

Queensland



# **CRIMINAL CODE ACT 1899**

## **THE CRIMINAL CODE**

**Reprinted as in force on 7 August 1996**  
**(includes amendments up to Act No. 58 of 1995)**

**Warning—see last endnote for uncommenced amendments**

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- **when provisions commenced**
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- **editorial changes made in earlier reprints.**

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## **CRIMINAL CODE ACT 1899**

[as amended by all amendments that commenced on or before 7 August 1996]

WHEREAS it is desirable to declare, consolidate, and amend the Criminal Law;

Be it enacted and declared by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows—

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

#### **Short title**

1. This Act may be cited as the *Criminal Code Act 1899*.

#### **Establishment of Code—Schedule 1**

2.(1) On and from 1 January 1901, the provisions contained in the Code of Criminal Law set forth in Schedule 1 (“**the Code**”) shall be the law of Queensland with respect to the several matters therein dealt with.

- (2) The said Code may be cited as the Criminal Code.

#### **Saving**

3. However—

- (a) the repeal of any statute or part of a statute set forth in the Schedules shall not affect the construction of any other statute, or of any other part of the same statute, whether as regards the past

or the future;

- (b) when any enactment not mentioned in the Schedules has been repealed, confirmed, revived, or perpetuated, by any enactment hereby repealed, such repeal, confirmation, revival, or perpetuation, shall not be affected by the repeal effected by this Act;
- (c) this Act shall not affect the validity, invalidity, effect, or consequences, of anything already done or suffered, or any existing status or capacity, or any right, title, obligation, or liability, civil or criminal, already acquired, accrued, or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim, or demand, or any indemnity, or the proof of any past act or thing; and any action, prosecution, or other proceeding, begun before the coming into operation of the Code, may, subject to the provisions of the Code, be continued as if this Act had not been passed; and any action, prosecution, or other proceeding, in respect of anything done or omitted to be done before the coming into operation of the Code, may, subject to the provisions of the Code, be brought, taken, and prosecuted, in the same manner as if this Act had not been passed;
- (d) this Act shall not, except as expressly therein declared, affect any principle or rule of law or equity, or established jurisdiction, or form or course of pleading, practice, or procedure, notwithstanding that the same respectively may have been in any manner affirmed, recognised or derived, by, in, or from, any enactment hereby repealed;
- (e) this Act shall not revive or restore any jurisdiction, duty, liability, right, title, privilege, restriction, exemption, usage, practice, procedure, form of punishment, or other matter or thing, not now existing or in force.

### **Construction of statutes, statutory rules, and other instruments**

4. From and after the coming into operation of the Code, the following rules shall apply with respect to the construction of statutes, statutory rules, by-laws, and other instruments, that is to say—

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- (a) when in any statute, statutory rule, by-law, or other instrument, public or private, the term “**felony**” is used, or reference is made to an offence by the name of felony, it shall be taken that reference is intended to an offence which is a crime under the provisions of the Code;
- (b) when in any statute, statutory rule, by-law, or other instrument, public or private, the term “**murder**” is used, it shall be taken that reference is intended to the crimes of wilful murder and murder and each of them;
- (c) when in any statute, statutory rule, by-law, or other instrument, public or private, the term “**larceny**” is used, it shall be taken that reference is intended to the crime of stealing;
- (d) when in any statute, statutory rule, by-law, or other instrument, public or private, reference is made to any offence by any specific name, it shall be intended that reference is intended to the offence which, under the provisions of the Code, is constituted by the act or omission that would heretofore have constituted the offence referred to;
- (e) when in any statute, statutory rule, by-law, or other instrument, public or private, reference is made to any of the statutory provisions hereby repealed, it shall be taken that reference is intended to the corresponding provisions or substituted provisions of the Code.

**Provisions of Code exclusive with certain exceptions**

**5.** From and after the coming into operation of the Code, no person shall be liable to be tried or punished in Queensland as for an indictable offence except under the express provisions of the Code or some other statute law of Queensland, or under the express provisions of some statute of the United Kingdom which is expressly applied to Queensland, or which is in force in all parts of Her Majesty’s dominions not expressly excepted from its operation, or which authorises the trial and punishment in Queensland of offenders who have at places not in Queensland committed offences against the laws of the United Kingdom.

**Civil remedies**

**6.(1)** When by the Code any act is declared to be lawful, no action can be brought in respect thereof.

**Saving**

**(2)** However, the provisions of this Act shall not affect any right of action which any person would have had against another if this Act had not been passed, nor shall the omission from the Code of any penal provision in respect of any act or omission which before the time of the coming into operation of the Code constituted an actionable wrong affect any right of action in respect thereof.

**Offender may be prosecuted under Code or other statute**

**7.** When an offender is punishable under the provisions of the Code, and also under the provisions of some other statute, the offender may be prosecuted and convicted under the provisions either of the Code or of such other statute, so that the offender is not twice punished for the same offence.

**Contempt of court**

**8.** Nothing in this Act or in the Code shall affect the authority of courts of record to punish a person summarily for the offence commonly known as 'contempt of court', but so that a person cannot be so punished and also punished under the provisions of the Code for the same act or omission.

## SCHEDULE 1

### THE CRIMINAL CODE

section 2

#### PART 1—INTRODUCTORY

##### Interpretation—Application—General Principles

#### CHAPTER 1—INTERPRETATION

##### Construction of terms

1. In this Code—

“**adult**” means a person of or above the age of 18 years;

“**aircraft**” includes any machine or apparatus designed to support itself in the atmosphere.

It is immaterial whether the machine or apparatus is incapable of use through mechanical defect or whether any part or parts thereof have been removed for any purpose or by any person.

A flight of an aircraft shall be deemed to commence—

- (a) at the time of the closing of the external door of the aircraft last to be closed before the aircraft first moves for the purpose of taking off from any place; or
- (b) if paragraph (a) is not applicable—at the time at which the aircraft first moves for the purpose of taking off from any place; and shall be deemed to end—
- (c) at the time of the opening of the external door of the aircraft first to be opened after the aircraft comes to rest after its next landing after the commencement of the flight; or

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(d) if paragraph (c) is not applicable—at the time at which the aircraft comes to rest after its next landing after the commencement of the flight;

or, if the aircraft is destroyed, or the flight is abandoned, before either paragraph (c) or (d) becomes applicable, at the time at which the aircraft is destroyed or the flight is abandoned, as the case may be;

“**animal**” includes any living creature other than mankind;

“**bodily harm**” means any bodily injury which interferes with health or comfort;

“**circumstance of aggravation**” means any circumstance by reason whereof an offender is liable to a greater punishment than that to which the offender would be liable if the offence were committed without the existence of that circumstance;

“**clerk**” and “**servant**” include any person employed for any purpose as or in the capacity of a clerk or servant, or as a collector of money, although temporarily only, or although employed also by other persons than the person alleged to be the person’s employer, or although employed to pay as well as receive money, and any person employed as or in the capacity of a commission agent for the collection or disbursement of money, or in any similar capacity, although the person has no authority from the person’s employer to receive money or other property on the employer’s account, and also includes any person who acts in the capacity of an officer of a friendly society or branch of a friendly society;

“**committal for trial**” includes committal for sentence;

“**company**” means an incorporated company;

“**criminally responsible**” means liable to punishment as for an offence;

“**criminal responsibility**” means liability to punishment as for an offence;

“**Crown Law Officer**” means the Attorney-General or Director of Prosecutions;

“**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, and occupied with, a dwelling house is deemed to be part of the dwelling house if there is a communication between such building or structure and the dwelling house, either immediate or by means of a covered and enclosed passage leading from the one to the other, but not otherwise;

**“explosive substance”** includes a gaseous substance in such a state of compression as to be capable of explosion;

**“grievous bodily harm”** means any bodily injury of such a nature as to endanger or be likely to endanger life, or to cause or be likely to cause permanent injury to health;

**“have in possession”** includes having under control in any place whatever, whether for the use or benefit of the person of whom the term is used or of another person, and although another person has the actual possession or custody of the thing in question;

**“indictment”** means a written charge preferred against an accused person in order to the person’s trial before some court other than justices exercising summary jurisdiction;

**“intellectually impaired person”** has the meaning given by section 229F;

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

**“liable”**, used alone, means liable on conviction upon indictment;

**“mail”** includes anything sent by post which is in actual course of transmission from one place to another;

**“mail conveyance”** includes any conveyance of any kind by which a mail is carried, and also any vessel employed by or under the Post and Telegraph Department, or the postal authority of any other country, or the Admiralty, for the conveyance of mails, whether under contract or not, and also a ship of war or other vessel in the service of Her Majesty in respect of letters conveyed by it;

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

**“motor vehicle”** includes any machine or apparatus designed for propulsion wholly or partly by gas, motor spirit, oil, electricity, steam

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or other mechanical power, and also includes a motor cycle, or a caravan, caravan trailer or other trailer designed to be attached to a motor vehicle.

It is immaterial whether the machine or apparatus is incapable of use through mechanical defect or whether any part or parts thereof have been removed for any purpose or by any person;

**“night”** or **“night-time”** means the interval between 9 p.m. and 6 a.m.;

**“person”** and **“owner”**, and other like terms, when used with reference to property, include corporations of all kinds, and any other associations of persons capable of owning property, and also, when so used, include Her Majesty;

**“person employed in the public service”** includes officers and persons of the Defence Force and police officers, and persons employed to execute any process of a court of justice, and also includes the chief executive of Queensland Railways, and persons employed by Queensland Railways;

**“police officer”** includes any constable or officer of police;

**“Post and Telegraph Department”** means the department of state charged with the execution of the laws relating to public posts and telegraphs;

**“Postmaster-General”** means the Minister charged with the administration of that department;

**“post office”** and **“telegraph office”**, respectively, mean and include any structure, room, place, or receptacle, of any kind, appointed by authority of the Postmaster-General for the receipt, dispatch, or delivery, of anything sent by post or telegraph, or for the transaction of the business of the department relating to posts and telegraphs respectively;

**“property”** includes every thing, animate or inanimate, capable of being the subject of ownership;

**“prostitution”** has the meaning given by section 229E;

**“railway”** includes every kind of way on which vehicles are borne upon a rail or rails, whatever may be the means of propulsion;

**“registered brand”** and **“registered mark”** mean respectively a brand or

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mark which is registered under the authority of the laws relating to brands and each such registered brand or registered mark shall for the purposes of this Code be deemed to be the registered brand or registered mark respectively of the person in whose name such brand or mark is registered.

However, where such brand or mark is registered in the names of 2 or more persons such registered brand or registered mark shall for the purposes of this Code be deemed to be the registered brand or registered mark respectively of each of such persons;

**“sexual act”** has the meaning given by section 229D;

**“ship”** includes every kind of vessel used in navigation not propelled by oars;

**“summary conviction”** means summary conviction before a Magistrates Court;

**“telegram”** and **“thing sent by telegraph”** means any written or printed or partly written and partly printed message delivered at a telegraph office or post office for transmission by electric telegraph, or delivered or prepared for delivery from a telegraph office or post office as a message transmitted by electric telegraph for delivery;

**“telegraph”** includes a telephone;

**“thing sent by post”** includes any letter, newspaper, packet, parcel, or other thing, authorised by law to be transmitted by post, which has been posted or received at a post office for delivery or transmission by post, and which is in course of transmission by post, and any moveable receptacle which contains any such thing, and which is in course of transmission by post.

A thing is deemed to be in course of transmission by post or telegraph from the time of its being delivered to a post office or telegraph office to the time of its being delivered to the person to whom it is addressed.

A delivery at the house or office of the person to whom anything sent by post or telegraph is addressed, either to the person or to some person apparently authorised to receive it according to the usual manner of delivering that person’s letters or telegrams, is deemed a delivery to the person addressed;

**“trial”** includes a proceeding wherein a person is to be sentenced;

**“uncorroborated testimony”** means testimony which is not corroborated in some material particular by other evidence implicating the accused person;

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

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

**“vessel”** includes a ship, or boat, and every other kind of vessel used in navigation.

### **Definition of “offence”**

2. An act or omission which renders the person doing the act or making the omission liable to punishment is called an **“offence”**.

### **Division of offences**

3.(1) Offences are of 2 kinds, namely, criminal offences and regulatory offences.

(2) Criminal offences comprise crimes, misdemeanours and simple offences.

(3) Crimes and misdemeanours are indictable offences; that is to say, the offenders cannot, unless otherwise expressly stated, be prosecuted or convicted except upon indictment.

(4) A person guilty of a regulatory offence or a simple offence may be summarily convicted by a Magistrates Court.

(5) An offence not otherwise designated is a simple offence.

### **Attempts to commit offences**

4.(1) When a person, intending to commit an offence, begins to put the person’s intention into execution by means adapted to its fulfilment, and manifests the person’s intention by some overt act, but does not fulfil the

person's intention to such an extent as to commit the offence, the person is said 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 the offender's part for completing the commission of the offence, or whether the complete fulfilment of the offender's intention is prevented by circumstances independent of his or her will, or whether the offender desists of his or her own motion from the further prosecution of the offender's intention.

(3) It is immaterial that by reason of circumstances not known to the offender it is impossible in fact to commit the offence.

(4) The same facts may constitute one offence and an attempt to commit another offence.

### **Arrest without warrant**

5.(1) The expression "**the offender may be arrested without warrant**" means that the provisions of this Code relating to the arrest of offenders or suspected offenders without warrant are applicable to the offence in question, either generally or subject to such conditions (if any) as to time, place, or circumstance, or as to the person authorised to make the arrest, as are specified in the particular case.

(2) Except when otherwise stated, the definition of an offence as a crime imports that the offender may be arrested without warrant.

(3) The expression "**the offender cannot be arrested without warrant**" means that the provisions of this Code relating to the arrest of offenders or suspected offenders without warrant are not applicable to the crime in question, except subject to such conditions (if any) as to time, place, or circumstance, or as to the person authorised to make the arrest as are specified in the particular case.

### **Carnal knowledge**

6. When the term "**carnal knowledge**", "**carnal connection**" or "**carnal knowledge by anal intercourse**" is used in defining an offence, it is implied that the offence, so far as regards that element of it, is complete upon penetration.

## CHAPTER 2—PARTIES TO OFFENCES

### Principal offenders

**7.(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 another person in committing the offence;
- (d) any person who counsels or procures any other person to commit the offence.

**(2)** Under subsection (1)(d) the person 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)** Any person who procures another to do or omit to do any act of such a nature that, if the person had done the act or made the omission, the act or omission would have constituted an offence on the person's part, is guilty of an offence of the same kind, and is liable to the same punishment, as if the person had done the act or made the omission; and the person may be charged with doing the act or making the omission.

### Offences committed in prosecution of common purpose

**8.** When 2 or more persons form a common intention to prosecute an unlawful purpose in conjunction with one another, and in the prosecution of such purpose an offence is committed of such a nature that its commission was a probable consequence of the prosecution of such purpose, each of them is deemed to have committed the offence.

**Mode of execution immaterial**

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

**(2)** In either case the person who gave the counsel is deemed to have counselled the other person to commit the offence actually committed by the other person.

**Accessories after the fact**

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

**(2)** A married woman 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; nor 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.

**(3)** 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.

**CHAPTER 3—APPLICATION OF CRIMINAL LAW****Effect of changes in law**

**11.(1)** A person cannot be punished for doing or omitting to do an act unless the act or omission constituted an offence under the law in force when it occurred; nor unless doing or omitting to do the act under the same

circumstances would constitute an offence under the law in force at the time when the person is charged with the offence.

(2) If the law in force when the act or omission occurred differs from that in force at the time of the conviction, the offender cannot be punished to any greater extent than was authorised by the former law, or to any greater extent than is authorised by the latter law.

### **Application of Code as to offences wholly or partially committed in Queensland**

**12.(1)** This Code applies to every person who does an act in Queensland or makes an omission in Queensland, which in either case constitutes an offence.

(2) Where acts or omissions occur which, if they all occurred in Queensland, would constitute an offence and any of the acts or omissions occur in Queensland, the person who does the acts or makes the omissions is guilty of an offence of the same kind and is liable to the same punishment as if all the acts or omissions had occurred in Queensland.

(3) Where an event occurs in Queensland caused by an act done or omission made out of Queensland which, if done or made in Queensland, would constitute an offence, the person who does the act or makes the omission is guilty of an offence of the same kind and is liable to the same punishment as if the act or omission had occurred in Queensland.

(3A) It is a defence to prove that the person did not intend that the act or omission should have effect in Queensland.

(4) Where an event occurs out of Queensland caused by an act done or omission made in Queensland, which act or omission would constitute an offence had the event occurred in Queensland, the person who does the act or makes the omission is guilty of an offence of the same kind and is liable to the same punishment as if the event had occurred in Queensland.

(5) This section does not extend to a case where the only material event that occurs in Queensland is the death in Queensland of a person whose death is caused by an act done or an omission made out of Queensland at a time when the person was out of Queensland.

**Offences enabled, aided, procured or counselled by persons out of Queensland**

**13.(1)** Any person who while out of Queensland—

- (a) does or omits to do an act for the purpose of enabling or aiding another person to commit an offence that is actually committed in Queensland; or
- (b) aids another person in committing an offence that is actually committed in Queensland; or
- (c) counsels or procures another person to commit an offence that is actually committed in Queensland;

is guilty of an offence of the same kind and is liable to the same punishment as if the person had committed the offence in Queensland.

**(2)** Any person who while out of Queensland procures another to do or omit to do in Queensland an act of such a nature that, if the person had done the act or made the omission in Queensland, the person would have been guilty of an offence is guilty of an offence of the same kind and is liable to the same punishment as if the person had done the act or made the omission in Queensland.

