of the trust as aforesaid devolve; and
- (d) executors and administrators:

Provided that a prosecution for any offence included in this section shall not be commenced—

- (i) by a person without the sanction of the Attorney-General,
- (ii) by a person who has taken civil proceedings against the trustee, without the sanction also of the court or Judge before whom the civil proceedings have been had or are pending.

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

A person who—

- (a) being a director or officer of a corporation or company, receives or possesses himself or herself 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 the entry to be made therein; or
- (b) being a director, officer, or member of a corporation or company, does any of the following acts with intent to defraud, that is to say—
  - (i) destroys, alters, mutilates or falsifies any book, document, valuable security or account, which belongs to the corporation or company, or any entry in the book, document or account, or is privy to any such act, or
  - (ii) makes, or is privy to making, any false entry in the book, document or account, or
  - (iii) omits, or is privy to omitting, any material particular from the book, document or account,

commits a felony, and is liable on conviction to imprisonment for a term of seven years.

#### **302. False statements by officials of companies**

A 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 or her 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,

commits a felony, and is liable on conviction to imprisonment for a term of seven years.

### **303. Fraudulent false accounting**

A 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 or her employer, or has been received by him or her on account of his or her employer, or any entry in the book, document or account, or is privy to any such act;
- (b) makes, or is privy to making, any false entry in the book, document or account; or
- (c) omits, or is privy to omitting, any material particular from the book, document or account,

commits a felony, and is liable on conviction to imprisonment for a term of seven years.

### **304. False accounting by public officer**

A 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 her or entrusted to his or her care, or of any balance of money or property in his or her possession or under his or her control, commits a misdemeanour.

## DIVISION VI

### *Malicious Injuries to Property*

## CHAPTER XXXIII

### *Offences Causing Injury to Property*

### **305. Arson**

A person who wilfully and unlawfully sets fire to—

- (a) a building or structure whatever, whether completed or not;
- (b) a vessel, whether completed or not;
- (c) a stack of cultivated vegetable produce, or of mineral or vegetable fuel; or
- (d) a mine, or the workings, fittings or appliances of a mine,

commits a felony, and is liable on conviction to imprisonment for life.

### **306. Attempts to commit arson**

A person who—

- (a) attempts unlawfully to set fire to any thing as is mentioned in section 305 of this Code; or
- (b) wilfully and unlawfully sets fire to anything which is so situated that any

thing as is mentioned in section 305 of this Code is likely to catch fire from it,

commits a felony, and is liable on conviction to imprisonment for a term of fourteen years.

### **307. Setting fire to crops and growing plants**

A person who wilfully and unlawfully sets fire to—

- (a) a crop of cultivated produce, whether standing, picked or cut;
- (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,

commits a felony, and is liable on conviction to imprisonment for a term of fourteen years.

### **308. Attempting to set fire to crops, etc.**

A person who—

- (a) attempts unlawfully to set fire to any thing as is mentioned in section 307 of this Code ; or
- (b) wilfully and unlawfully sets fire to anything which is so situated that any thing as is mentioned in section 307 of this Code is likely to catch fire from it,

commits a felony, and is liable on conviction to imprisonment for a term of seven years.

### **309. Casting away vessels**

A person who—

- (a) wilfully and unlawfully casts away or destroys a vessel, whether completed or not;
- (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,

commits a felony, and is liable on conviction to imprisonment for a term of fourteen years.

### **310. Attempts to cast away vessels**

A 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, commits a felony, and is liable on conviction to imprisonment for a term of seven years.

### **311. Injuring animals**

A person who wilfully and unlawfully kills, maims, or wounds any animal capable of being stolen commits a misdemeanour.

### **312. Punishment for malicious injuries in general**

(1) A person who wilfully and unlawfully destroys or damages any property commits an offence, which, unless otherwise stated is a misdemeanour, and he or she is liable

on conviction, if no other punishment is provided, to imprisonment for a term of two years.

(2) If the property in question is a dwelling-house or a vessel, and the injury is caused by the explosion of any explosive substance, and if—

- (a) any person is in the dwelling-house or vessel; or
- (b) the destruction or damage actually endangers the life of any person,

the offender commits a felony, and is liable on conviction to imprisonment for life.