**Offences procured in Queensland to be committed out of Queensland**

**14.** Any person who while in Queensland procures another to do an act or make an omission at a place not in Queensland of such a nature that, if the person had done the act or made the omission in Queensland, the person would have been guilty of an offence, and that, if the person had done the act or made the omission, the person would have been guilty of an offence under the laws in force in the place where the act or omission is done or made, is guilty of an offence of the same kind, and is liable to the same punishment, as if the act had been done or the omission had been made in Queensland, but so that the punishment does not exceed that which the person would have incurred under the laws in force in the place where the act was done or the omission was made, if the person had done the act or made the omission.

**Offences committed on the high seas**

**14A.(1)** Any person connected with Queensland who, while in, on, under or over the high seas within 200 miles of Queensland, does any act or makes any omission of such a nature that if the person had done the act or made the omission in Queensland the person would have been guilty of an offence against the statute law of Queensland is guilty of an offence and shall be liable to arrest, prosecution and punishment in all respects as if such act or omission had occurred in Queensland and the courts of Queensland shall have jurisdiction accordingly.

**(2)** For the purposes of this section, a person connected with Queensland includes a person who—

- (a) is or is normally resident or is domiciled in Queensland; or
- (b) is on or operating from a vessel, aircraft, rig or other structure or installation of any kind licensed or required to be licensed or operating or functioning pursuant to the authority of, or as regulated by, a law of Queensland.

**(3)** Any person who, while in, on, under or over the high seas within 200 miles of Queensland, does any act or makes any omission affecting the person or property of a person connected with Queensland of such a nature that if the person had done the act or made the omission in Queensland the person would have been guilty of an offence against the statute law of Queensland and afterwards comes into Queensland, is by such coming into Queensland, guilty of an offence of the same kind and is liable to the same punishment as if the person had done the act or made the omission in Queensland.

**Defence Force**

**15.** Officers and other members of the Land and Marine Defence Force are, while on duty or in uniform, subject to the special laws relating to that Force, but are not exempt from the provisions of this Code.

**Person not to be twice punished for same offence**

**16.** A person cannot be twice punished 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 the person causes the death of another person, in which case the person may be convicted of the offence of which the person is guilty by reason of causing such death, notwithstanding that the person has already been convicted of some other offence constituted by the act or omission.

### **Former conviction or acquittal**

17. It is a defence to a charge of any offence to show that the accused person has already been tried, and convicted or acquitted upon an indictment on which the person might have been convicted of the offence with which the person is charged, or has already been acquitted upon indictment, or has already been convicted, of an offence of which the person might be convicted upon the indictment or complaint on which the person is charged.

## **CHAPTER 4—ROYAL PREROGATIVE OF MERCY**

### **Royal prerogative of mercy**

18. This Code does not affect the royal prerogative of mercy.

## **CHAPTER 5—CRIMINAL RESPONSIBILITY**

### **Ignorance of the law—bona fide claim of right**

22.(1) 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.

(2) But a person is not criminally responsible, as for an offence relating to property, for an act done or omitted to be done by the person with respect to any property in the exercise of an honest claim of right and without intention to defraud.

(3) A person is not criminally responsible for an act or omission done or made in contravention of a statutory instrument if, at the time of doing or making it, the statutory instrument was not known to the person and had not been published or otherwise reasonably made available or known to the public or those persons likely to be affected by it.

(4) In this section—

“publish”—

- (a) in relation to a statutory instrument that is subordinate legislation—means notify in accordance with section 40 (Notification) of the *Statutory Instruments Act 1992*; and
- (b) in relation to a statutory instrument that is not subordinate legislation—means publish in the Gazette.

### **Intention—motive**

23.(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 the person’s 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.

### **Mistake of fact**

24.(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 the person believed to exist.

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

**Extraordinary emergencies**

**25.** Subject to the express provisions of this Code relating to acts done upon compulsion or provocation or in self-defence, a person is not criminally responsible for an act or omission done or made under such circumstances of sudden or extraordinary emergency that an ordinary person possessing ordinary power of self-control could not reasonably be expected to act otherwise.

**Presumption of sanity**

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

**Insanity**

**27.(1)** A person is not criminally responsible for an act or omission if at the time of doing the act or making the omission the person is in such a state of mental disease or natural mental infirmity as to deprive the person of capacity to understand what the person is doing, or of capacity to control the person's actions, or of capacity to know that the person ought not to do the act or make the omission.

**(2)** A person whose mind, at the time of the person's doing or omitting to do an act, is affected by delusions on some specific matter or matters, but who is not otherwise entitled to the benefit of subsection (1), is criminally responsible for the act or omission to the same extent as if the real state of things had been such as the person was induced by the delusions to believe to exist.

**Intoxication**

**28.(1)** The provisions of section 27 apply to the case of a person whose mind is disordered by intoxication or stupefaction caused without intention on the person's part by drugs or intoxicating liquor or by any other means.

**(2)** They do not apply to the case of a person who has intentionally caused himself or herself to become intoxicated or stupefied, whether in order to afford excuse for the commission of an offence or not.

(3) When an intention to cause a specific result is an element of an offence, intoxication, whether complete or partial, and whether intentional or unintentional, may be regarded for the purpose of ascertaining whether such an intention in fact existed.

### **Immature age**

**29.(1)** A person under the age of 10 years is not criminally responsible for any act or omission.

(2) A person under the age of 15 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 the person had capacity to know that the person ought not to do the act or make the omission.

### **Judicial officers**

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

### **Justification and excuse—compulsion**

**31.(1)** A person is not criminally responsible for an act or omission, if the person does or omits to do the act under any of the following circumstances, that is to say—

- (a) in execution of the law;
- (b) in obedience to the order of a competent authority which the person is bound by law to obey, unless the order is manifestly unlawful;
- (c) when the act is reasonably necessary in order to resist actual and unlawful violence threatened to the person, or to another person in the person's presence;
- (d) when the person does or omits to do the act in order to save himself or herself from immediate death or grievous bodily harm

threatened to be inflicted upon the person by some person actually present and in a position to execute the threats, and believing unable otherwise to escape the carrying of the threats into execution.

(2) But this protection does not extend to an act or omission which would constitute the crime of treason or murder, or any of the crimes defined in sections 81(2) and 82, or an offence of which grievous bodily harm to the person of another, or an intention to cause such harm, is an element, nor to a person who has by entering into an unlawful association or conspiracy rendered himself or herself liable to have such threats made to the person.

(3) Whether an order is or is not manifestly unlawful is a question of law.

### **Compulsion of husband**

**32.(1)** 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.

(2) But a married woman is not criminally responsible for doing or omitting to do an act which she is actually compelled by her husband to do or omit to do, and which is done or omitted to be done in his presence, except in the case of an act or omission which would constitute the crime of treason or murder, or any of the crimes defined in sections 81(2) and 82, or an offence of which grievous bodily harm to the person of another, or an intention to cause such harm, is an element, in which case the presence of her husband is immaterial.

### **No conspiracy between husband and wife alone**

**33.** A husband and wife are not criminally responsible for a conspiracy between themselves alone.

### **Offences by partners and members of companies with respect to partnership or corporate property**

**34.** A person who, being a member of a co-partnership, corporation, or

joint stock company, does or omits to do any act with respect to the property of the co-partnership, corporation, or company, which, if the person were not a member of the co-partnership, corporation, or company, would constitute an offence, is criminally responsible to the same extent as if the person were not such member.

### **Liability of husband and wife for offences committed by either with respect to the other's property**

**35.(1)** When a husband and wife are living together, neither of them incurs any criminal responsibility for doing or omitting to do any act with respect to the property of the other, except in the case of an act or omission of which an intention to injure or defraud some other person is an element, and except in the case of an act done by either of them when leaving or deserting, or when about to leave or desert, the other.

**(2)** Subject to subsection (1) a husband and wife are, each of them, criminally responsible for any act done by him or her with respect to the property of the other, which would be an offence if they were not husband and wife, and to the same extent as if they were not husband and wife.

**(3)** But neither of them can institute criminal proceedings against the other while they are living together.

**(4)** In this section—

**“property”** used with respect to a wife means her separate property.

### **Application of rules**

**36.(1)** The provisions of this Chapter apply to all persons charged with any criminal offence against the statute law of Queensland.

**(2)** Except for sections 22(3), 29 and 31, this Chapter does not apply to regulatory offences.

## **PART 2—OFFENCES AGAINST PUBLIC ORDER**

### **CHAPTER 6—TREASON AND OTHER OFFENCES AGAINST THE SOVEREIGN’S PERSON AND AUTHORITY**

#### **Treason**

**37.** Any person who—

- (a) kills the Sovereign, or does Her any bodily harm tending to Her death, or maim or wounding, or imprisonment or restraint; or
- (b) kills the eldest son and heir-apparent for the time being of the Sovereign, or the Queen Consort of the reigning King; or
- (c) forms an intention to do any such act as aforesaid, and manifests such intention by any overt act; or
- (d) conspires with any other person to kill the Sovereign or to do Her any bodily harm tending to Her death, or maim or wounding, or imprisonment or restraint; or
- (e) levies war against the Sovereign—
  - (i) with intent to depose the Sovereign from the style, honour, and royal name, of the Imperial Crown of the United Kingdom of Great Britain and Ireland, or of any other of Her Majesty’s dominions; or
  - (ii) in order by force or constraint to compel the Sovereign to change Her measures or counsels, or in order to put any force or constraint upon, or in order to intimidate or overawe, any House of Parliament of any of Her Majesty’s dominions; or
- (f) conspires with any other person to levy war against the Sovereign with any such intent or purpose at last aforesaid; or
- (g) instigates any foreigner to make an armed invasion of any part of Her Majesty’s dominions; or
- (h) assists by any means whatever any public enemy at war with the

Sovereign; or

- (i) violates, whether with her consent or not, a Queen Consort, or the wife of the eldest son and heir-apparent for the time being of the Sovereign;

is guilty of a crime, which is called treason, and is liable to imprisonment for life, which cannot be mitigated or varied under this Code or any other law or is liable to an indefinite sentence under Part 10 of the *Penalties and Sentences Act 1992*.

### **Concealment of treason**

**38.** Any person who—

- (a) becomes an accessory after the fact to treason; or
- (b) knowing that any person intends to commit treason, does not give information thereof with all reasonable dispatch to a justice or use other reasonable endeavours to prevent the commission of the crime;

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

### **Treasonable crimes**

**39.(1)** Any person who forms an intention to effect any of the following purposes, that is to say—

- (a) to depose the Sovereign from the style, honour, and royal name, of the Imperial Crown of the United Kingdom of Great Britain and Ireland, or of any other of Her Majesty's dominions;
- (b) to levy war against the Sovereign within any part of Her dominions in order by force or constraint to compel the Sovereign to change Her measures or counsels, or in order to put any force or constraint upon, or in order to intimidate or overawe, any House of Parliament of any of Her Majesty's dominions;
- (c) to instigate any foreigner to make an armed invasion of any of Her Majesty's dominions;

and manifests such intention by any overt act, is guilty of a crime, and is liable to imprisonment for life.

(2) A person charged with any of the crimes defined in this section is not entitled to be acquitted on the ground that any act proved to have been committed by the person constitutes the crime of treason, but a person who has been tried, and convicted or acquitted, on a charge of any such crime cannot be afterwards prosecuted for treason in respect of the same facts.

**Time for proceeding in cases of treason or concealment of treason—2 witnesses necessary**

**40.(1)** A person cannot be tried for treason or for any of the crimes defined in sections 38 and 39 unless the indictment is presented within 2 years after the crime is committed.

(2) Nor can a person charged with treason or with any of such crimes be convicted, except on the person's own plea of guilty, or on the evidence in open court of 2 witnesses at the least to 1 overt act of the kind of treason alleged, or the evidence of 1 witness to 1 overt act, and 1 other witness to another overt act of the same kind of treason.

(3) This section does not apply to cases in which the overt act of treason alleged is the killing of the Sovereign, or a direct attempt to endanger the life or injure the person of the Sovereign.

**Inciting to mutiny**

**41.(1)** Any person who advisedly attempts to effect any of the following purposes, that is to say—

- (a) to seduce any person serving in Her Majesty's Forces by sea or land from the person's duty and allegiance to Her Majesty;
- (b) to incite any such person to commit an act of mutiny or any traitorous or mutinous act;
- (c) to incite any such persons to make or endeavour to make a mutinous assembly;

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

(2) A person who has been tried, and convicted or acquitted, on a charge of any of the crimes defined in this section cannot be afterwards prosecuted for any other crime defined in this Chapter in respect of the same facts.

**Assisting escape of prisoners of war**

**42.** Any person who—

- (a) knowingly and advisedly aids an alien enemy of Her Majesty, being a prisoner of war in Queensland, whether such prisoner is confined in a prison or elsewhere or is suffered to be at large on parole, to escape from prison or place of confinement, or, if the prisoner is at large on parole, to escape from Queensland; or
- (b) being a person who owes allegiance to Her Majesty, after any such prisoner has escaped by sea from any part of Her Majesty's dominions, knowingly and advisedly upon the high seas within the territorial waters of Queensland aids the prisoner in his or her escape to or towards any other dominion or place;

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

**Overt act**

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

**CHAPTER 7—SEDITION****Definition of “seditious intention”**

**44.** An intention to effect any of the following purposes, that is to say—

- (a) to bring the Sovereign into hatred or contempt;
- (b) to excite disaffection against the Sovereign or the Government or Constitution of the United Kingdom or of Queensland as by law established, or against either House of Parliament of the United Kingdom or of Queensland, or against the administration of justice;

- (c) to excite Her Majesty's subjects to attempt to procure the alteration of any matter in the State as by law established otherwise than by lawful means;
- (d) to raise discontent or disaffection amongst Her Majesty's subjects;
- (e) to promote feelings of ill-will and enmity between different classes of Her Majesty's subjects;

is a seditious intention, unless it is justified by the provisions of section 45.

### **Innocent intentions**

**45.** It is lawful for any person—

- (a) to endeavour in good faith to show that the Sovereign has been mistaken in any of Her counsels; or
- (b) to point out in good faith errors or defects in the government or Constitution of the United Kingdom or of Queensland as by law established, or in legislation, or in the administration of justice, with a view to the reformation of such errors or defects; or
- (c) to excite in good faith Her Majesty's subjects to attempt to procure by lawful means the alteration of any matter in the State as by law established; or
- (d) to point out in good faith in order to their removal any matters which are producing or have a tendency to produce feelings of ill will and enmity between different classes of Her Majesty's subjects.

### **Definition of "seditious enterprises" etc.**

**46.(1)** A "**seditious enterprise**" is an enterprise which is undertaken in order to the carrying out of a seditious intention.

**(2)** "**Seditious words**" are words expressive of a seditious intention.

**(3)** In this Code—

"**seditious writing**" includes anything intended to be read, and any sign or visible representation, which is expressive of a seditious intention.

**Unlawful oaths to commit certain crimes**

**47.** Any person who—

- (a) administers, or is present at and consents to the administering of any oath or engagement in the nature of an oath, purporting to bind the person who takes it to commit the crime of treason or murder, or any of the crimes defined in sections 81(2) and 82; or
- (b) takes any such oath or engagement, not being compelled to do so; or
- (c) attempts to induce any person to take any such oath or engagement;

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

**Other unlawful oaths to commit offences**

**48.** Any person who—

- (a) administers, or is present at and consents to the administering of, any oath or engagement in the nature of an oath, purporting to bind the person who takes it to act in any of the ways following, that is to say—
  - (i) to engage in any mutinous or seditious enterprise;
  - (ii) to commit any indictable offence not being any of the crimes mentioned or referred to in section 47(a);
  - (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 any committee or body of people not lawfully constituted, or of any leader or commander or other person not having authority by law for that purpose;
  - (vi) not to inform or give evidence against any associate, confederate, or other person;
  - (vii) not to reveal or discover any unlawful association, society, or confederacy, or any illegal act done or to be done, or any

illegal oath or engagement that may have been administered or tendered to or taken by the person or any other person, or the import of any such oath or engagement; or

- (b) takes any such oath or engagement, not being compelled to do so; or
- (c) attempts to induce any person to take any such oath or engagement;

is guilty of a crime, and is liable to imprisonment for 7 years.

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

**49.** A person who takes any such oath or engagement as is mentioned in sections 47 and 48 cannot set up as a defence that the person was compelled to do so, unless within 14 days after taking it, or, if the person is prevented by actual force or sickness, within 14 days after the termination of such prevention, the person declares by information on oath before some member of the Executive Council or justice of the peace, or, if the person is on actual service in Her Majesty's Forces by sea or land, either by such information or by information to the person's commanding officer, the whole of what the person 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.

### **Effect of prosecution**

**50.** A person who has been tried, and convicted or acquitted on a charge of any of the crimes hereinbefore in this Chapter defined, cannot be afterwards prosecuted upon the same facts for the crime of treason, or for the crime of failing, when the person knows that any person intends to commit treason, to give information thereof with all reasonable dispatch to a justice or use other reasonable endeavours to prevent the commission of the crime.

### **Unlawful drilling**

**51.(1)** Any person who—

- (a) in contravention of the directions of a proclamation by the

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Governor in Council in that behalf, 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 in contravention of the directions of any such proclamation, for the purpose of there training or drilling any other person to the use of arms or the practice of military exercises, movements, or evolutions;

is guilty of a crime, and is liable to imprisonment for 7 years.

(2) Any person who, at any meeting or assembly held in contravention of the directions of a proclamation by the Governor in Council in that behalf, is trained or drilled to the use of arms or the practice of military exercises, movements, or evolutions, or who is present at any such meeting or assembly for the purpose of being so trained or drilled, is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

(2A) The offender may be arrested without warrant.

(3) A prosecution for any of the offences defined in this section must be begun within 6 months after the offence is committed.

**Sedition**

**52.(1)** Any person who—

- (a) conspires with any person to carry into execution a seditious enterprise; or
- (b) advisedly publishes any seditious words or writing;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

(2) If the person has been previously convicted of any such offence the person is guilty of a crime, and is liable to imprisonment for 7 years.

(3) A prosecution for any of the offences defined in this section must be begun within 6 months after the offence is committed.

(4) A person cannot be convicted of any of the offences defined in this section upon the uncorroborated testimony of 1 witness.

**Defamation of foreign princes**

**53.** Any person who, without such justification or excuse as would be sufficient in the case of the defamation of a private person, publishes anything intended to be read, or any sign or visible representation, tending to expose to hatred or contempt in the estimation of the people of any foreign state any prince or person exercising sovereign authority over that state, is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

**CHAPTER 8—OFFENCES AGAINST THE  
EXECUTIVE AND LEGISLATIVE POWER****Interference with Governor or Ministers**

**54.(1)** Any person who advisedly—

- (a) does any act calculated to interfere with the free exercise by the Governor of the duties or authority of the Governor's office; or
- (b) does any act calculated to interfere with the free exercise by a member of the Executive Council of the duties or authority of the member's office as a member of the Executive Council or as a Minister of State;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

**(2)** The offender may be, and it is hereby declared that the offender always was liable to be, arrested without warrant.

**Demands with menaces upon agencies of government**

**54A.(1)** Any person who demands that anything be done or omitted to be done or be procured by—

- (a) the Government of Queensland or a person in the employment of the Crown in right of Queensland, in performance of the duties of the person's employment or otherwise in the person's official capacity;

*Criminal Code Act 1899*

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- (b) the Governor, in his or her role of Governor;
- (c) a Minister of the Crown, in his or her office as Minister or as a member of the Executive Council of Queensland;
- (d) a government corporation, in discharge of its functions conferred by law, or a person in the employment of a government corporation, in performance of the duties of the person's employment or otherwise in the person's official capacity;

with threats of injury or detriment of any kind to be caused to any person aforesaid or any other person or to the public or any member or members of the public or to property, by the offender or by any other person, if the demand is not complied with is guilty of a crime and is liable to imprisonment for 14 years.

(2) A person is not criminally responsible for an act referred to in subsection (1) if the injury or detriment is threatened to himself or herself only or to property of which the person is the sole owner.

(3) It is immaterial to the commission of an offence defined in this section that—

- (a) the demand or threat is made by means of a medium ordinarily used for disseminating information to the public and not to a particular person; or
- (b) the threat does not specify the injury or detriment that is to be caused or the person or persons to whom or the property to which it is to be caused.

(4) If the carrying out of the threat would be likely to cause—

- (a) loss of life or serious personal injury to any person; or
- (b) substantial economic loss—
  - (i) to the Crown, or
  - (ii) to a government corporation; or
  - (iii) in any industrial or commercial activity whether conducted by a public authority or as a private enterprise;

the offender is liable to imprisonment for life and if, in addition, the offender or another person on the offender's behalf has carried out the threat and thereby caused a consequence specified in this subsection or has by

some overt act begun to prepare for the carrying out of the threat, the offender is liable to imprisonment for life, which cannot be mitigated or varied under this Code or any other law or is liable to an indefinite sentence under Part 10 of the *Penalties and Sentences Act 1992*.

(5) A prosecution for an offence defined in this section shall not be commenced without the consent of the Attorney-General.

(6) For the purposes of this section—

“**government corporation**” means any body corporate or corporation sole constituted by or under an Act that represents the Crown or that is declared by order in council to be a government corporation for the purposes of this section;

“**injury or detriment**” includes destruction of or damage to—

- (a) flora or fauna protected by or under an Act;
- (b) any relic within the meaning of the *Aboriginal Relics Preservation Act 1967*;
- (c) any place, thing or living creature or plant that by reason of its cultural, educational, environmental, historical, recreational, religious or scientific significance is of substantial public interest or concern;

and, in the absence of proof that any such item destroyed or damaged was or is the property of a particular person, shall be deemed to be injury or detriment to the Crown.

### **Interference with the Legislature**

**55.(1)** Any person who advisedly, by force or fraud, interferes or attempts to interfere with the free exercise by the Legislative Assembly of its authority, or with the free exercise by any member of the Legislative Assembly of the member’s duties or authority as such member, or as a member of a committee of the Legislative Assembly is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

(2) The offender may be, and it is hereby declared that the offender always was liable to be, arrested without warrant.

**Disturbing the Legislature**

**56.(1)** Any person who advisedly—

- (a) disturbs the Legislative Assembly while in session; or
- (b) commits any disorderly conduct in the immediate view and presence of the Legislative Assembly while in session, tending to interrupt its proceedings or to impair the respect due to its authority;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

**(2)** The offender may be, and it is hereby declared that the offender always was liable to be, arrested without warrant.

**Disturbance in House when Parliament not sitting**

**56A.(1)** Any person creating or joining in any disturbance in Parliament House or within the precincts thereof at any time other than during an actual sitting of Parliament therein or at the office or residence of the Governor or of any member of the Legislative Assembly or of the Executive Council shall be guilty of an offence and—

- (a) if the person created or joined in such disturbance in Parliament House or within the precincts thereof—may be apprehended without warrant on the verbal order of the Speaker or, in the Speaker's absence, of the Clerk of the Parliament, or of the person for the time being discharging the duties of the office of the Clerk of the Parliament, and may be kept in custody by any officer of Parliament or by any police officer; or
- (b) if the person created or joined in such disturbance at the office or residence of the Governor or of any member of the Legislative Assembly or of the Executive Council—may be apprehended without warrant on the verbal order of the Governor or, as the case may be, member of the Legislative Assembly or of the Executive Council concerned, and may be kept in custody by any police officer.

**(2)** Such person may be so kept in custody until the person can be dealt with in the manner following, that is to say—

- (a) every such person shall, as soon as reasonably may be, be

brought before a Magistrate without formal written complaint and there and then charged with such offence and summarily dealt with according to law;

- (b) any such person on summary conviction shall be liable to a fine of \$100 or imprisonment for a term not exceeding 6 calendar months.

### **Going armed to Parliament House**

**56B.(1)** Any person who without lawful excuse being armed enters or is found in Parliament House or in any of the grounds thereof or in any building in or upon such grounds is guilty of an offence and is liable on summary conviction to a fine of \$100 with or without imprisonment for a term not exceeding 6 calendar months.

**(1A)** The offender may be arrested without warrant.

**(2)** It shall be lawful for any police officer to search any person found in any building or grounds referred to in subsection (1) who is reasonably suspected by such police officer to be armed, and any arms found in the possession or under the control of any such person shall upon the person's conviction for an offence under this section be forfeited to Her Majesty.

**(3)** For the purposes of this section—

**“armed”** shall mean having in the person's possession or under the person's immediate control whether concealed or not—

- (a) any firearm whatsoever loaded or unloaded and whether capable of projecting a missile or not; or
- (b) any bomb or other explosive matter, machine, or device mechanical or otherwise capable of causing injury to any person or damage to any property or any dangerous or offensive weapon or instrument; or
- (c) any corrosive substance;

and the word **“arms”** shall have a correlative meaning.

**False evidence before Parliament**

**57.(1)** Any person who in the course of an examination before the Legislative Assembly, or before a committee of the Legislative Assembly, knowingly gives a false answer to any lawful and relevant question put to the person in the course of the examination is guilty of a crime, and is liable to imprisonment for 7 years.

(2) The offender cannot be arrested without warrant.

(3) A person cannot be convicted of the offence defined in this section upon the uncorroborated testimony of 1 witness.

**Witnesses refusing to attend or give evidence before Parliament or parliamentary committee**

**58.** Any person who—

- (a) being duly summoned to attend as a witness or to produce any book, document, or other thing, in the person's possession, before the Legislative Assembly, or before a committee of the Legislative Assembly authorised to summon witnesses or to call for the production of such thing, refuses or neglects without lawful excuse to attend pursuant to the summons or to produce anything which the person is summoned to produce, and which is relevant and proper to be produced; or
- (b) being present before the Legislative Assembly, or before a committee of the Legislative Assembly authorised to summon witnesses, refuses to answer any lawful and relevant question;

is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

**Member of Parliament receiving bribes**

**59.(1)** Any person who, being a member of the Legislative Assembly, asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself, herself or any other person upon any understanding that the person's vote, opinion, judgment, or action, in the Legislative Assembly, or in any committee thereof, shall be influenced thereby, or shall be given in any particular manner or in favour of any particular side of any question or matter, is guilty of a crime, and is

liable to imprisonment for 7 years, and is disqualified from sitting or voting as a member of the Legislative Assembly for 7 years.

(2) The offender cannot be arrested without warrant.

### **Bribery of member of Parliament**

**60.(1)** Any person who—

- (a) in order to influence a member of the Legislative Assembly in the member's vote, opinion, judgment, or action, upon any question or matter arising in the Legislative Assembly or in any committee thereof or in order to induce the member to absent himself or herself from the Assembly or from any such committee, gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt to procure, any property or benefit of any kind to, upon, or for, such member, or to, upon, or for, any other person; or
- (b) attempts, directly or indirectly, by fraud, or by threats or intimidation of any kind, to influence a member of the Legislative Assembly in the member's vote, opinion, judgment, or action, upon any such question or matter, or to induce the member to so absent himself or herself;

is guilty of a crime, and is liable to imprisonment for 7 years.

(2) The offender cannot be arrested without warrant.

(3) Where a person has been convicted (whether before or after 1 July 1922) of an offence under this section, all property which has been tendered or produced in evidence at the trial of the offender, as being the property or part of the property which the offender in the course of the commission of such offence gave, conferred or procured, or promised or offered to give, or confer or to procure, or attempt to procure, to, upon, or for a member of the Legislative Assembly, or to, upon, or for any other person, shall become and be deemed to have become forthwith upon such conviction and without any further judgment or order the absolute property of Her Majesty, whether such property is the property of the offender or of any other person.

## CHAPTER 9—UNLAWFUL ASSEMBLIES—BREACHES OF THE PEACE

### Definitions

**61.(1)** When 3 or more persons, with intent to carry out some common purpose, assemble in such a manner, or, being assembled, conduct themselves in such a manner, as to cause persons in the neighbourhood to fear on reasonable grounds that the persons so assembled will tumultuously disturb the peace, or will by such assembly needlessly and without any reasonable occasion provoke other persons tumultuously to disturb the peace, they are an **“unlawful assembly”**.

(2) It is immaterial that the original assembling was lawful if, being assembled, they conduct themselves with a common purpose in such a manner as mentioned in subsection (1).

(3) An assembly of 3 or more persons who assemble for the purpose of protecting the house of any 1 of them against persons threatening to break and enter the house in order to commit an indictable offence therein is not an unlawful assembly.

(4) When an unlawful assembly has begun to act in so tumultuous a manner as to disturb the peace, the assembly is called a **“riot”**, and the persons assembled are said to be **“riotously assembled”**.

### Punishment of unlawful assembly

**62.(1)** Any person who takes part in an unlawful assembly is guilty of a misdemeanour, and is liable to imprisonment for 1 year.

(2) The offender may be, and it is hereby declared that the offender always was liable to be, arrested without warrant.

### Punishment of riot

**63.(1)** Any person who takes part in a riot is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

(2) The offender may be, and it is hereby declared that the offender always was liable to be, arrested without warrant.

**Rioters remaining after proclamation ordering them to disperse**

**64.(1)** Whenever any persons, to the number of 12 or more, are riotously assembled together, it is the duty of some 1 of the following persons, that is to say, the sheriff or under-sheriff or a justice of the peace, or, if the assembly is in a municipality, the mayor, to go amongst them, or as near as he or she can safely come to them, and to command or cause to be commanded with a loud voice that silence be kept while the proclamation next hereinafter mentioned is made, and then openly and with a loud voice to make proclamation, or cause proclamation to be made, in these words or to the like effect—

Our Sovereign Lady the Queen charges and commands all persons here assembled immediately to disperse themselves and peaceably to depart to their habitations or to their lawful business, or they will be guilty of a crime, and will be liable to be imprisoned for life. God Save the Queen!

**(2)** Any person who wilfully and knowingly, and by force, opposes, obstructs, or hurts, any person who goes to make, or begins to make, any such proclamation, and thereby prevents the proclamation from being made, is guilty of a crime.

**(3)** Any persons who, being so assembled, continue together to the number of 12 or more, and do not disperse themselves within the space of an hour after the making of the proclamation, are guilty of a crime.

**(4)** When the making of the proclamation is prevented, any persons who, being so assembled, and to whom the proclamation would or ought to have been made if the making thereof had not been so prevented, and who, knowing of such prevention, continue together to the number of 12 or more, and do not disperse themselves within the space of an hour after the time of such prevention, are guilty of a crime.

**(5)** Any person who commits any of the crimes defined in this section is liable to imprisonment for life.

**(6)** A prosecution for any of the crimes defined in this section must be begun within a year after the crime is committed.

**Rioters demolishing buildings etc.**

**65.** Any persons who, being riotously assembled together, unlawfully pull down or destroy, or begin to pull down or destroy—

- (a) any building whatever; or
- (b) any machinery whatever, whether fixed or moveable; or
- (c) any structure used in farming land, or in carrying on any trade or manufacture, or in conducting the business of a mine; or
- (d) any bridge, wagon-way, or trunk, for conveying materials from a mine;

are guilty of a crime, and each of them is liable to imprisonment for life.

**Rioters injuring building, machinery etc.**

**66.** Any persons who, being riotously assembled together, unlawfully damage any of the things in section 65 mentioned, are guilty of a crime, and each of them is liable to imprisonment for 7 years.

**Smuggling or rescuing goods under arms**

**67.** Any persons who assemble together, to the number of 3 or more, armed with firearms or other dangerous or offensive weapons, in order to effect or aid in effecting any of the following purposes, that is to say—

- (a) the unlawful shipping, unshipping, loading, moving, or carrying away, of any goods the importation of which is prohibited, or any goods liable to customs duties which duties have not been paid or secured;
- (b) the rescuing or taking of any such goods from any person authorised to seize them, or from any person employed by the person or assisting the person, or from any place where any such person has put them;
- (c) the rescuing of any person who has been arrested on a charge of any crime relating to the customs;
- (d) the prevention of the arrest of any person guilty of any such crime, or of any person aiding in effecting any of the purposes in

this section mentioned;

are guilty of a crime, and each of them is liable to imprisonment for 7 years.

### **Smuggling under arms or in disguise**

**68.** Any persons who are found assembled together, to the number of 6 or more, having with them any goods liable to forfeiture under any law relating to the customs, and carrying firearms or other dangerous or offensive weapons, or disguised, are guilty of a crime, and each of them is liable to imprisonment for 7 years.

### **Going armed so as to cause fear**

**69.(1)** Any person who goes armed in public without lawful occasion in such a manner as to cause fear to any person is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

**(2)** The offender may be, and it is hereby declared that the offender always was liable to be, arrested without warrant.

### **Forcible entry**

**70.(1)** Any person who, in a manner likely to cause a breach of the peace or reasonable apprehension of a breach of the peace, enters on land which is in the actual and peaceable possession of another is guilty of a misdemeanour, and is liable to imprisonment for 1 year.

**(2)** It is immaterial whether the person is entitled to enter on the land or not.

### **Forcible detainer**

**71.** Any person who, being in actual possession of land without colour of right, holds possession of it, in a manner likely to cause a breach of the peace or reasonable apprehension of a breach of the peace, against a person entitled by law to the possession of the land is guilty of a misdemeanour, and is liable to imprisonment for 1 year.

**Affray**

**72.** Any person who takes part in a fight in a public highway, or takes part in a fight of such a nature as to alarm the public in any other place to which the public have access, is guilty of a misdemeanour, and is liable to imprisonment for 1 year.

**Challenge to fight a duel**

**73.** Any person who challenges another to fight a duel, or attempts to provoke another to fight a duel, or attempts to provoke any person to challenge another to fight a duel, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

**Prize fight**

**74.** Any person who fights in a prize fight, or subscribes to or promotes a prize fight, is guilty of a misdemeanour, and is liable to imprisonment for 1 year.

**Threatening violence**

**75.(1)** Any person who—

- (a) with intent to intimidate or annoy any person, threatens to break or injure a dwelling house; or
- (b) with intent to alarm any person, discharges loaded firearms or commits any other breach of the peace;

is guilty of a misdemeanour, and is liable to imprisonment for 1 year.

**(2)** If the offence is committed in the night the offender is guilty of a crime, and is liable to imprisonment for 2 years.

**Assembling for the purpose of smuggling**

**76.** Any persons who assemble together, to the number of 3 or more, for the purpose of unshipping, carrying, or concealing, any goods subject to customs duty and liable to forfeiture under any law relating to the customs,

are guilty of an offence, and each of them is liable on summary conviction to a fine not exceeding \$200, or to imprisonment for 6 months.