(3) If the property in question—

- (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 or inundation or damage to any land or building;
- (b) is a bridge, viaduct, or aqueduct which is constructed over a highway or canal, or over which a highway or canal passes, and the property is destroyed; or
- (c) being a bridge, viaduct, or aqueduct, is damaged, and the damage is done with intent to render the bridge, viaduct or aqueduct, or the highway or canal passing over or under the same, or any part thereof, dangerous or impassable, and the same or any part thereof is rendered dangerous or impassable,

the offender commits a felony, and is liable on conviction 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 a register which is required by law to be sent to any public officer, the offender commits a felony, and is liable on conviction to imprisonment for a term of fourteen years.

(5) If the property in question is a vessel in distress or wrecked, or stranded, or anything which belongs to the vessel, the offender commits a felony, and is liable on conviction to imprisonment for a term of seven years.

(6) If the property in question—

- (a) being a vessel, whether completed or not, is destroyed;
- (b) being a vessel, whether completed or not, is damaged, and the damage is done with intent to destroy it or render it useless;
- (c) is a light, beacon, buoy, mark, or signal used for the purposes of navigation, or for the guidance of persons engaged in navigation;
- (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;
- (e) being a bridge, viaduct, or aqueduct which is constructed over a highway or canal, or over which a highway or canal passes, is damaged, and the damage is done with intent to render the bridge, viaduct, or aqueduct, or the highway or canal passing over or under the same, or any part thereof, dangerous or impassable;
- (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;
- (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 well, or borehole for water, or the dam, bank, wall, or floodgate of a millpond or pool,

the offender commits a felony, and is liable on conviction to imprisonment for a term of seven years.

(7) If the property in question is a document which is deposited or kept in a public office, or which is evidence of title to any land or estate in land, the offender commits a felony, and is liable on conviction to imprisonment for a term of seven years.

### **313. Attempts to destroy property by explosives**

A person who, unlawfully and with intent to destroy or damage any property, puts any explosive substance in any place whatever, commits a felony, and is liable on conviction to imprisonment for a term of fourteen years.

### **314. Communicating infectious diseases to animals**

A 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, commits a felony, and is liable on conviction to imprisonment for a term of seven years.

### **315. Removing boundary marks with intent to defraud**

A 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, commits a felony, and is liable on conviction to imprisonment for a term of three years.

### **316. Wilful damage, etc., to survey and boundary marks**

A person who—

- (a) wilfully removes, defaces or injures any survey mark or boundary mark which has 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;
- (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 survey mark erected by or under the authority of any Government or licensed surveyor, or by an intending applicant for any lease, licence or right under an Act relating to mines or minerals,

commits a misdemeanour, and is liable on conviction to a fine of two hundred dalasis or to imprisonment for a term of three months, 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 of neglect.

### **317. Threats to burn, etc.**

A 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 a building or not, or a vessel, or to kill, maim, or wound any cattle, commits a felony, and is liable on conviction to imprisonment for a term of seven years.

## **DIVISION VII**

### *Forgery, Coining, Counterfeiting and Similar Offences*

## CHAPTER XXXIV

### *Definitions*

#### **318. Definition of forgery**

Forgery is the making of a false document with intent to defraud or deceive.

#### **319. Document**

The term "**document**" in this Division of this Code does not include a trade mark or any other sign used in connection with articles of commerce though they may be written or printed.

#### **320. Making a false document**

A person makes a false document, who—

- (a) makes a document purporting to be what in fact it is not;
- (b) alters a document without authority in such a manner that if the alteration had been authorised it would have altered the effect of the document;
- (c) introduces into a document without authority whilst it is being drawn up matter which if it had been authorised would have altered the effect of the document;
- (d) signs a document—
  - (i) in the name of any person without his or her authority, whether the 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 or she professes to be.

#### **321. Intent to defraud**

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 the person from being defrauded in fact, nor by the fact that he or she had or thought he or she had a right to the thing to be obtained by the false document.

## CHAPTER XXXV

### *Punishment for Forgery*

#### **322. General punishment for forgery**

A person who forges any document commits an offence which, unless otherwise stated, is a misdemeanour, and he or she is liable on conviction, unless owing to the circumstances of the forgery or the nature of the thing forged some other punishment is provided, to imprisonment for a term of three years.

[Act No. 17 of 1964.]

### **323. Forgery of will, codicil or other testamentary document**

A person who forges any will, codicil or other testamentary document either of a dead or of a living person or any probate or letters of administration, whether with or without the will annexed, document of title to land, judicial record, power of attorney, banknote, 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 on conviction to imprisonment for life, and the Court may in addition order that any document as aforesaid shall be forfeited to the State.