### **Unlawful processions**

**77.(1)** Any persons who assemble together, to the number of 3 or more, under any of the following circumstances, that is to say—

- (a) bearing or wearing or having amongst them any firearms or other offensive weapon;
- (b) publicly exhibiting any banner, emblem, flag, or symbol, the displaying of which is calculated to promote animosity between Her Majesty's subjects of different religious faiths;
- (c) being accompanied by any music of a like nature or tendency;

and, being so assembled, join in any parade or procession for the purpose of celebrating or commemorating any festival, anniversary, or political event, relating to or connected with any religious or political distinction or difference between any classes of Her Majesty's subjects, or of demonstrating any such religious or political distinction or difference, are guilty of an offence, and each of them is liable on summary conviction to imprisonment for 1 month.

**(1A)** If the offender is bearing or wearing firearms or any other offensive weapon, the offender is liable on summary conviction to imprisonment for 6 months.

**(2)** When 3 or more persons are so assembled together, it is the duty of a justice of the peace to read or repeat aloud, or cause some other person to read or repeat aloud, to the persons assembled a command in these words or to the like effect—

Our Sovereign Lady the Queen charges and commands all persons here assembled immediately to disperse themselves and peaceably to depart to their habitations or to their lawful business, or they will be liable to be imprisoned. God Save the Queen!

**(2A)** Any persons who, being so assembled, continue together to the number of 3 or more, and do not disperse themselves within the space of a quarter of an hour after the giving of the command are guilty of an offence, and each of them is liable on summary conviction to imprisonment for

3 months.

(3) A justice may issue a warrant in the first instance for the arrest of any such offender, either on the oath of a credible person or on the justice's own view.

(4) This section does not apply to a parade or procession held in the course of an election for any office or place of a public character.

## **CHAPTER 10—OFFENCES AGAINST POLITICAL LIBERTY**

### **Interfering with political liberty**

**78.(1)** Any person who by violence, or by threats or intimidation of any kind, hinders or interferes with the free exercise of any political right by another person, is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

(2) If the offender is a public officer, and commits the offence in abuse of the offender's authority as such officer, the offender is liable to imprisonment for 3 years.

## **CHAPTER 11—PIRACY**

### **Definition of "piracy" in general**

**79.(1)** In this Chapter—

**"pirate"** includes any person who on the high seas commits, otherwise than as an act of war and under the authority of some foreign prince or state, any act with respect to a ship, or any goods or merchandise belonging to a ship or laden upon it, which, if the act were committed on land, would constitute robbery as hereinafter defined and any person who, having on the high seas obtained possession of a ship by

means of any such act, retains possession thereof, and also includes any person who is declared by any statute to be a pirate.

(2) The act of any such person is called “**piracy**”.

### **Further definition of “pirates”**

**80.** Any person who does any of the acts following, that is to say—

- (a) being a British subject, and being at any place within the jurisdiction of the Admiralty commits, under colour of a commission from a foreign state or prince, whether such state or prince is at war with the Sovereign or not, or under pretence of authority from any person whatever, any act of hostility, or any act which, if it were committed on land, would be robbery as hereinafter defined, against another British subject;
- (b) being a British subject, is in any way adherent to or gives aid to Her Majesty’s enemies at any place within the jurisdiction of the Admiralty, during any war;
- (c) whether being a British subject or not, forcibly enters a British ship at any place within the jurisdiction of the Admiralty, and throws overboard or destroys any part of the goods or merchandise belonging to the ship or laden upon it;
- (d) being on board a British ship at any place within the jurisdiction of the Admiralty—
  - (i) turns pirate, enemy, or rebel, and piratically runs away with the ship, or any boat, ordnance, ammunition, or goods belonging to it or laden upon it; or
  - (ii) voluntarily yields up the ship or any such thing as last mentioned to a pirate; or
  - (iii) brings a seducing message from a pirate, enemy, or rebel; or
  - (iv) consults or conspires with, or attempts to corrupt, any master or officer of a ship, or any sailor, with intent that the person should run away with or yield up any ship, goods, or merchandise, or turn pirate, or go over to pirates; or
  - (v) lays violent hands on the master of the ship, with intent to

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hinder the master from fighting in defence of the ship and goods committed to the master's trust; or

- (vi) confines the master of the ship; or
- (vii) makes, or endeavours to make, a revolt in the ship;
- (e) being a British subject in any part of the world, or, whether being a British subject or not, being in any part of Her Majesty's dominions, or on board a British ship in any part of the world, knowingly—
  - (i) trades with a pirate in any manner whatever; or
  - (ii) furnishes a pirate with ammunition, provisions, or stores of any kind; or
  - (iii) fits out a ship or vessel with a design to trade with or supply or correspond with, a pirate; or
  - (iv) conspires or corresponds with a pirate;

is also deemed to be a pirate, and the person's act is also called "**piracy**".

**Punishment of piracy**

**81.(1)** Any person who, within the territorial jurisdiction of Queensland, commits piracy, is guilty of a crime, and is liable to imprisonment for life.

**(2)** If the crime is committed with respect to a ship, and if at or immediately before or immediately after the time of committing the crime the offender—

- (a) assaults any person on board of or belonging to the ship, with intent to kill the person or to kill any other person; or
- (b) wounds any such person; or
- (c) unlawfully does any act by which the life of any such person is endangered;

the offender is liable to imprisonment for life, which cannot be mitigated or varied under this Code or any other law or is liable to an indefinite sentence under Part 10 of the *Penalties and Sentences Act 1992*.

**Attempted piracy with personal violence**

**82.** Any person who, within the territorial jurisdiction of Queensland, does any of the acts following with intent to commit the crime of piracy with respect to a ship, that is to say—

- (a) assaults any person on board of or belonging to the ship, with intent to kill the person or to kill any other person;
- (b) wounds any such person;
- (c) unlawfully does any act by which the life of any such person is endangered;

is guilty of a crime, and is liable to imprisonment for life, which cannot be mitigated or varied under this Code or any other law or is liable to an indefinite sentence under Part 10 of the *Penalties and Sentences Act 1992*.

**Aiding pirates**

**83.** Any person who—

- (a) brings a seducing message from a pirate; or
- (b) consults or conspires with, or attempts to corrupt, any master or officer of a ship or any sailor, with intent that the person should run away with or yield up any ship, goods, or merchandise, or turn pirate, or go over to pirates;

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

## **PART 3—OFFENCES AGAINST THE ADMINISTRATION OF LAW AND JUSTICE AND AGAINST PUBLIC AUTHORITY**

### **CHAPTER 12—DISCLOSING OFFICIAL SECRETS**

#### **Disclosure of secrets relating to defences by public officers**

**84.(1)** Any person who, being employed in the public service, communicates to any person otherwise than in the course of the person's official duty any plans, documents, or other information, relating to any battery, field work, or fortification, in Queensland, or relating to any other defence of Queensland, is guilty of a misdemeanour.

**(2)** If the person does so advisedly, the person is liable to imprisonment for 3 years.

**(3)** If the person does so by negligence, the person is liable to imprisonment for 1 year, or to a fine of \$200.

#### **Obtaining disclosure of secrets relating to defences**

**85.** Any person who procures any person employed in the public service to make any such communication as is mentioned in section 84, or without lawful authority obtains information as to any such matter as is therein mentioned, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

#### **Disclosure of other official secrets**

**86.** Any person who, being employed in the public service, publishes or communicates any fact which comes to the person's knowledge by virtue of the person's office and which it is the person's duty to keep secret, or any document which comes to the person's possession by virtue of the person's office and which it is the person's duty to keep secret, except to some person to whom the person is bound to publish or communicate it, is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

## CHAPTER 13—CORRUPTION AND ABUSE OF OFFICE

### Official corruption

**87.(1)** Any person who—

- (a) being employed in the public service, or being the holder of any public office, and being charged with the performance of any duty by virtue of such employment or office, not being a duty touching the administration of justice, corruptly asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself, 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 the person in the discharge of the duties of the person's 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 being the holder of any public office, or to, upon, or for, any other person, any property or benefit of any kind on account of any such act or omission on the part of the person so employed or holding such office;

is guilty of a crime, and is liable to imprisonment for 7 years, and to be fined at the discretion of the court.

(2) The offender cannot be arrested without warrant.

### Extortion by public officers

**88.** Any person who, being employed in the public service, takes or accepts from any person, for the performance of the person's duty as such officer, any reward beyond the person's proper pay and emoluments, or any promise of such reward, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

**Public officers interested in contracts**

**89.** Any person who, being employed in the public service, knowingly acquires or holds, directly or indirectly, otherwise than as a member of a registered joint stock company consisting of more than 20 persons, a private interest in any contract or agreement which is made on account of the public service with respect to any matter concerning the department of the service in which the person is employed, is guilty of a misdemeanour, and is liable to imprisonment for 3 years, and to be fined at the discretion of the court.

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

**90.** Any person who, being employed in the public service, and being charged by virtue of the person's employment with any judicial or administrative duties respecting property of a special character, or respecting the carrying on of any manufacture, trade, or business, of a special character, and having acquired or holding, directly or indirectly, a private interest in any such property, manufacture, trade, or business, discharges any such duties with respect to the property, manufacture, trade, or business, in which the person has such interest, or with respect to the conduct of any person in relation thereto, is guilty of a misdemeanour, and is liable to imprisonment for 1 year, and to be fined at the discretion of the court.

**False claims by officials**

**91.** Any person who, being employed in the public service in such a capacity as to require the person or to enable the person to furnish returns or statements touching any remuneration payable or claimed to be payable to himself, herself or to any other person, or touching any other matter required by law to be certified for the purpose of any payment of money or delivery of goods to be made to any person, makes a return or statement touching any such matter which is, to the person's knowledge, false in any material particular, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

**Abuse of office**

**92.(1)** Any person who, being employed in the public service, does or directs to be done, in abuse of the authority of the person's office, any arbitrary act prejudicial to the rights of another is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

**(2)** If the act is done or directed to be done for purposes of gain, the person is liable to imprisonment for 3 years.

**Corruption of surveyor and valuator**

**93.** Any person who, being duly appointed under any statute to be a valuator for determining the compensation to be paid to any person for land compulsorily taken from the person under the authority of any statute, or for injury done to any land under the authority of any statute—

- (a) acts as such valuator while the person has, to the person's knowledge, an interest in the land in question; or
- (b) executes unfaithfully, dishonestly, or with partiality, the duty of making a valuation of the land or of the extent of the injury;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

**False certificates by public officers**

**94.** Any person who, being authorised or required by law to give any certificate touching any matter by virtue whereof the rights of any person may be prejudicially affected, gives a certificate which is, to the person's knowledge, false in any material particular is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

**Administering extra-judicial oaths**

**95.(1)** Any person who administers an oath, or takes a solemn declaration or affirmation or affidavit, touching any matter with respect to which the person has not by law any authority to do so, is guilty of a misdemeanour, and is liable to imprisonment for 1 year.

**(2)** This section does not apply to an oath, declaration, affirmation, or affidavit, administered or taken before a justice in any matter relating to the

preservation of the peace or the punishment of offences, or relating to inquires respecting sudden death, or to proceedings before the Legislative Assembly or a committee of the Legislative Assembly; nor to an oath, declaration, affirmation, or affidavit, administered or taken for some purpose which is lawful under the laws of another country, or for the purpose of giving validity to an instrument in writing which is intended to be used in another country.

### **False assumption of authority**

**96.** Any person who—

- (a) not being a justice assumes to act as a justice; or
- (b) without authority assumes to act as a person having authority by law to administer an oath or take a solemn declaration or affirmation or affidavit, or to do any other act of a public nature which can only be done by persons authorised by law to do so; or
- (c) represents himself 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 the person is not, and knows that the person is not, in fact, so authorised;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

### **Personating public officers**

**97.(1)** Any person who—

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

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

(2) A person found committing the offence may be arrested without warrant.

## CHAPTER 14—CORRUPT AND IMPROPER PRACTICES AT ELECTIONS

### Definitions

98. In this Chapter—

“**ballot box**” includes any receptacle in which voting papers are put before being counted at an election;

“**election**” includes any election held under the authority of any statute providing for the choice of persons to fill any office or place of a public character and any referendum conducted under the *Referendums Act 1989*;

“**elector**” includes any person entitled to vote at an election;

“**municipal election**” includes any election held under any laws relating to local government;

“**parliamentary election**” includes a referendum conducted under the *Referendums Act 1989*;

“**polling booth**” includes any room or place in which voting at an election is conducted or in which the votes are counted.

### Chapter does not apply to certain elections

98A. This Chapter does not apply to an election for the Legislative Assembly or a local government.

### Personation

99. Any person who votes or attempts to vote in the name of another person at an election, whether the name is that of a person living or dead or

of a fictitious person, is guilty of a crime, and is liable to imprisonment for 2 years.

### **Double voting**

**100.** Any person who, being an elector, votes or attempts to vote at an election oftener than the person is entitled to vote at the election is guilty of a crime, and is liable to imprisonment for 2 years.

### **Treating**

**101.** Any person who—

- (a) corruptly, before, during, or after, an election, provides, or pays in whole or part the expense of providing, any food, drink, or lodging, to or for any person on account of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by an elector at the election in the capacity of an elector; or
- (b) being an elector, corruptly receives any food, drink, or lodging, on account of any such act or omission;

is guilty of a misdemeanour, and is liable to imprisonment for 1 year, or to a fine of \$400.

### **Undue influence**

**102.** Any person who—

- (a) uses or threatens to use any force or restraint, or does or threatens to do any temporal or spiritual injury, or causes or threatens to cause any detriment of any kind, to an elector in order to induce the elector to vote or refrain from voting at an election, or on account of the elector having voted or refrained from voting at an election; or
- (b) by force or fraud prevents or obstructs the free exercise of the franchise by an elector, or by any such means compels or induces an elector to vote or refrain from voting at an election;

is guilty of a misdemeanour, and is liable to imprisonment for 1 year, or to a fine of \$400.

**Bribery**

**103.** Any person who—

- (a) 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 any property or benefit of any kind on account of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by an elector at an election in the capacity of an elector, or on account of any person acting or joining in a procession during an election, or in order to induce any person to endeavour to procure the return of any person at an election, or the vote of any elector at an election; or
- (b) being an elector, asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself, 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 the person at an election in the capacity of an elector; or
- (c) asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself, herself or any other person, on account of a promise made by the person or any other person to endeavour to procure the return of any person at an election, or the vote of any person at an election; or
- (d) advances or pays any money to or to the use of any other person with the intent that such money shall be applied for any of the purposes mentioned in paragraphs (a) to (c), or in discharge or repayment of money wholly or in part applied for any such purpose; or
- (e) corruptly transfers or pays any property or money to any person for the purpose of enabling that person to be registered as an elector, and thereby of influencing the vote of that person at a future election; or
- (f) is privy to any such transfer or payment as last mentioned which is made for the person's benefit;

is guilty of a misdemeanour, and is liable to imprisonment for 1 year, or to a fine of \$400.

**Illegal practices**

**105.** Any person who—

- (a) being prohibited by law from voting at an election, and knowing that the person is so prohibited, votes at the election; or
- (b) procures any person who is, and whom the person knows to be, prohibited from voting at an election to vote at the election; or
- (c) before or during an election, and for the purpose of promoting or procuring the choice of any candidate at the election, knowingly publishes a false statement of the withdrawal of another candidate at the election; or
- (d) before or during an election, and for the purpose of affecting the return of a candidate at the election, knowingly publishes a false statement of fact respecting the personal character or conduct of the candidate; or
- (e) being a candidate at an election, withdraws from being a candidate in consideration of a payment or promise of payment; or
- (f) being a candidate or the agent of a candidate at an election, corruptly procures any other person to withdraw from being a candidate at the election in consideration of any payment or promise of payment;

is guilty of a misdemeanour, and is liable to imprisonment for 1 year, or to a fine of \$400.

**Other illegal practices**

**106.** Any person who—

- (a) knowingly provides money for any payment which is contrary to any law relating to elections or referendums, or for replacing any money which has been expended in any such payment, and which is not allowed by law to be an exception; or
- (b) prints, publishes, or posts, any bill, placard, or poster, which has reference to an election, and which does not bear on the face of it the name and address of the printer and publisher; or
- (c) hires or uses for a committee-room at an election—

- (i) any part of a house licensed for the sale of fermented or spirituous liquors; or
- (ii) any part of any premises where any intoxicating liquor is sold or supplied to members of a club, society, or association, which is not a permanent political club; unless, in either case, it is a part which has a separate entrance, and has no direct communication with any part of the premises in which intoxicating liquor is sold, and is a part ordinarily let for the purpose of chambers or offices or for holding public meetings or arbitrations; or
- (d) knowing that the same are intended to be used as a committee-room at an election, lets any part of any such premises, not being such a part as aforesaid, for such use;

is guilty of an offence, and is liable on summary conviction to a fine of \$200.

### **Corrupt and illegal practices—time**

**107.(1)** A prosecution for any of the offences defined in sections 99 to 106 must be begun within 1 year after the offence is committed.

**(2)** The service or execution of process on or against the alleged offender is deemed to be the commencement of the prosecution, unless such service or execution is prevented by some act on the person's part, in which case the issue of the process is deemed to be the commencement of the proceeding.

### **Interference at elections**

**108.(1)** Any person who—

- (a) intrudes into a polling booth, not being lawfully entitled to be in it; or
- (b) wilfully interrupts, obstructs, or disturbs, any proceedings at an election;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

(2) A person found committing the offence may be arrested without warrant by direction of the presiding officer.

### **Electors attempting to violate secrecy of ballot**

**109.** Any person who, having received a ballot paper from the presiding officer at an election—

- (a) wilfully makes on the ballot paper any mark or writing not expressly authorised by law; or
- (b) wilfully fails to fold up the ballot paper in such a manner as to conceal how the person has voted; or
- (c) wilfully fails to deposit the ballot paper in the ballot box in the presence of the presiding officer;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

### **Other attempts of like kind**

**110.(1)** Any person who—

- (a) takes or attempts to take a ballot paper out of a polling booth; or
- (b) whilst an elector is preparing the elector's ballot paper in a compartment provided for the use of electors actually voting, wilfully intrudes into the compartment;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

(2) A person found committing the offence may be arrested without warrant by direction of the presiding officer.

### **Stuffing ballot boxes**

**111.(1)** Any person who places, or is privy to placing, in a ballot box a ballot paper which has not been lawfully handed to and marked by an elector is guilty of a crime, and is liable to imprisonment for 7 years.

(2) Proof that, at the conclusion of a poll, a greater number of ballot papers is found in a ballot box in use at a polling booth, or is returned by the person who acted as presiding officer at a polling booth as having been received at the polling booth, than the number of electors who voted at that

polling booth is sufficient evidence that the person who acted as presiding officer at that polling booth was guilty of either of the offences defined in subsection (1), until the contrary is shown.

### **Offences by presiding officers at elections**

**112.** Any person who—

- (a) being a presiding officer at an election, and being called upon, in the case of an elector who is blind or is unable to read, to strike out from a ballot paper the name of the candidate or candidates other than the candidate or candidates for whom the elector says that the elector desires to vote, wilfully fails to do so in the polling booth, and in the presence and sight of the persons then lawfully present; or
- (b) being a presiding officer at an election, and whilst an elector is preparing the elector's ballot paper in a compartment provided for the use of electors actually voting, wilfully allows any other person to be in the compartment;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

### **False answers to questions at elections**

**113.(1)** Any person who at an election—

- (a) wilfully makes a false answer to any question which is lawfully put to the person by the presiding officer, and which the person is required by law to answer; or
- (b) being lawfully required to make a declaration before voting, wilfully makes a false declaration;

is guilty of a crime, and is liable to imprisonment for 7 years.

(2) The offender cannot be arrested without warrant except by direction of the presiding officer.

### **Interfering with secrecy at elections**

**114.** Any person who—

- (a) at or after an election, knowingly and wilfully, and without the lawful command of some competent court or tribunal, unfastens the fold upon a ballot paper within which the number of an elector is written, and which fold had been made under the authority of the law; or
- (b) being a person required by law to discharge duties at an election at which the voting is by ballot, attempts to ascertain or discover, or aids in ascertaining or discovering, how any person votes, except in the case of a person voting openly; or
- (c) having in the exercise of the person's office at an election obtained knowledge or the means of knowledge of how any person has voted, discloses or aids in disclosing such knowledge otherwise than in answer to a question put in the course of proceedings before some competent court or tribunal; or
- (d) being a person required by law to discharge duties at an election, places upon a ballot paper any mark or writing not authorised by law;

is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

### **Breaking seal of packets used at elections**

**115.(1)** Any person who knowingly and wilfully, and without the lawful command of some competent court or tribunal, opens or breaks the seal of a sealed parcel which has been sealed up under the provisions of the laws relating to elections or referendums, is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

**(2)** Neither this section nor section 114 shall apply with respect to a police officer acting under lawful authority in the course of the officer's official duty.

### **Offences at elections when voting is by post**

**116.** Any person who at an election at which the voting is by post—

- (a) knowing that the person is not entitled to vote at the election, signs the person's name as a voter to a voting paper; or
- (b) signs the name of another person to a voting paper; or

- (c) attests the signature to a voting paper of any person who is, to the person's knowledge, not entitled to vote by means of such voting paper;

is guilty of a misdemeanour, and is liable to imprisonment for 1 year or to a fine of \$400.

### **False claims**

**117.(1)** Any person who—

- (a) makes in a claim to be inserted in a list of electors any statement which is, to the person's knowledge, false in any material particular; or
- (b) makes, orally or in writing, to a court or tribunal having jurisdiction to deal with the claims of persons to be registered as electors or as persons claiming to be electors, a statement relating to the qualification of any person as an elector which is, to the person's knowledge, false in any material particular;

is guilty of a crime, and is liable to imprisonment for 7 years.

(2) The offender cannot be arrested without warrant.

(3) A person cannot be convicted of either of the offences defined in this section upon the uncorroborated testimony of 1 witness.

## **CHAPTER 15—SELLING AND TRAFFICKING IN OFFICES**

### **Bargaining for offices in public service**

**118.** Any person who—

- (a) corruptly asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself, 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 the person or any other person, with regard to the

appointment or contemplated appointment of any person to any office or employment in the public service, or with regard to any application by any person for employment in the public service; 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 any property or benefit of any kind on account of any such act or omission;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years, and to be fined at the discretion of the court.

## **CHAPTER 16—OFFENCES RELATING TO THE ADMINISTRATION OF JUSTICE**

### **Definition of “judicial proceeding”**

**119.** In this Chapter—

“**judicial proceeding**” includes any proceeding had or taken in or before any court, tribunal, or person, in which evidence may be taken on oath.

### **Judicial corruption**

**120.(1)** Any person who—

- (a) being the holder of a judicial office, corruptly asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself, 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 the person in the person’s judicial capacity; 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 holding a judicial office, or to, upon, or for any other person, any property or benefit of any kind on account of any such act or omission on the part of the person holding the

judicial office;

is guilty of a crime, and is liable to imprisonment for 14 years, and to be fined at the discretion of the court.

(2) The offender cannot be arrested without warrant.

(3) In this section—

**“holder of a judicial office”** includes an arbitrator or umpire, but in the case of an offence committed by or with respect to any such person, the longest term of imprisonment is 7 years.

(4) A prosecution for any of the offences firstly defined in this section cannot be begun except by the direction of a Crown Law Officer.

### **Official corruption not judicial but relating to offences**

**121.(1)** Any person who—

- (a) being a justice not acting judicially, or being a person employed in the public service in any capacity not judicial for the prosecution or detention or punishment of offenders, corruptly asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself, 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 the person, with a view to corrupt or improper interference with the due administration of justice, or the procurement or facilitation of the commission of any offence, or the protection of any offender or intending offender from detection or punishment; 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 such person, or to, upon, or for, any other person, any property or benefit of any kind, on account of any such act or omission on the part of the justice or other person so employed;

is guilty of a crime, and is liable to imprisonment for 14 years, and to be fined at the discretion of the court.

(2) The offender cannot be arrested without warrant.

**Corrupting or threatening jurors**

**122.** Any person who—

- (a) attempts by threats or intimidation of any kind, or by benefits or promises of benefit of any kind, or by other corrupt means, to influence any person, whether a particular person or not, in the person's conduct as a juror in any judicial proceeding, whether the person has been sworn as a juror or not; or
- (b) threatens to do any injury or cause any detriment of any kind to any person on account of anything done by the person as a juror in any judicial proceeding; or
- (c) accepts any benefit or promise of benefit on account of anything to be done by the person as a juror in any judicial proceeding, whether the person has been sworn as a juror or not, or on account of anything already done by the person as a juror in any judicial proceeding;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

**Perjury**

**123.(1)** Any person who in any judicial proceeding, or for the purpose of instituting any judicial proceeding, knowingly gives false testimony touching any matter which is material to any question then depending in that proceeding, or intended to be raised in that proceeding, is guilty of a crime, which is called "**perjury**".

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

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

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

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

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

(7) The offender cannot be arrested without warrant.

### **Punishment of perjury**

**124.(1)** Any person who commits perjury is liable to imprisonment for 14 years.

(2) If the offender commits the crime in order to procure the conviction of another person for a crime punishable with imprisonment for life, the offender is liable to imprisonment for life.

### **Evidence on charge of perjury**

**125.** A person cannot be convicted of committing perjury or of counselling or procuring the commission of perjury upon the uncorroborated testimony of 1 witness.

### **Fabricating evidence**

**126.(1)** Any person who, with intent to mislead any tribunal in any judicial proceeding—

(a) fabricates evidence by any means other than perjury or counselling or procuring the commission of perjury; or

(b) knowingly makes use of such fabricated evidence;

is guilty of a crime, and is liable to imprisonment for 7 years.

(2) The offender cannot be arrested without warrant.

### **Corruption of witnesses**

**127.(1)** Any person who—

(a) gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt to procure, any property or benefit of any kind to, upon, or for, any person, upon any

agreement or understanding that any person called or to be called as a witness in any judicial proceeding shall give false testimony or withhold true testimony; or

- (b) attempts by any other means to induce a person called or to be called as a witness in any judicial proceeding to give false testimony or to withhold true testimony; or
- (c) asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself, herself or any other person, upon any agreement or understanding that any person shall as a witness in any judicial proceeding give false testimony or withhold true testimony;

is guilty of a crime, and is liable to imprisonment for 7 years.

- (2) The offender cannot be arrested without warrant.

### **Deceiving witnesses**

**128.** Any person who practices any fraud or deceit, or knowingly makes or exhibits any false statement, representation, token, or writing, to any person called or to be called as a witness in any judicial proceeding, with intent to affect the testimony of such person as a witness, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

### **Destroying evidence**

**129.** Any person who, knowing that any book, document, or other thing of any kind, is or may be required in evidence in a judicial proceeding, wilfully destroys it or renders it illegible or undecipherable or incapable of identification, with intent thereby to prevent it from being used in evidence, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

### **Preventing witnesses from attending**

**130.** Any person who wilfully prevents or attempts to prevent any person who has been duly summoned to attend as a witness before any court or tribunal from attending as a witness, or from producing anything in evidence pursuant to the subpoena or summons, is guilty of a misdemeanour, and is liable to imprisonment for 1 year.

**Conspiracy to bring false accusation**

**131.(1)** Any person who conspires with another to charge any person or cause any person to be charged with any offence, whether alleged to have been committed in Queensland, or elsewhere, knowing that such person is innocent of the alleged offence, or not believing the person to be guilty of the alleged offence, is guilty of a crime.

(2) If the offence is such that a person convicted of it is liable to be sentenced to imprisonment for life, the offender is liable to imprisonment for life.

(3) If the offence is such that a person convicted of it is liable to be sentenced to imprisonment, but for a term less than life, the offender is liable to imprisonment for 14 years.

(4) In any other case the offender is liable to imprisonment for 7 years.

(5) The offender cannot be arrested without warrant.

(6) A prosecution for an offence defined in this section shall not be instituted without the consent of the Attorney-General.

**Conspiring to defeat justice**

**132.(1)** Any person who conspires with another to obstruct, prevent, pervert, or defeat, the course of justice is guilty of a crime, and is liable to imprisonment for 7 years.

(2) The offender cannot be arrested without warrant.

(3) A prosecution for an offence defined in this section shall not be instituted without the consent of the Attorney-General.

**Compounding crimes**

**133.(1)** Any person who asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself, herself or any other person, upon any agreement or understanding that the person will compound or conceal a crime, or will abstain from, discontinue, or delay, a prosecution for a crime, or will withhold any evidence thereof, is guilty of an indictable offence.

(2) If the crime is such that a person convicted of it is liable to be

sentenced to imprisonment for life, the offender is guilty of a crime, and is liable to imprisonment for 7 years.

(3) In any other case the offender is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

(4) The offender cannot be arrested without warrant.

### **Compounding penal actions**

**134.** Any person who, having brought, or under pretence of bringing, an action against another person upon a penal statute in order to obtain from the other person a penalty for any offence committed or alleged to have been committed by the other person, compounds the action without the order or consent of the court in which the action is brought or is to be brought, is guilty of a misdemeanour, and is liable to imprisonment for 1 year.

### **Advertising a reward for the return of stolen property etc.**

**135.** Any person who—

- (a) publicly offers a reward for the return of any property which has been stolen or lost, and in the offer makes use of any words purporting that no questions will be asked, or that the person producing such property will not be seized or molested; or
- (b) publicly offers to return to any person who may have bought or advanced money by way of loan upon any stolen or lost property the money so paid or advanced, or any other sum of money or reward for the return of such property; or
- (c) prints or publishes any such offer;

is guilty of an offence, and is liable on summary conviction to a fine of \$100.

### **Justices acting oppressively or when interested**

**136.** Any person who—

- (a) being a justice and being required or authorised by law to grant an

accused person bail, without reasonable excuse, and in abuse of the justice's office, requires excessive and unreasonable bail; or

- (b) being a justice, wilfully and perversely exercises jurisdiction in any matter in which the justice has a personal interest;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years, and to be fined at the discretion of the court.

### **Delay to take person arrested before Magistrate**

**137.** Any person who, having arrested another upon a charge of an offence, wilfully delays to take the person before a justice to be dealt with according to law is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

### **Bringing fictitious action on penal statute**

**138.** Any person who, in the name of a fictitious plaintiff, or in the name of a real person but without the person's authority, brings an action against another person upon a penal statute for the recovery of a penalty for any offence committed or alleged to have been committed by the person is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

### **Inserting advertisement without authority of court**

**139.** Any person who, without authority, or knowing the advertisement to be false in any material particular, inserts or causes to be inserted in the Gazette or in any newspaper an advertisement purporting to be published under the authority of any court or tribunal is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

### **Attempting to pervert justice**

**140.** Any person who attempts, in any way not specially defined in this Code, to obstruct, prevent, pervert, or defeat, the course of justice is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

## **CHAPTER 17—ESCAPES—OBSTRUCTING OFFICERS OF COURTS**

### **Aiding persons to escape from lawful custody**

**141.** A person who—

- (a) aids a person in lawful custody to escape, or to attempt to escape, from lawful custody; or
- (b) conveys anything to a person in lawful custody, or to a place where a person is or will be in lawful custody, with the intention of aiding a person to escape from lawful custody; or
- (c) frees a person from lawful custody without authority;

is guilty of a crime.

Maximum penalty—imprisonment for 7 years.

### **Escape by persons in lawful custody**

**142.** A person who escapes from lawful custody is guilty of a crime.

Maximum penalty—imprisonment for 7 years.

### **Permitting escape**

**143.** A person who is responsible for keeping another person in lawful custody and permits the other person to escape is guilty of a crime.

Maximum penalty—imprisonment for 7 years.

### **Harbouring escaped prisoners etc.**

**144.** A person who harbours, maintains or employs another person knowing that the other person has escaped from lawful custody is guilty of a crime.

Maximum penalty—imprisonment for 2 years.

**Sections 141 to 145 do not apply to certain types of custody**

**145A.** Sections 141 to 145 do not apply to—

- (a) the custody of a person under section 66 of the *Mental Health Act 1974*; or
- (b) the custody of a person who is a child in care within the meaning of the *Children's Services Act 1965*;

unless the person is held in a prison within the meaning of the *Corrective Services Act 1988*.

**Evidence of lawful custody**

**145B.** Evidence given by a person authorised by the Corrective Services Commission to give the evidence that a person is, or on a particular date was, in lawful custody is to be admitted as prima facie evidence of the custody.

**Summary proceedings**

**145C.(1)** A proceeding for an offence against section 141, 142, 143 or 144 may be taken—

- (a) by way of summary proceedings under the *Justices Act 1886*; or
- (b) on indictment;

at the election of the prosecution.

**(2)** A proceeding—

- (a) with a view to the summary conviction of a person on a charge of an offence against section 141, 142, 143 or 144; or
- (b) for an examination of witnesses in relation to such a charge;

must be before a Magistrate.

**(3)** If a proceeding for an offence against section 141, 142, 143 or 144 is brought before a justice instead of a Magistrate, jurisdiction is limited to taking or making a procedural action or order within the meaning of the *Justices of the Peace and Commissioners for Declarations Act 1991*.

**(4)** A summary proceeding for an offence against section 141, 142, 143

or 144 must not be started more than 1 year after the offence was committed.

(5) If a Magistrate hearing and determining a charge of an offence against section 141, 142, 143 or 144 is of the opinion that the charge ought to be prosecuted on indictment, the Magistrate—

- (a) must not determine the charge summarily; and
- (b) must proceed by way of an examination of witnesses in relation to an indictable offence.

(6) Despite section 139 of the *Justices Act 1886*, a summary proceeding for an offence against section 141, 142, 143 or 144 may be heard and determined at any place appointed for holding Magistrates Courts regardless of where the offence was committed.

(7) If a Magistrate acts under subsection (5)—

- (a) the plea of the person charged at the start of the proceeding must be disregarded; and
- (b) the evidence brought in the proceeding before the Magistrate decided to act under subsection (5) is taken to be evidence in the proceeding with a view to the committal of the person for trial or sentence; and
- (c) before committing the person for trial or sentence the Magistrate must make a statement to the person in accordance with section 104(2)(b) of the *Justices Act 1886*.

(8) The maximum penalty that may be imposed for a summary conviction of an offence against—

- (a) section 141, 142 or 143 is imprisonment for 2 years; or
- (b) section 144 is imprisonment for 1 year.

## **Rescuing patients under Mental Health Act 1974**

**146.** Any person who—

- (a) rescues any person during the person's conveyance as a patient (within the meaning of the *Mental Health Act 1974*) to a psychiatric hospital, or to a prison, or rescues any person during the person's confinement as such a patient in any such place; or

- (b) being in charge of a person during the person's conveyance as such a patient to any such place, wilfully permits the person to escape from custody; or
- (c) being a superintendent of, or person employed in, any such place, wilfully permits a person confined therein as such a patient to escape therefrom; or
- (d) conceals any such person as aforesaid who has, to the person's knowledge, been rescued during such conveyance or confinement, or has, to the person's knowledge, escaped during such conveyance, or from such confinement;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

### **Removing etc. property under lawful seizure**

**147.** Any person who, when any property has been attached or taken under the process or authority of any court of justice, knowingly, and with intent to hinder or defeat the attachment, or process, receives, removes, retains, conceals, or disposes of, such property, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

### **Obstructing officers of courts of justice**

**148.(1)** Any person who wilfully obstructs or resists any person lawfully charged with the execution of an order or warrant of any court of justice is guilty of a misdemeanour, and is liable to imprisonment for 1 year, or to a fine of \$200.