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

A person who forges any judicial or official document is liable on conviction to imprisonment for a term of seven years.

### **325. Making or having in possession paper or implements for forgery**

A person who, without lawful authority or excuse, the proof of which lies on him or her—

- (a) makes, uses, sells, exposes for sale or knowingly has in his or her custody or possession any paper intended to resemble and pass as special paper such as is provided and used for making any banknote;
- (b) makes, uses or knowingly has in his or her custody or possession, any frame, mould or instrument for making such paper, or for producing in or on the paper any words, figures, letters, marks, lines or devices peculiar to and used in or on the paper;
- (c) engraves or in anywise makes upon any plate, wood, stone or other material, any words, figures, letters, marks, lines or devices, the print whereof resembles in whole or in part any words, figures, letters, marks, lines or devices peculiar to and used in or on any banknote, or in or on any document entitling or evidencing the title of a person to any share or interest in any public stock, annuity, fund, or debt of any part of the Commonwealth, or of a foreign State, or in any stock, annuity, fund or debt of any body corporate, company, or society, whether within or without the Commonwealth;
- (d) uses or knowingly has in his or her custody or possession any plate, wood, stone or other material, upon which any such words, figure, letters, marks, lines or devices have been engraved or in anywise made as aforesaid; or
- (e) uses or knowingly has in his or her custody or possession any paper upon which any such words, figures, letters, marks, lines or devices have been printed or in anywise made as aforesaid,

commits a felony, and is liable on conviction to imprisonment for a term of seven years.

[Act No. 7 of 1937.]

### **326. Unlawful inquiries relating to the possibility of forgery**

(1) A person who, without lawful authority or excuse, the proof of which lies on him or her, either orally or in writing makes inquiries of another person, whether in The Gambia or outside The Gambia—

- (a) as to obtaining or supplying or as to the cost of obtaining or supplying any machinery or instrument or material for the making of any paper or capable of producing in or on any paper any words, figures, letters, marks or lines resembling any words, figures, letters, marks or lines used in or on paper specially provided for any purpose mentioned in section 325 of this Code;
- (b) as to the cost of printing or otherwise reproducing any document referred to in section 325 of this Code no matter by what name the document may be referred to;

- (c) as to whether such other person or any other person is prepared to print or otherwise reproduce or would be prepared to print or otherwise reproduce the document as aforesaid; or
- (d) as to whether such other person or any other person is prepared to obtain or would be prepared to obtain the document as aforesaid by any means other than paying full value for the same,

commits a misdemeanour, and is liable on conviction to imprisonment for a term of one year.

[Act No. 17 of 1964.]

(2) In the case of written inquiries in connection with any of the matters or subjects to which subsection (1) of this section relates, the fact that the inquiries were reduced into writing shall be sufficient proof of an attempt to commit the offence and the offender shall be subject to a like penalty as if he or she had committed the offence.

[Act No. 7 of 1937.]

### **327. Imprisonment for seven years**

A person who—

- (a) forges any stamp, whether impressed or adhesive, used for the purposes of revenue or accounting by any Government department;
- (b) without lawful excuse, the proof whereof shall lie upon him or her, makes or has knowingly in his or her possession any die or instrument capable of making the impression of any such stamp;
- (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 the stamp or any part thereof;

[Act No. 17 of 1964.]

- (d) fraudulently mutilates the stamp as referred to in paragraph (c) of this section, with intent that another use shall be made of the stamp;
- (e) fraudulently fixes or places upon any material or upon the 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;
- (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 on the material; or
- (g) knowingly and without lawful excuse, the proof whereof shall lie on him or her, has in his or her 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,

commits a felony, and is liable on conviction to imprisonment for a term of seven years.

### **328. Uttering false documents**

A person who knowingly and fraudulently utters a false document commits an offence of the same kind, and is liable on conviction to the same punishment as if he or she had forged the thing in question.

### **329. Uttering cancelled or exhausted documents**

A 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, commits an offence of the same kind, and is liable on conviction to the same punishment, as if he or she had forged the document.

### **330. Procuring execution of documents by false pretences**

A person who, by means of any false and fraudulent representations as to the nature, contents or operation of a document, procures another person to sign or execute the document, commits an offence of the same kind, and is liable on conviction to the same punishment, as if he or she had forged the document.

### **331. Obliterating crossings on cheques**

A person who, with intent to defraud or deceive—

- (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,

commits a felony, and is liable on conviction to imprisonment for a term of seven years.

[Act No. 7 of 1937.]

### **332. Making documents without authority**

A person who, with intent to defraud or deceive—

- (a) without lawful authority or excuse, makes, signs or executes for or in the name or on account of another person, whether by procuration or otherwise, any document or writing; or
- (b) knowingly utters any document or writing so made, signed, or executed by another person,

commits a felony, and is liable on conviction to imprisonment for a term of seven years.

### **333. Demanding property upon forged testamentary instruments**

A person who procures the delivery or payment to himself or herself or another 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, commits an offence of the same kind, and is liable on conviction to the same punishment, as if he or she had forged the document or thing by virtue whereof he or she procures the delivery or payment.

### **334. Purchasing forged notes**

A person who, without lawful authority or excuse, the proof of which lies on him or her, purchases or receives from any person, or has in his or her possession, a forged banknote or currency note, whether filled up or in blank, knowing it to be forged, commits a felony, and is liable on conviction to imprisonment for a term of seven years.

### **335. Falsifying warrant for money payable under public authority**

A 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, commits a felony, and is liable on conviction to imprisonment for a term of seven years.

### **336. Falsification of register**

A 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 or her knowledge false, to be made in the register or record, commits a felony, and is liable on

conviction to imprisonment for a term of seven years.

### **337. Sending false certificate of marriage to Registrar**

A 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 or her knowledge false, commits a felony, and is liable on conviction to imprisonment for a term of seven years.

### **338. False statements for registers of births, deaths and marriages**

A 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 the register, commits a felony, and is liable on conviction to imprisonment for a term of three years.

## CHAPTER XXXVI

### *Offences Relating to Coin*

### **339. Definitions**

In this Chapter, the term—

**“coin”** includes any coin coined in any mint authorised by the Government, or lawfully current by virtue of any Order in Council, Act, Proclamation or otherwise in The Gambia or in any part of the Commonwealth, and any coin of a foreign Sovereign or State;

[Act No. 17 of 1964.]

**“counterfeit coin”** means a coin not genuine but resembling or apparently intended to resemble or pass for genuine coin; and includes genuine coin prepared or altered so as to pass for coin of a higher denomination.

### **340. Counterfeiting coin**

A person who makes or begins to make any counterfeit coin commits a felony, and is liable on conviction to imprisonment for life.

### **341. Preparations for coining**

A 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;
- (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 or her—
  - (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,
  - (ii) makes or mends, or begins or prepares to make or mend, or has in his or her 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,
  - (iii) makes or mends, or begins or prepares to make or mend, or has in his or her 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

- (iv) makes or mends, or begins or prepares to make or mend, or has in his or her 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 the press, tool, instrument, or machine to have been used or to be intended to be used for making any counterfeit coin,

commits a felony, and is liable on conviction to imprisonment for life.

[Act No. 7 of 1937.]

### **342. Unlawful inquiries relating to the possibility of uttering counterfeit coin**

(1) A person who, without lawful authority or excuse the proof of which lies on him or her, either orally or in writing makes inquiries of any other person, whether in The Gambia or outside The Gambia—

- (a) as to obtaining or supplying or as to the cost of obtaining or supplying any press, tool, instrument, machine or material for the making of any counterfeit coin or for the moulding or making the resemblance of both or either of the sides of any coin, or any part of either side thereof, or for marking coin round the edges with marks or figures apparently resembling those on the edges of any coin, or for cutting round blanks out of gold, silver or other metal or mixture of metals knowing or having reasonable cause to believe that the blanks shall be or are intended to be used for making any counterfeit coin;
- (b) as to the cost of making or otherwise reproducing or marking as aforesaid any counterfeit coin; or
- (c) as to whether such other person or any other person is or would be prepared to supply, obtain, make, reproduce or mark as aforesaid any counterfeit coin,

commits a misdemeanour, and is liable on conviction to imprisonment for one year.

[Act No. 17 of 1964.]

(2) In the case of written inquiries in connection with any of the matters or subjects to which subsection (1) of this section relates, the fact that the inquiries were reduced into writing shall be sufficient proof of an attempt to commit the offence and the offender shall be subject to a like penalty as if he or she had committed the offence.

[Act No. 7 of 1937.]

### **343. Clipping**

A person who deals with a coin in such a manner as to diminish its weight with intent that when so dealt with it may pass as coin, commits a felony, and is liable on conviction to imprisonment for a term of seven years.