**(2)** Or the person may be summarily convicted before 2 justices, in which case the person is liable to imprisonment for 6 months, or to a fine of \$100.

## CHAPTER 18—OFFENCES RELATING TO THE COIN

### Definitions

**149.** In this Chapter—

“**copper**”, applied to coin, includes any metal of less value than the silver or alloy of silver used in the silver coin of the country in question;

“**counterfeit**”, applied to coin, means coin not genuine but resembling or apparently intended to resemble or pass for genuine coin, and includes genuine coin which has been prepared or altered so as to resemble or be apparently intended to resemble or pass for coin of a higher denomination, and also genuine coin which has been clipped or filed, or the size or weight of which has been otherwise diminished, and which has been prepared or altered so as to conceal such clipping, filing, or diminution, and it includes any such coin whether it is or is not in a fit state to be uttered, and whether the process of preparation or alteration is or is not complete;

“**current**”, applied to coin, includes coin of any of the kinds or denominations of coin which are coined in any of Her Majesty’s mints, or are lawfully current by virtue of any proclamation or otherwise in any part of Her Majesty’s dominions whether within the United Kingdom or elsewhere;

“**gild**” and “**silver**”, applied to coin, include producing the appearance of gold or silver respectively by any means whatever;

“**metal**” includes any mixture or alloy of metals;

“**utter**” means and includes using, dealing with, or acting upon, and attempting to use, deal with, or act upon, and attempting to induce any person to use, deal with, or act upon, the thing in question as if it were genuine.

### Counterfeiting gold and silver coin

**150.(1)** Any person who makes or begins to make any counterfeit gold or silver coin is guilty of a crime.

(2) If the crime is committed with respect to current coin, the person is liable to imprisonment for life, with or without solitary confinement.

(3) If the crime is committed with respect to coin of a foreign prince or state, the person is liable to imprisonment for 7 years, with or without solitary confinement.

### **Preparation for coining gold and silver coin**

**151.(1)** Any person who—

- (a) gilds or silvers any piece of metal of a fit size or figure to be coined, with intent that it shall be coined into counterfeit gold or silver coin; or
- (b) makes any piece of metal into a fit size or figure to facilitate the coining from it of any counterfeit gold or silver 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 the person—
  - (i) buys, sells, receives, pays, or disposes of, any counterfeit gold or silver coin at a lower rate than it imports or is apparently intended to import, or offers to do any such thing; or
  - (ii) brings or receives into Queensland any counterfeit gold or silver coin, knowing it to be counterfeit; or
  - (iii) makes or mends, or begins or prepares to make or mend, or has in the person's possession, or disposes of, any stamp or mould which is adapted to make the resemblance of both or either of the sides of any gold or silver coin, or any part of either side thereof, knowing the same to be such a stamp or mould, or to be so adapted; or
  - (iv) makes or mends, or begins or prepares to make or mend, or has in the person's 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 gold or silver coin, knowing the same to be so adapted and

intended; or

- (v) makes or mends, or begins or prepares to make or mend, or has in the person's possession, or disposes of, any press for coinage, or any tool, instrument, or machine, which is adapted for cutting round blanks out of gold, silver, or other metal, knowing such press, tool, instrument, or machine, to have been used or to be intended to be used for making any counterfeit gold or silver coin; or
- (vi) knowingly conveys out of any of Her Majesty's mints any stamp, mould, tool, instrument, machine, or press, used or employed in coining, or any useful part of any of such things, or any coin, bullion, or metal;

is guilty of a crime.

(2) If the crime is committed with respect to current coin, the person is liable to imprisonment for life, with or without solitary confinement.

(3) If the crime is committed with respect to the coin of a foreign prince or state, the person is liable to imprisonment for 7 years, with or without solitary confinement.

### **Clipping**

**152.** Any person who deals with any current gold or silver coin in such a manner as to diminish its weight, with intent that when so dealt with it may pass as current gold or silver coin, is guilty of a crime, and is liable to imprisonment for life.

### **Possession of clippings**

**153.** Any person who unlawfully has in the person's possession or disposes of any filings or clippings of gold or silver, or any gold or silver in bullion, dust, solution, or any other state, obtained by dealing with current gold or silver coin in such a manner as to diminish its weight, knowing the same to have been so obtained, is guilty of a crime, and is liable to imprisonment for 7 years, with or without solitary confinement.

**Uttering counterfeit gold or silver coin**

**154.(1)** Any person who utters any counterfeit gold or silver coin, knowing it to be counterfeit, is guilty of a misdemeanour.

(2) If the offence is committed with respect to current coin, the person is liable to imprisonment for 2 years, with or without solitary confinement.

(3) If the offence is committed with respect to coin of a foreign prince or state, the person is liable to imprisonment for 1 year.

(4) A person found committing the offence may be arrested without warrant.

**Repeated uttering of counterfeit current gold or silver coin, or possession of several such coins**

**155.(1)** Any person who—

- (a) utters any counterfeit gold or silver coin, knowing it to be counterfeit, and at the time of such uttering has in the person's possession any other counterfeit gold or silver coin; or
- (b) utters any counterfeit gold or silver coin, knowing it to be counterfeit, and either on the same day or on any of the 10 days next ensuing utters any other counterfeit current gold or silver coin knowing it to be counterfeit; or
- (c) has in the person's possession 3 or more pieces of counterfeit current gold or silver coin, knowing them to be counterfeit, and with intent to utter any of them;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years, with or without solitary confinement.

(2) A person found committing the offence may be arrested without warrant.

**Offences after previous conviction**

**156.** Any person who commits any of the offences defined in sections 154 and 155, after having been previously convicted of any of those offences committed with respect to current coin or of any crime committed with respect to current coin, or after having been twice

previously convicted of any of those offences committed with respect to coin of a foreign prince or state, is guilty of a crime, and is liable to imprisonment for life, with or without solitary confinement.

### **Counterfeiting copper coin**

**157.(1)** Any person who—

- (a) makes or begins to make any counterfeit copper coin; or
- (b) without lawful authority or excuse, the proof of which lies on the person—
  - (i) makes or mends, or begins or prepares to make or mend, or has in the person's possession, or disposes of, any tool, instrument, or machine, which is adapted and intended for making any counterfeit copper coin, knowing the same to be so adapted and intended; or
  - (ii) buys, sells, receives, pays, or disposes of, any counterfeit copper coin at a lower rate than it imports or was apparently intended to import, or offers to do any such thing;

is guilty of an offence.

**(2)** If the offence is committed with respect to current coin, the offender is guilty of a crime, and is liable to imprisonment for 7 years, with or without solitary confinement.

**(3)** If the offence is committed with respect to coin of a foreign prince or state, the offender is guilty of a misdemeanour, and is liable on conviction to imprisonment for 12 months.

**(4)** If found committing the offence, the offender may be arrested without warrant.

**(5)** If the offence is committed with respect to coin of a foreign prince or state, and the offender has been previously convicted of any such offence, the offender is guilty of a crime, and is liable to imprisonment for 7 years, with or without solitary confinement.

**Uttering base copper coin**

**158.(1)** Any person who—

- (a) utters any counterfeit current copper coin, knowing it to be counterfeit; or
- (b) has in the person's possession 3 or more pieces of counterfeit current copper coin, knowing them to be counterfeit, and with intent to utter any of them;

is guilty of a misdemeanour, and is liable to imprisonment for 1 year, with or without solitary confinement.

(2) A person found committing the offence may be arrested without warrant.

**Defacing coin by stamping words thereon**

**159.(1)** Any person who defaces any current coin by stamping thereon any name or word, whether the weight of the coin is or is not thereby diminished, is guilty of a misdemeanour, and is liable to imprisonment for 1 year.

(2) A person found committing the offence may be arrested without warrant.

**Uttering foreign coin, medals etc. as current coin with intent to defraud**

**160.(1)** Any person who, with intent to defraud, utters as and for current gold or silver coin—

- (a) any coin which is not current coin; or
- (b) any medal or piece of metal, whether a coin or not, which is of less value than the current coin as and for which it is uttered;

is guilty of a misdemeanour, and is liable to imprisonment for 1 year, with or without solitary confinement.

(2) A person found committing the offence may be arrested without warrant.

**Exporting counterfeit coin**

**161.(1)** Any person who without lawful authority or excuse, the proof of which lies on the person, exports or puts on board of a vessel or vehicle of any kind, for the purpose of being exported from Queensland, any counterfeit current coin whatever, knowing it to be counterfeit, is guilty of a misdemeanour, and is liable to imprisonment for 2 years, with or without solitary confinement.

(2) A person found committing the offence may be arrested without warrant.

**Having possession of more than 5 pieces of counterfeit foreign coin**

**162.(1)** Any person who without lawful authority or excuse, the proof of which lies on the person, has in the person's possession more than 5 pieces of counterfeit coin of any foreign prince or state is guilty of an offence, and is liable on summary conviction to a fine not exceeding \$4 and not less than \$1 for every such counterfeit coin found in the person's possession, and to forfeiture of the counterfeit coin, which is to be destroyed by order of the justices.

(2) In default of immediate payment of the fine, the person is liable to imprisonment for 3 months, unless the fine is sooner paid.

**Tender of defaced coin not legal tender—penalty for uttering**

**163.(1)** Any person who utters any current coin which is defaced by the stamping of any name or word thereon is guilty of an offence, and is liable on summary conviction to a fine of \$4.

(2) A prosecution for any such offence cannot be commenced without the consent of a Crown Law Officer.

(3) A tender of payment in money made in any coin so defaced is not a legal tender.

## **CHAPTER 19—OFFENCES RELATING TO POSTS AND TELEGRAPHS**

### **Stopping mails**

**164.** Any person who stops a mail conveyance, or stops any person engaged in conveying or delivering a mail, with intent to search the mail, is guilty of a crime, and is liable to imprisonment for life.

### **Intercepting things sent by post or telegraph**

**165.** Any person who unlawfully secretes or destroys anything which is in course of transmission by post or telegraph, or any part of any such thing, is guilty of a crime, and is liable on conviction to imprisonment for 7 years.

### **Tampering with things sent by post or telegraph**

**166.** Any person who, being employed by or under the Post and Telegraph Department, does with respect to anything which is in course of transmission by post or telegraph any act which the person is not authorised to do by virtue of the person's employment, or knowingly permits any other person to do any such act with respect to any such thing, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

### **Wilful misdelivery of things sent by post or telegraph**

**167.** Any person who, being charged, by virtue of the person's employment, or by virtue of any contract, with the delivery of anything sent by post or telegraph, wilfully delivers it to a person other than the person to whom it is addressed, or the person's authorised agent in that behalf, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

### **Obtaining letters by false pretences**

**168.** Any person who by means of any false pretence induces any person employed by or under the Post and Telegraph Department to deliver to the first person anything sent by post or telegraph which is not addressed to the

first person, is guilty of a misdemeanour, and is liable on conviction to imprisonment for 2 years.

### **Secreting letters**

**169.** Any person who wilfully secretes or detains anything sent by post or telegraph which is found by the person, or which is wrongly delivered to the person, and which, in either case, ought, to the person's knowledge, to have been delivered to another person, is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

### **Fraudulent issue of money orders and postal notes**

**170.** Any person who, being employed by or under the Post and Telegraph Department, and being charged by virtue of the person's employment with any duty in connection with the issue of money orders or postal notes, unlawfully, and with intent to defraud, issues a money order or postal note, is guilty of a crime, and is liable to imprisonment for 7 years.

### **Fraudulent messages respecting money orders**

**171.** Any person who, being employed by or under the Post and Telegraph Department, and being charged by virtue of the person's employment with any duty in connection with money orders, sends to any other person, with intent to defraud, any false or misleading letter, telegram, or message, concerning a money order, or concerning any money payable under a money order, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

### **Sending dangerous or obscene things by post**

**172.** Any person who knowingly sends, or attempts to send, by post—

- (a) anything which encloses anything, whether living or inanimate, of such a nature as to be likely to injure any other thing in the course of conveyance, or to injure any person; or
- (b) anything which encloses an indecent or obscene print, painting, photograph, lithograph, engraving, book, card, or article, or which

has on it, or in it, or on its cover, any indecent, obscene, or grossly offensive words, marks, or designs;

is guilty of a misdemeanour, and is liable to imprisonment for 1 year.

### **Retarding delivery of mails etc.**

**173.** Any person who—

- (a) being required by law or by virtue of the person's employment to do any act with respect to the receipt, dispatch, or delivery, of anything which is or may be transmitted by post or telegraph—
  - (i) neglects or refuses to do such act; or
  - (ii) wilfully detains or delays, or permits the detention or delay of, any such thing; or
- (b) being employed by or under the Post and Telegraph Department, negligently loses anything sent by post or telegraph, or negligently detains or delays, or permits the detention or delay of, anything sent by post or telegraph;

is guilty of an offence, and is liable on summary conviction to a fine of \$200.

### **Obstructing mails**

**174.** Any person who wilfully obstructs or delays the conveyance or delivery of a mail is guilty of an offence, and is liable on summary conviction to a fine of \$100.

### **Penalty on mail-coach driver or guards loitering**

**175.** Any person who, being a driver of a vehicle used for the conveyance of mails, or being a person in charge of a mail, whether conveyed by a vehicle, or on horseback, or foot—

- (a) loiters on the road; or
- (b) wilfully misspends or loses time; or
- (c) is under the influence of intoxicating liquor; or

- (d) does not convey the mail at the speed fixed by the Postmaster-General for the conveyance thereof, unless prevented by some cause beyond the person's control, the proof whereof lies on the person charged;

is guilty of an offence, and is liable on summary conviction to a fine of \$20.

### **Fraudulently removing stamps**

**176.(1)** Any person who, with intent to defraud—

- (a) removes from anything sent by post any stamp affixed thereon; or
- (b) removes from any stamp previously used, any mark made thereon at a post office; or
- (c) knowingly uses a postage stamp which has been obliterated or defaced by a mark made thereon at a post office;

is guilty of an offence, and is liable on summary conviction to imprisonment for 1 year, or to a fine of \$100.

**(2)** On the trial of a person charged with the offence of knowingly using a postage stamp which has been obliterated or defaced by a mark made thereon at a post office, proof that the person charged is the writer of the address of anything sent by post on which the stamp is affixed is sufficient evidence that the person is the person who used the stamp, until the contrary is shown.

### **Fraudulent evasion of postal laws**

**177.** Any person who—

- (a) knowingly and fraudulently puts into a post office anything in or upon which, or in or upon the cover of which, there is any letter, newspaper, or other thing, or any writing or mark, not allowed by law to be there placed; or
- (b) wilfully subscribes on the outside of anything sent by post a false statement of its contents; or
- (c) knowingly and fraudulently puts into a post office anything which falsely purports to be a thing falling within any exemption or

privilege declared by the laws relating to posts and telegraphs;  
is guilty of an offence, and is liable on summary conviction to a fine of \$100.

### **Carrying letters otherwise than by post**

**178.(1)** Any person who, not being authorised by the Postmaster-General to do so—

- (a) sends or conveys a letter for hire or reward otherwise than by post; or
- (b) takes charge of a letter for conveyance for hire or reward;

is guilty of an offence, and is liable on summary conviction to a fine of \$100.

**(2)** Every letter sent, conveyed, or taken charge of to be conveyed otherwise than by post, is deemed to have been so sent, conveyed or taken charge of, for hire or reward, until the contrary is proved.

**(3)** This section does not extend to a letter exceeding the weight prescribed by law for letters sent by post, nor to a letter concerning goods sent and to be delivered with it, or containing process of, or proceedings or pleadings in, a court of justice, or briefs or cases or instructions for counsel and their opinions thereon, or containing a deed, affidavit, or power of attorney, nor to a letter sent by a special messenger and concerning the private affairs of the sender, nor to a letter sent or carried to or from the nearest post office.

### **Illegally making postal envelopes or setting up post office or office for sale of stamps or obstructing post office**

**179.** Any person who—

- (a) without lawful authority or excuse, the proof of which lies on the person—
  - (i) makes any envelope, wrapper, card, form, or paper, in imitation of one issued by or under the authority of the Postmaster-General of Queensland or of the postal authority of any other country, or having thereon any word, letter, or

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mark, which signifies or implies, or may reasonably induce a person receiving it to believe, that a letter, newspaper, packet, or parcel, bearing such word, letter, or mark, is sent on Her Majesty's service, or on the public service of another country; or

- (ii) makes on any envelope, wrapper, card, form, or paper, in order to its being issued or sent by post or otherwise, any stamp or mark in imitation of a stamp or mark of any post office under the control of the Postmaster-General of Queensland or of the postal authority of any other country, or any other stamp or mark, or any word or letter, which signifies or implies, or may reasonably induce a person receiving it to believe, that a letter, newspaper, packet, or parcel, bearing such stamp, mark, word, or letter, is sent on Her Majesty's service, or on the public service of another country; or
  - (iii) issues or sends by post or otherwise, any envelope, wrapper, card, form, or paper, so marked; or
- (b) without the authority of the Postmaster-General, the proof of which lies on the person charged—
- (i) places or maintains, or permits to be placed or maintained, or to remain in, on, or near, any place under the person's control the words 'post office', or any word, letter, or mark, which signifies or implies, or may reasonably induce any person to believe that the place is a post office; or
  - (ii) places, or permits to be placed or to remain, on any vehicle under the person's control the words 'Royal mail', or any word, letter, or mark, which signifies or implies, or may reasonably induce any person to believe that the vehicle is used for the conveyance of mails; or
- (c) without the licence of the Postmaster-General, the proof of which lies on the person charged—
- (i) sells, or offers or exposes for sale, any postage stamp; or
  - (ii) places, or permits to be placed or to remain, on or near to the person's house or premises the words 'licensed to sell

stamps', or any word, letter, or mark, which signifies or implies, or may reasonably induce any person to believe, that the person is duly licensed to sell postage stamps;

is guilty of an offence, and is liable on summary conviction to a fine of \$10.