### **344. Possession of clippings**

A person who unlawfully has in his or her possession or disposes of any filings, or clippings of gold or silver, or any gold or silver in bullion, dust, solution, or any other state, obtained by dealing with gold or silver coin in such a manner as to diminish its weight, knowing the same to have been so obtained, commits a felony, and is liable on conviction to imprisonment for a term of seven years.

### **345. Uttering counterfeit coin**

A person who utters any counterfeit coin, knowing it to be counterfeit, commits a misdemeanour.

### **346. Repeated uttering**

A person who—

- (a) utters any counterfeit coin knowing it to be counterfeit and at the time of the uttering has in his or her possession any other counterfeit coin;
- (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 or her possession three or more pieces of counterfeit coin, knowing them to be counterfeit and with intent to utter any of them,

commits a felony, and is liable on conviction to imprisonment for a term of three years.

### **347. Uttering medal as coin**

A person who, with intent to defraud, utters as and for coin any medal or piece of metal, commits a misdemeanour, and is liable on conviction to imprisonment for a term of one year.

[Act No. 7 of 1937.]

### **348. Making, etc., medals resembling coin**

A person who, without lawful authority or excuse, the proof of which lies on him or her, makes or has in his or her possession for sale, or offers for sale, or sells, any medal, cast, coin, or any other like thing made wholly or partially of metal, or any metallic combination and resembling in size, figure, and colour, any coin or having thereon a device resembling any device on any coin, or being so formed that it can by gilding, silvering, colouring, washing, or other like process, be so dealt with as to resemble any coin, commits a misdemeanour, and is liable on conviction to imprisonment for a term of one year.

[Act No. 7 of 1937.]

### **349. Importing or exporting counterfeit coin**

A person who, without lawful authority or excuse the proof of which lies on him or her—

- (a) imports or receives into The Gambia any counterfeit coin whatever, knowing it to be counterfeit; or
- (b) exports or puts on board of a vessel or vehicle of any kind for the purpose of being exported from The Gambia, any counterfeit coin whatever, knowing it to be counterfeit,

commits a felony, and is liable on conviction to imprisonment for a term of fourteen years.

[Act No. 7 of 1937, Act No. 17 of 1964.]

### **350. Forfeiture**

When a person is convicted of an offence under this Chapter, or Chapter XXXV, the court may order the forfeiture to the State of any forged banknote 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 the offence.

## CHAPTER XXXVII

### *Counterfeit Stamps*

### **351. Possession of die used for purpose of making stamps**

A person who, without lawful authority or excuse, the proof of which lies on him or her—

- (a) makes or mends, or begins or prepares to make or mend, or uses, or

knowingly has in his or her 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 Gambia Postal Service Corporation or in any part of the Commonwealth, or any foreign country, or capable of producing in or on paper any words, figures, letters, marks, or lines resembling any words, figures, letters, marks or lines used in or on any paper specially provided by the proper authority for any such purpose;

- (b) knowingly has in his or her 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 the words, figures, letters, marks or lines as aforesaid;
- (c) fraudulently, and with intent that use may be made of the stamp as aforesaid, or of any part of it, removes the stamp from any material in any way whatever;
- (d) fraudulently, and with intent that use may be made of any part of the stamp, mutilates the stamp;
- (e) fraudulently fixes or places upon any material or upon the 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;
- (f) fraudulently, and with intent that use may be made of the stamp which has been already impressed upon or attached to any material, erases or otherwise removes, either really or apparently, from the material anything whatever written on it;
- (g) knowingly has in his or her possession or disposes of anything obtained or prepared by the unlawful act as aforesaid; or
- (h) fraudulently or with intent to cause loss to the Government, uses for any purpose a stamp issued by Government for the purpose of revenue, which he or she knows to have been before used,

commits a felony, and is liable on conviction to imprisonment for seven years; and any die, plate, instrument, paper or other thing as aforesaid which is found in his or her possession shall be forfeited to the State.

[Act No. 7 of 1937.]

### **352. Paper and dies for postage stamps**

(1) A person who, without lawful authority or excuse, the proof of which lies on him or her—

- (a) makes, or begins or prepares to make, or uses for any postal purpose, or has in his or her possession, or disposes of any imitation or representation on paper or any other material, of any stamp used for denoting any rate of postage of The Gambia, or of any part of the Commonwealth, or of any foreign country; or
- (b) makes or mends, or begins or prepares to make or mend, or uses, or has in his or her possession, or disposes of any die, plate, instrument, or material for making any such imitation or representation,

commits a misdemeanour, and is liable on conviction to a fine of five hundred dalasis, or to imprisonment for a term of one year, and any stamps, and any other such things as aforesaid, which are found in his or her possession, shall be forfeited to the State.