### **Destroying or damaging letter receivers**

**180.** Any person who wilfully destroys or damages any receptacle provided by authority of the Postmaster-General for the reception of anything intended to be sent by post, or any card or notice relating to the postal service or telegraph service set up by authority of the Postmaster-General, or obliterates any letter or figure on any such thing, is guilty of an offence, and is liable on summary conviction to a fine of \$100.

### **Placing injurious substances in or against letter boxes**

**181.** Any person who places in or against any receptacle provided by authority of the Postmaster-General for the reception of anything intended to be sent by post, or telegraph, any fire or match, or any explosive, dangerous, noxious, or deleterious, substance, or any fluid or filth, is guilty of an offence, and is liable on summary conviction to a fine of \$40.

### **Obstructing post and telegraph offices**

**182.** Any person who, by stopping or loitering opposite to or on the premises of a post office or telegraph office, obstructs the business of the office, or any person lawfully going to the office, is guilty of an offence, and is liable on summary conviction to a fine of \$10.

### **Obstructing post and telegraph officers in the execution of duty etc.**

**183.(1)** Any person who—

- (a) wilfully obstructs a person employed by or under the Post and Telegraph Department in the execution of the duties of the person's employment; or
- (b) being in a post office or telegraph office, or within any premises appertaining to a post office or telegraph office, or used therewith,

wilfully obstructs the business of the office;

is guilty of an offence, and is liable on summary conviction to a fine of \$4.

(2) Any person employed by or under the Post and Telegraph Department may require any person committing any of the offences defined in this section to leave the post office, or telegraph office, or premises.

(3) Any person who refuses or fails to comply with such request is guilty of an offence, and is liable on summary conviction to a further fine of \$10, and may be removed by any person authorised to make the request; and all police officers are required, on demand, to remove or assist in removing such person.

### **Interference with telegraphs**

**184.(1)** Any person who wilfully and unlawfully—

- (a) destroys, damages, or removes, any part of any apparatus used in the working of, or in connection with, an electric telegraph under the control of the Postmaster-General; or
- (b) prevents or obstructs the sending or delivering of a communication by any such telegraph;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

(2) Any justice before whom a person is charged with any such offence may, if the justice thinks fit, direct the charge to be dealt with summarily; and in that case the offender is liable on summary conviction to imprisonment for 3 months, or to a fine of \$40.

(3) A person found committing or attempting to commit any such offence may be arrested without warrant.

### **Attempt to injure telegraphs**

**185.** Any person who attempts to commit any of the offences defined in section 184, is guilty of an offence, and is liable on summary conviction to imprisonment for 3 months, or to a fine of \$20.

**Negligently injuring telegraphs**

**186.** Any person who negligently destroys or damages any post, wire, or material, used in connection with an electric telegraph under the control of the Postmaster-General, is guilty of an offence, and is liable on summary conviction to a fine of \$4.

**Violation of secrecy**

**187.** Any person who, being employed in a telegraph office, publishes or communicates the contents or substance of a telegram, except to some person to whom the person is authorised to deliver the telegram, is guilty of an offence, and is liable on summary conviction to imprisonment for 6 months, or to a fine of \$200.

**Making charges for use of telegraph line without authority**

**188.** Any person who, having become entitled under an agreement with the Postmaster-General to the use of a telegraph line, demands or receives any payment or valuable consideration from any other person for the use of the line, is guilty of an offence, and is liable on summary conviction to a fine of \$100.

**Erection or maintenance of telegraph lines without authority**

**189.(1)** Any person who, without the authority of the Postmaster-General, the proof of which lies on the person charged—

- (a) sets up, maintains, or uses, a telegraph line on any Crown lands, or on any public road, street, or highway; or
- (b) knowingly uses a telegraph line that has been set up in or on any such lands or place;

and in either case neglects to comply with a notice from the Postmaster-General to pay such charges (if any) in respect of the line as may from time to time be fixed by the Governor in Council, is guilty of an offence, and is liable on summary conviction to a fine of \$10 for every day during which the line continues to be so set up, maintained, or used.

- (2) The Postmaster-General may at any time authorise any person to take

absolute possession of, and to cut down and destroy, the whole or any part of any telegraph line that has been set up in or on any such lands or place.

### **Obstructing possession of post and telegraph officers etc.**

**190.** Any person who wilfully obstructs or delays any person duly authorised by the Postmaster-General to enter into a post office or telegraph office, and to take possession of anything therein which belongs or appertains to the Post and Telegraph Department, in so entering or taking possession, or wilfully interferes with any such person who has so entered while the authorised person is remaining in the post office or telegraph office, or on the premises where the post office or telegraph office is situated, for a reasonable time for the purpose of taking such possession, is guilty of an offence, and is liable on summary conviction to a fine of \$40.

### **Resisting officers**

**191.** Any person who resists a person employed by or under the Post and Telegraph Department while engaged in the execution of the person's duty under the laws relating to posts and telegraphs is guilty of an offence, and is liable on summary conviction to imprisonment for 3 months, or to a fine of \$40.

## **CHAPTER 20—MISCELLANEOUS OFFENCES AGAINST PUBLIC AUTHORITY**

### **False statements in statements required to be under oath or solemn declaration**

**193.(1)** Any person who, on any occasion on which a person making a statement touching any matter is required by law to make it on oath or under some sanction which may by law be substituted for an oath, or is required to verify it by solemn declaration or affirmation, makes a statement touching such matter which, in any material particular, is to the person's knowledge false, and verifies it on oath or under such other sanction or by solemn declaration or affirmation, is guilty of a crime, and is liable to

imprisonment for 7 years.

- (2) The offender cannot be arrested without warrant.

### **False declarations and statements**

**194.** Any person who, on any occasion on which the person is permitted or required by law to make a statement or declaration before any person authorised by law to permit it to be made before the other person, makes a statement or declaration before that person which, in any material particular, is to the person's knowledge false, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

### **Evidence**

**195.** A person cannot be convicted of any of the offences defined in sections 193 and 194 upon the uncorroborated testimony of 1 witness.

### **Shooting at customs boats or officers**

**196.** Any person who—

- (a) shoots at a vessel of any kind which is in use by an officer of customs while engaged in the execution of the officer's duty as such officer; or
- (b) shoots at, wounds, or causes any grievous bodily harm to, an officer of customs while engaged in the execution of the officer's duty in the prevention of smuggling, or any person acting in aid of an officer of customs while so engaged;

is guilty of a crime, and is liable to imprisonment for 14 years.

### **Resisting officers engaged in preventing smuggling**

**197.** Any person who with violence assaults, obstructs, or resists, an officer of customs, or any person duly employed for the prevention of smuggling, while engaged in the execution of his or her duty in the prevention of smuggling, or any person acting in aid of any such officer or person while so engaged, is guilty of a crime, and is liable to imprisonment for 3 years.

**Resisting customs officers**

**198.** Any person who—

- (a) assaults or obstructs an officer of customs, or any person duly employed for the prevention of smuggling, while engaged in the execution of his or her duty under any law relating to the customs, or in the seizure of any goods claimed to be liable to forfeiture under any such law, or any person acting in aid of any such officer or person while so engaged; or
- (b) rescues or attempts to rescue any goods which have been seized under any such law; or
- (c) before, at, or after, the seizure of any goods under any such law, staves, breaks, or destroys, the goods with intent to prevent the seizure or the securing of the goods, or attempts to do any such act;

is guilty of an offence, and is liable on summary conviction to a fine of \$200.

**Resisting public officers**

**199.** Any person who in any manner obstructs or resists any public officer while engaged in the discharge or attempted discharge of the duties of his or her office under any statute, or obstructs or resists any person while engaged in the discharge or attempted discharge of any duty imposed on the person by any statute, is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

**Refusal by public officer to perform duty**

**200.** Any person who, being employed in the public service, or as an officer of any court or tribunal, perversely and without lawful excuse omits or refuses to do any act which it is his or her duty to do by virtue of his or her employment is guilty of a misdemeanour, and is liable to imprisonment for 2 years, and to be fined at the discretion of the court.

**Neglect of officers to suppress riot**

**201.** Any person who, being a sheriff, under sheriff, justice, mayor, or police officer, and having notice that there is a riot in the person's neighbourhood, without reasonable excuse omits to do the person's duty in suppressing such riot, is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

**Neglect to aid in suppressing riot**

**202.** Any person who, having reasonable notice that the person is required to assist any sheriff, under sheriff, justice, mayor, or police officer, in suppressing a riot, without reasonable excuse omits to do so, is guilty of a misdemeanour, and is liable to imprisonment for 1 year.

**Neglect to aid in arresting offenders**

**203.** Any person who, having reasonable notice that the person is required to assist any sheriff, under sheriff, justice, mayor, or police officer, in arresting any person, or in preserving the peace, without reasonable excuse omits to do so, is guilty of a misdemeanour, and is liable to imprisonment for 1 year.

**Disobedience to statute law**

**204.(1)** Any person who without lawful excuse, the proof of which lies on the person, does any act which the person is, by the provisions of any public statute in force in Queensland, forbidden to do, or omits to do any act which the person is, by the provisions of any such statute, required to do, is guilty of a misdemeanour, unless some mode of proceeding against the person for such disobedience is expressly provided by statute, and is intended to be exclusive of all other punishment.

**(2)** The offender is liable to imprisonment for 1 year.

**Disobedience to lawful order issued by statutory authority**

**205.(1)** Any person who without lawful excuse, the proof of which lies on the person, disobeys any lawful order issued by any court of justice, or

by any person authorised by any public statute in force in Queensland to make the order, is guilty of a misdemeanour, unless some mode of proceeding against the person for such disobedience is expressly provided by statute, and is intended to be exclusive of all other punishment.

(2) The offender is liable to imprisonment for 1 year.

## **PART 4—ACTS INJURIOUS TO THE PUBLIC IN GENERAL**

### **CHAPTER 21—OFFENCES RELATING TO RELIGIOUS WORSHIP**

#### **Offering violence to officiating ministers of religion**

**206.** Any person who—

- (a) by threats or force prevents or attempts to prevent any minister of religion from lawfully officiating in any place of religious worship, or from performing the minister's duty in the lawful burial of the dead in any cemetery or other burial place; or
- (b) by threats or force obstructs or attempts to obstruct any minister of religion while so officiating or performing minister's duty; or
- (c) assaults, or, upon or under the pretence of executing any civil process, arrests, any minister of religion who is engaged in, or is, to the knowledge of the offender, about to engage in, any of the offices or duties aforesaid, or who is, to the knowledge of the offender, going to perform the same or returning from the performance thereof;

is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

#### **Disturbing religious worship**

**207.** Any person who wilfully and without lawful justification or excuse,

the proof of which lies on the person, disquiets or disturbs any meeting of persons lawfully assembled for religious worship, or assaults any person lawfully officiating at any such meeting, or any of the persons there assembled, is guilty of an offence, and is liable on summary conviction to imprisonment for 2 months, or to a fine of \$10.

## **CHAPTER 22—OFFENCES AGAINST MORALITY**

### **Unlawful anal intercourse**

**208.(1)** Any person who—

- (a) has carnal knowledge by anal intercourse of any person not an adult; or
- (b) permits a male person not an adult to have carnal knowledge of him or her by anal intercourse;

is guilty of a crime and is liable to imprisonment for 7 years.

**(2)** In a case where the offence is committed in respect of a child under the age of 16 years, the offender is liable to imprisonment—

- (a) for 14 years unless it is a case to which paragraph (b) applies; or
- (b) for life—
  - (i) if the child is under the age of 12 years; or
  - (ii) if the child, to the knowledge of the offender, is the lineal descendant of the offender; or
  - (iii) if the offender is the guardian of the child; or
  - (iv) if the child, for the time being, is under the care of the offender.

**(3)** It is a defence to a charge under this section to prove that the accused person believed, on reasonable grounds, that the person in respect of whom the offence was committed was an adult.

**(4)** A person may be convicted of an offence defined in this section upon the uncorroborated testimony of 1 witness, but the court shall warn the jury

of the danger of acting on such testimony unless they find that it is corroborated in some material particular by other evidence implicating that person.

### **Attempt to have unlawful anal intercourse**

**209.(1)** Any person who attempts to commit a crime defined in section 208 is guilty of a crime and is liable to imprisonment for 3 years.

**(2)** In a case where the offence is committed in respect of a child under the age of 16 years, the offender is liable to imprisonment—

- (a) for 7 years unless it is a case to which paragraph (b) applies; or
- (b) for 14 years—
  - (i) if the child is under the age of 12 years; or
  - (ii) if the child, to the knowledge of the offender, is the lineal descendant of the offender; or
  - (iii) if the offender is the guardian of the child; or
  - (iv) if the child, for the time being, is under the care of the offender.

**(3)** It is a defence to a charge under this section to prove that the accused person believed, on reasonable grounds, that the person in respect of whom the offence was committed was an adult.

**(4)** A person may be convicted of an offence defined in this section upon the uncorroborated testimony of 1 witness, but the court shall warn the jury of the danger of acting on such testimony unless they find that it is corroborated in some material particular by other evidence implicating that person.

**(5)** The offender cannot be arrested without a warrant unless the offence is committed in respect of a child under the age of 16.

### **Indecent treatment of children under 16**

**210.(1)** Any person who—

- (a) unlawfully and indecently deals with a child under the age of 16 years;

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- (b) unlawfully procures a child under the age of 16 years to commit an indecent act;
- (c) unlawfully permits himself or herself to be indecently dealt with by a child under the age of 16 years;
- (d) wilfully and unlawfully exposes a child under the age of 16 years to an indecent act by the offender or any other person;
- (e) without legitimate reason, wilfully exposes a child under the age of 16 years to any indecent object or any indecent film, videotape, audiotape, picture, photograph or printed or written matter;
- (f) without legitimate reason, takes any indecent photograph or records, by means of any device, any indecent visual image of a child under the age of 16 years,

is guilty of an indictable offence.

(2) If the child is of or above the age of 12 years, the offender is guilty of a misdemeanour, and is liable to imprisonment for 5 years.

(3) If the child is under the age of 12 years, the offender is guilty of a crime, and is liable to imprisonment for 10 years.

(4) If the child is, to the knowledge of the offender, the offender's lineal descendant or if the offender is the guardian of the child or, for the time being, has the child under the offender's care, the offender is guilty of a crime, and is liable to imprisonment for 10 years.

(5) If the offence is alleged to have been committed in respect of a child of or above the age of 12 years, it is a defence to prove that the accused person believed, on reasonable grounds, that the child was of or above the age of 16 years.

(6) A person may be convicted of an offence defined in this section upon the uncorroborated testimony of 1 witness, but the court shall warn the jury of the danger of acting on such testimony unless they find that it is corroborated in some material particular by other evidence implicating that person.

(7) In this section—

**“deals with”** includes doing any act which, if done without consent, would constitute an assault as defined in this Code.

**Carnal knowledge of animal**

**211.** Any person who has carnal knowledge of an animal is guilty of a crime and is liable to imprisonment for 7 years.

**Householder permitting abuse of children on householder's premises**

**213.(1)** Any person who, being the owner or occupier of any premises, or having, or acting or assisting in, the management or control of any premises, induces or knowingly permits any child under the age of 16 years to be in or upon the premises for the purpose of any person, whether a particular person or not, doing an act in relation to the child (a “**proscribed act**”) defined to constitute an offence in section 208, 210 or 215 is guilty of an indictable offence.

**(2)** If the child is of or above the age of 12 years, the offender is guilty of a misdemeanour, and is liable to imprisonment for 5 years.

**(3)** If the child is under the age of 12 years, the offender is guilty of a crime, and is liable to imprisonment—

- (a) for life, where the proscribed act is one defined to constitute an offence in section 208 or 215; or
- (b) for 10 years in any other case.

**(4)** Where the proscribed act is one defined to constitute an offence in section 210 or 215 and the child is of or above the age of 12 years, it is a defence to prove that the accused person believed, on reasonable grounds, that the child was of or above the age of 16 years.

**Carnal knowledge of girls under 16**

**215.(1)** Any person who has or attempts to have unlawful carnal knowledge of a girl under the age of 16 years is guilty of an indictable offence.

**(2)** If the girl is of or above the age of 12 years, the offender is guilty of a misdemeanour, and is liable to imprisonment for 5 years.

**(3)** If the girl is under the age of 12 years, the offender is guilty of a crime, and is liable to imprisonment for life or, in the case of an attempt to have unlawful carnal knowledge, to imprisonment for 10 years.

(4) If the girl is not the lineal descendant of the offender but the offender is her guardian or, for the time being, has her under the offender's care, the offender is guilty of a crime, and is liable to imprisonment for life or, in the case of an attempt to have unlawful carnal knowledge, to imprisonment for 14 years.

(5) If the offence is alleged to have been committed in respect of a girl of or above the age of 12 years, it is a defence to prove that the accused person believed, on reasonable grounds, that the girl was of or above the age of 16 years.