(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 this country until the contrary is shown.

## CHAPTER XXXVIII

## *Personation*

### **353. Personation in general**

(1) A person who, with intent to defraud any person, falsely represents himself or herself to be some other person, living or dead, commits a misdemeanour.

(2) If the representation is that the offender is a person entitled by will or operation of law to any specific property and he or she commits the offence to obtain the property or possession thereof, he or she is liable on conviction to imprisonment for a term of seven years.

### **354. Falsely acknowledging deeds, recognisances, etc.**

A person who, without lawful authority or excuse, the proof of which lies on him or her, makes, in the name of another person, before any court or person lawfully authorised to take such an acknowledgement, an acknowledgement of liability of any kind, or an acknowledgement of a deed or other instrument, commits a misdemeanour.

### **355. Personation of a person named in a certificate**

A 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 or privilege, or to enjoy any rank or status, and falsely represents himself or herself to be the person named in the document, commits an offence of the same kind, and is liable on conviction to the same punishment as if he or she had forged the document.

### **356. Lending, etc., certificate for personation**

A person who, being a person to whom any document has been issued by lawful authority whereby he or she is certified to be a person possessed of any qualification recognised by law for any purpose, or to be the holder of any office or to be entitled to exercise any profession, trade or business, or to be entitled to any right or privilege, or to enjoy any rank or status, sells, gives, or lends the document to another person with intent that that other person may represent himself or herself to be the person named therein, commits a misdemeanour.

### **357. Personation of person named in a testimonial of character**

A person who, for the purpose of obtaining any employment, utters any document of the nature of a testimonial of character given to another person, commits a misdemeanour, and is liable on conviction to imprisonment for a term of one year.

### **358. Lending, etc., testimonial for personation**

A person who, being a person to whom any document as is mentioned in section 357 of this Code has been given, gives, sells, or lends the document to another person with the intent that that other person may utter the document for the purpose of obtaining any employment, commits a misdemeanour.

## CHAPTER XXXIX

### *Secret Commissions and Corrupt Practices*

### **359. Interpretation**

(1) For the purposes of this Chapter, the expression—

“**agent**” includes a person employed by or acting for another;

“**consideration**” includes valuable consideration of any kind; and

“**principal**” includes an employer.

(2) A person serving under the Government or under any Local Government Council or board or under any other public body having power to impose rates or entrusted with the expenditure of any Government funds or grants, and a member of any such municipal council or board or other public body is an agent within the meaning of this Chapter.

### **360. Corrupt practices**

- (a) If an agent corruptly accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or herself or for any other person, any gift or consideration as an inducement or reward for doing or forbearing to do or for having done or forborne to do, any act in relation to his or her principal's affairs or business or for showing or forbearing to show favour or disfavour to any person in relation to his or her principal's affairs or business;
- (b) if a person corruptly gives or agrees to give or offers any gift or consideration to an agent as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, any act in relation to his or her principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his or her principal's affairs or business;
- (c) if a person knowingly gives to an agent, or if an agent knowingly uses with intent to deceive his or her principal, any receipt, account or other document in respect of which the principal is interested, and which contains any statement which is false or erroneous or defective in any material particular, and which to his or her knowledge is intended to mislead the principal,

he or she commits a misdemeanour, and is liable on conviction to a fine not exceeding ten thousand dalasis or to imprisonment for a term not exceeding two years or to both the fine and imprisonment.

[Act No. 17 of 1964.]

### **361. Secret commission on Government contracts**

A person convicted of an offence under this Chapter shall, where the matter or transaction in relation to which the offence was committed was a contract or a proposal for a contract with the Government or any Government department or a Local Government Council or board or other public body having power to impose rates or entrusted with the expenditure of any Government funds or grants, or a sub-contract to execute any work comprised in the contract, be liable on conviction to a fine of ten thousand dalasis or to imprisonment for a term of seven years or to both the fine and imprisonment.

[Act No. 17 of 1964.]

### **362. Presumption as to corrupt practices**

Where in any proceedings against a person for an offence under this Chapter it is proved that any money, gift or other consideration has been paid or given to or received by a person in the employment of the State or any Government department or a Local Government Council or board or other public body having power to impose rates or entrusted with the expenditure of any Government funds or grants, by or from a person or agent of a person holding or seeking to obtain a contract from the State or any Government Department or Local Government Council or board or other public body having power to impose rates or entrusted with the expenditure of any Government funds or grants, the money, gift or consideration shall be deemed to have been paid or given and received corruptly as such inducement or reward as is mentioned in this Chapter, unless the contrary is proved.

### **363. Consent to prosecution**

A prosecution for an offence under this Chapter shall not be instituted without the consent of the Attorney-General.

## DIVISION VIII

### *Attempts and Conspiracies to Commit Crimes*

#### CHAPTER XL

##### *Attempts*

#### **364. Attempt defined**

(1) When a person, intending to commit an offence, begins to put his or her intention into execution by means adapted to its fulfilment, and manifests his or her intention by some overt act, but does not fulfil his or her intention to such an extent as to commit the offence, he or she is deemed to attempt to commit the offence.

(2) It is immaterial, except so far as regards punishment, whether the offender does all that is necessary on his or her part for completing the commission of the offence, or whether the complete fulfilment of his or her intention is prevented by circumstances independent of his or her will, or whether he or she desists of his or her own motion from the further prosecution of his or her intention.

(3) It is immaterial that by reason of circumstances not known to the offender it is impossible in fact to commit the offence.

#### **365. Attempts to commit offences**

A person who attempts to commit a felony or misdemeanour commits an offence, which, unless otherwise stated, is a misdemeanour.

#### **366. Punishment of attempts to commit certain felonies**

A 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, commits a felony, and is liable on conviction, if no other punishment is provided, to imprisonment for a term of seven years.

#### **367. Neglect to prevent felony**

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

#### CHAPTER XLI

##### *Conspiracies*

#### **368. Conspiracy to commit felony**

A person who conspires with another person to commit a felony, or to do any act in any part of the world which if done in The Gambia would be a felony, and which is an offence under the laws in force in the place where it is proposed to be done, commits a felony, and is liable on conviction, 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 a term of seven years, then to the lesser punishment.

[Act No. 17 of 1964.]

#### **369. Conspiracy to commit misdemeanour**

A person who conspires with another person to commit a misdemeanour, or to do any act in any part of the world which if done in The Gambia would be a misdemeanour, and which is an offence under the laws in force in the place where it is proposed to be done, commits a misdemeanour.



### **370. Other conspiracies**

A person who conspires with another person to effect any of the purposes following, that is to say—

- (a) to prevent or defeat the execution or enforcement of any Act;
- (b) to cause any injury to a person or reputation of a person or to depreciate the value of any property of a person;
- (c) to prevent or obstruct the free and lawful disposition of any property by the owner thereof for its fair value;
- (d) to injure a person in his or her trade or profession;
- (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 or her part, the free and lawful exercise by a person of his or her trade, profession, or occupation;
- (f) to effect any unlawful purpose; or
- (g) to effect any lawful purpose by any unlawful means,

commits a misdemeanour.

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## **CHAPTER 10:01 CRIMINAL CODE**

### **SUBSIDIARY LEGISLATION**

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#### *List of Subsidiary Legislation*

1. The Gambia Friendship Society with Foreign Countries Order
2. Prohibited Publications Order

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#### **The Gambia Friendship Society with Foreign Countries Order**

[LN 41 of 1970.]

[Made under section 23 (2) (a) of the Constitution and section 63 (2) (d) of the Criminal Code.]

1. This Order may be cited as The Gambia Friendship Society with Foreign Countries Order.
  2. The Gambia Friendship Society with Foreign Countries, whose activities are considered to be prejudicial to and incompatible with the interest of public safety and the security of the Republic, is hereby declared unlawful and any person who shall organise or take part in any activity of or on behalf of the said Society does so at his or her own risk.
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## **Prohibited Publications Order**

[Made under section 47.]

1. This Order may be cited as the Prohibited Publications Order.
2. The importation into The Gambia of all past and future copies of the publications known as—
  - (a) "Zionism: Instrument of Imperialist Reaction, Soviet Opinion on Events in the Middle East and the Adventures of International Zionism"; and
  - (b) "Guinee Perspectives Nouvelles", are hereby prohibited.  
[LN 42 of 1970, LN 13 of 1975.]