(6) A prosecution for an offence defined in this section, if not begun within 2 years after the offence is committed, shall not be begun without the consent of a Crown Law Officer.

(7) A person may be convicted of an offence defined in this section upon the uncorroborated testimony of 1 witness, but the court shall warn the jury of the danger of acting on such testimony unless they find that it is corroborated in some material particular by other evidence implicating that person.

### **Abuse of intellectually impaired persons**

**216.(1)** Any person who has or attempts to have unlawful carnal knowledge of an intellectually impaired person is, subject to subsection (3), guilty of a misdemeanour, and is liable to imprisonment for 5 years.

(2) Any person who—

- (a) unlawfully and indecently deals with an intellectually impaired person; or
- (b) unlawfully procures an intellectually impaired person to commit an indecent act; or
- (c) unlawfully permits himself or herself to be indecently dealt with by an intellectually impaired person; or
- (d) wilfully and unlawfully exposes an intellectually impaired person to an indecent act by the offender or any other person; or
- (e) without legitimate reason, wilfully exposes an intellectually impaired person to any indecent object or any indecent film, videotape, audiotape, picture, photograph or printed or written

matter; or

- (f) without legitimate reason, takes any indecent photograph or records, by means of any device, any indecent visual image of an intellectually impaired person;

is, subject to subsection (3), guilty of a misdemeanour, and is liable to imprisonment for 3 years.

**(3)** If the intellectually impaired person is not the lineal descendant of the offender but the offender is the guardian of that person or, for the time being, has that person under the offender's care, the offender is guilty of a crime, and is liable—

- (a) in the case of the offence of having unlawful carnal knowledge—to imprisonment for life;
- (b) in the case of an attempt to have unlawful carnal knowledge—to imprisonment for 14 years;
- (c) in the case of an offence defined in subsection (2)—to imprisonment for 10 years.

**(3A)** In the case of an offence defined in subsection (2), if the intellectually impaired person is, to the knowledge of the offender, the offender's lineal descendant, the offender is guilty of a crime, and is liable to imprisonment for 10 years.

**(4)** It is a defence to a charge of an offence defined in this section to prove—

- (a) that the accused person believed on reasonable grounds that the person was not an intellectually impaired person; or
- (b) that the doing of the act or the making of the omission which, in either case, constitutes the offence did not in the circumstances constitute sexual exploitation of the intellectually impaired person.

**(5)** A person may be convicted of an offence defined in subsection (1) or (2) upon the uncorroborated testimony of 1 witness, but the court shall warn the jury of the danger of acting on such testimony unless they find that it is corroborated in some material particular by other evidence implicating that person.

**(6)** In this section—

“**carnal knowledge**” includes carnal knowledge by anal intercourse;

“**deals with**” includes doing any act which, if done without consent, would constitute an offence.

### **Procuring young person etc. for carnal knowledge**

**217.(1)** A person who procures a person who is not an adult or is an intellectually impaired person to engage in carnal knowledge (either in Queensland or elsewhere) commits a crime.

Maximum penalty—imprisonment for 14 years.

(2) A person may be convicted of an offence against this section on the uncorroborated testimony of 1 witness, but the Judge must warn the jury of the danger of acting on the testimony unless they find that it is corroborated in some material particular by other evidence implicating the person.

(3) In this section—

“**carnal knowledge**” includes carnal knowledge by anal intercourse;

“**procure**” means knowingly entice or recruit for the purposes of sexual exploitation.

### **Procuring sexual acts by coercion etc.**

**218.(1)** A person who—

- (a) by threats or intimidation of any kind, procures a person to engage in a sexual act, either in Queensland or elsewhere; or
- (b) by a false pretence, procures a person to engage in a sexual act, either in Queensland or elsewhere; or
- (c) administers to a person, or causes a person to take, a drug or other thing with intent to stupefy or overpower the person to enable a sexual act to be engaged in with the person;

commits a crime.

Maximum penalty—imprisonment for 7 years.

(2) If the victim of an offence against this section is a child under the age of 16 or an intellectually impaired person, the maximum penalty to which

the offender is liable is imprisonment for 14 years.

(3) A person may be convicted of an offence against this section on the uncorroborated testimony of 1 witness, but the Judge must warn the jury of the danger of acting on the testimony unless they find that it is corroborated in some material particular by other evidence implicating the person.

### **Taking child under 16 for immoral purposes**

**219.(1)** Any person who takes or entices away, or detains a child who is under the age of 16 years and is not the spouse of that person for the purpose of any person, whether a particular person or not, doing an act in relation to the child (a “**proscribed act**”) defined to constitute an offence in section 208, 210 or 215 is guilty of a crime.

(2) If the child is of or above the age of 12 years, the offender is liable to imprisonment for 5 years.

(3) If the child is under the age of 12 years, the offender is liable to imprisonment—

- (a) for life, where the proscribed act is one defined to constitute an offence in section 208 or 215; or
- (b) for 10 years in any other case.

(4) Where the proscribed act is one defined to constitute an offence in section 210 or 215 and the child is of or above the age of 12 years, it is a defence to prove that the accused person believed, on reasonable grounds, that the child was of or above the age of 16 years.

### **Conspiracy to defile**

**221.(1)** Any person who conspires with another to induce any woman or girl, by means of any false pretence or other fraudulent means, to permit any man to have unlawful carnal knowledge of her is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

(2) A prosecution for an offence defined in this section shall not be instituted without the consent of the Attorney-General.

**Incest by man**

**222.(1)** Any person who carnally knows a woman or girl who is, to his knowledge, his daughter or other lineal descendant, or his sister, or his mother, is guilty of a crime, and is liable to imprisonment for life.

**(2)** Any person who attempts to have carnal knowledge of a woman or girl who is, to his knowledge, his daughter or other lineal descendant, or his sister, or his mother, is guilty of a crime, and is liable to imprisonment for 10 years.

**(3)** It is immaterial that the carnal knowledge was had, or that the attempt was made, with the consent of the woman or girl.

**Incest by adult female**

**223.(1)** Any woman or girl of or above the age of 18 years who permits her father or other lineal ancestor, or her brother, or her son, to have carnal knowledge of her, knowing him to be her father or other lineal ancestor, or her brother, or her son, as the case may be, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

**(2)** It is a defence to a charge of the offence defined in this section that the woman or girl was, at the time when she permitted her father or other lineal ancestor, or her brother, or her son, to have carnal knowledge of her, acting under his coercion.

**Attempts to procure abortion**

**224.** Any person who, with intent to procure the miscarriage of a woman, whether she is or is not with child, unlawfully administers to her or causes her to take any poison or other noxious thing, or uses any force of any kind, or uses any other means whatever, is guilty of a crime, and is liable to imprisonment for 14 years.

**The like by women with child**

**225.** Any woman who, with intent to procure her own miscarriage, whether she is or is not with child, unlawfully administers to herself any poison or other noxious thing, or uses any force of any kind, or uses any other means whatever, or permits any such thing or means to be

administered or used to her, is guilty of a crime, and is liable to imprisonment for 7 years.

### **Supplying drugs or instruments to procure abortion**

**226.** Any person who unlawfully supplies to or procures for any 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, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

### **Indecent acts**

**227.(1)** Any person who—

- (a) wilfully and without lawful excuse does any indecent act in any place to which the public are permitted to have access, whether on payment of a charge for admission or not; or
- (b) wilfully does any indecent act in any place with intent to insult or offend any person;

is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

**(2)** The offender may be arrested without warrant.

### **Obscene publications and exhibitions**

**228.(1)** Any person who knowingly, and without lawful justification or excuse—

- (a) publicly sells or exposes for sale any obscene book or other obscene printed or written matter, or any obscene picture, photograph, drawing, or model, or any other object tending to corrupt morals; or
- (b) exposes to view in any place to which the public are permitted to have access, whether on payment of a charge for admission or not, any obscene picture, photograph, drawing, or model, or any other object tending to corrupt morals; or
- (c) publicly exhibits any indecent show or performance, whether on payment of a charge for admission to see the show or

performance or not;

is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

(2) In the case of an offence defined in subsection (1)(a) or (b), if the matter or thing is obscene or tends to corrupt morals by reason of depicting a person who is or is represented to be—

- (a) a child under the age of 16 years—the offender is liable to imprisonment for 5 years; or
- (b) a child under the age of 12 years—the offender is liable to imprisonment for 10 years.

(3) In the case of an offence defined in subsection (1)(c), if a person appearing in the indecent show or performance is or is represented to be—

- (a) a child under the age of 16 years—the offender is liable to imprisonment for 5 years; or
- (b) a child under the age of 12 years—the offender is liable to imprisonment for 10 years.

(4) It is a defence to a charge of any of the offences defined in this section to prove that it was for the public benefit that the act complained of should be done.

(5) Whether the doing of any such act is or is not for the public benefit is a question of fact.

### **Knowledge of age immaterial**

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

### **Indictable offences against morality that may be dealt with summarily**

**229A.(1)** Where a person is charged before 2 justices with an offence defined in section 210 or 215 committed in respect of a child who was of or above the age of 14 years at the time of the alleged commission of the offence and was not at that time in the care of the accused person, then, if

the accused person admits that the accused person is guilty of the offence, the justices may deal with the charge summarily.

(1A) The offender is liable upon summary conviction to a fine of 100 penalty units or imprisonment for 2 years.

(2) A prosecution for an offence defined in subsection (1) in order to the summary conviction of an accused person must be begun within 2 years after the offence is committed.

(3) A complaint for an offence defined in subsection (1) in order to the summary conviction of the accused person may with the consent of the accused person also be heard and determined at a place appointed for holding Magistrates Courts within the Magistrates Courts District in which the accused person was arrested or served with the summons.

(4) The summary jurisdiction conferred by this section shall be exercised in the manner and be subject to the conditions prescribed by section 444 with respect to the summary trial and punishment of offenders who may be summarily convicted of indictable offences under the provisions of that section.

### **Maintaining a sexual relationship with a child under 16**

**229B.(1)** Any adult who maintains an unlawful relationship of a sexual nature with a child under the age of 16 years is guilty of a crime and is liable to imprisonment for 7 years.

(1A) A person shall not be convicted of the offence defined in subsection (1) unless it is shown that the offender, as an adult, has, during the period in which it is alleged that the offender maintained the relationship in issue with the child, done an act defined to constitute an offence of a sexual nature in relation to the child, other than an offence defined in section 210(1)(e) or (f), on 3 or more occasions and evidence of the doing of any such act shall be admissible and probative of the maintenance of the relationship notwithstanding that the evidence does not disclose the dates or the exact circumstances of those occasions.

(1B) If in the course of the relationship of a sexual nature the offender has committed an offence of a sexual nature for which the offender is liable to imprisonment for 5 years or more but less than 14 years, the offender is liable in respect of maintaining the relationship to imprisonment for

14 years.

**(1C)** If in the course of the relationship of a sexual nature the offender has committed an offence of a sexual nature for which the offender is liable to imprisonment for 14 years or more, the offender is liable in respect of maintaining the relationship to imprisonment for life.

**(1D)** If the offence defined in subsection (1) is alleged to have been committed in respect of a child of or above the age of 12 years, it is a defence to prove that the accused person believed, on reasonable grounds, that the child was of or above the age of 16 years at the commencement of the period in which the person maintained the relationship in issue.

**(2)** A person may be charged in 1 indictment with an offence defined in subsection (1) and with any other offence of a sexual nature alleged to have been committed by the person in the course of the relationship in issue in the first mentioned offence and the person may be convicted of and punished for any or all of the offences so charged.

**(2A)** However, where the offender is sentenced to a term of imprisonment for the first mentioned offence and a term of imprisonment for the other offence an order shall not be made directing that 1 of those sentences take effect from the expiration of deprivation of liberty for the other.

**(3)** A prosecution for an offence defined in subsection (1) shall not be commenced without the consent of a Crown Law Officer.

## **CHAPTER 22A—PROSTITUTION**

### **Definitions**

**229C.** In this Chapter—

“**address**” means current place of residence;

“**arrangement**” includes scheme, agreement, understanding, promise or undertaking, whether express or implied;

“**capacity**” means ability or power (whether direct or indirect), and includes ability or power that is exercisable because of, by way of, in breach of,

or by revocation of, any of, or any combination of, the following (whether or not they are enforceable)—

- (a) trusts;
- (b) arrangements;
- (c) practices;

**“control”** means the capacity of an entity to dominate, whether directly or indirectly, decision-making in relation to the financial and operating policies of another entity so as to enable the other entity to operate with the first entity in pursuing the first entity’s objectives;

**“entity”** means any legal, administrative or fiduciary arrangement, organisational structure or other party (including a person) having the capacity to deploy scarce resources in order to achieve objectives;

**“participate”** means enable, aid, facilitate, organise or control;

**“place”** includes—

- (a) vacant land (which may be held under more than 1 title or owner); and
- (b) a place in Queensland waters; and
- (c) premises;

**“premises”** includes—

- (a) a building or structure, or a part of a building or structure, of any type; and
- (b) a group of buildings or structures, or a part of a group of buildings or structures, of any type (which may be held under more than 1 title or owner); and
- (c) the land or water on which a building or structure is, or a group of buildings or structures are, situated (which may be held under more than 1 title or owner); and
- (d) a vehicle, caravan, vessel or aircraft;

**“publishing”** means publishing in Queensland or elsewhere by way of television, newspaper, radio or another form of communication.

**Meaning of “sexual act”**

**229D.(1)** A person engages in a “**sexual act**” if the person—

- (a) allows a sexual act to be done to the person’s body; or
- (b) does a sexual act to the person’s own body or the body of another person; or
- (c) otherwise engages in an act of an indecent nature with another person.

**(2)** Subsection (1)—

- (a) applies equally to males and females; and
- (b) is not limited to sexual intercourse or acts involving physical contact.

**Meaning of “prostitution”**

**229E.(1)** A person engages in “**prostitution**” if the person engages in a sexual act with another person under an arrangement of a commercial character.

**(2)** It is immaterial whether—

- (a) the arrangement is initiated with the person engaging in the sexual act or a third person; or
- (b) the pecuniary or other reward under the arrangement is to be received by the person engaging in the sexual act or a third person.

**Meaning of “intellectually impaired person”**

**229F.** A person is an “**intellectually impaired person**” if the person has a disability—

- (a) that is attributable to an intellectual, psychiatric, cognitive or neurological impairment or a combination of these; and
- (b) that results in—
  - (i) a substantial reduction of the person’s capacity for

- communication, social interaction or learning; and
- (ii) the person needing support.

### **Procuring prostitution**

**229G.(1)** A person who—

- (a) procures another person to engage in prostitution, either in Queensland or elsewhere; or
- (b) procures another person—
- (i) to leave Queensland for the purpose of engaging in prostitution elsewhere; or
- (ii) to come to Queensland for the purpose of engaging in prostitution; or
- (iii) to leave the other person's usual place of residence in Queensland for the purpose of engaging in prostitution, either in Queensland or elsewhere;

commits a crime.

Maximum penalty—imprisonment for 7 years.

(2) If the procured person is not an adult or is an intellectually impaired person, the offender is liable to a maximum penalty of 14 years imprisonment.

(3) A person may be convicted of an offence against this section on the uncorroborated testimony of 1 witness, but the Judge must warn the jury of the danger of acting on the testimony unless they find that it is corroborated in some material particular by other evidence implicating the person.

(4) In this section—

“**procure**” includes knowingly entice or recruit for the purposes of sexual exploitation.

### **Knowingly participating in provision of prostitution**

**229H.(1)** A person who knowingly participates, directly or indirectly, in the provision of prostitution by another person commits a crime.

**Maximum penalty—**

- (a) for a first offence—imprisonment for 3 years; or
- (b) for a second offence—imprisonment for 5 years; or
- (c) for a third or subsequent offence—imprisonment for 7 years.

*Examples of the crime**Example 1—*

A person who knowingly participates in the provision of prostitution by another person through a company, or other entity, or through another individual.

*Example 2—*

A person who provides financial or other resources to enable the establishment of premises from which prostitution is carried out or coordinated knowing that the premises will be so used.

*Example 3—*

A person who franchises a network of prostitutes as if they were operating independently.

*Example 4—*

A person who receives financial or other benefit from another person engaging in prostitution in return for the procuring of clients.

*Example 5—*

Drivers, operators and hirers of vehicles who provide transport, or the means of transport, for prostitutes or clients knowing that the transport provided is assisting prostitution.

*Example 6—*

A person who receives, directs or redirects telephone calls or other forms of messages, or who takes bookings or receives money, knowing that the action is in connection with the engaging in of prostitution by another person.

*Example 7—*

A person who participates, directly or indirectly, in any service, action or matter for the purpose of knowingly enabling another person to engage in prostitution.

**(2)** However, if a person who is not an adult or is an intellectually impaired person is, to the offender's knowledge, engaged in the provision of the prostitution, the offender is liable to a maximum penalty of 14 years imprisonment.

**Persons found in places reasonably suspected of being used for prostitution etc.**

**229I.(1)** A person who, without reasonable excuse, is found in, or leaving after having been in, a place suspected on reasonable grounds of being used for the purposes of prostitution by 2 or more prostitutes commits a crime.

Maximum penalty—

- (a) for a first offence—imprisonment for 3 years; or
- (b) for a second offence—imprisonment for 5 years; or
- (c) for a third or subsequent offence—imprisonment for 7 years.

**(2)** However, if a person who is not an adult or is an intellectually impaired person is, to the offender's knowledge, in the place at the time of the offence, the offender is liable to a maximum penalty of 14 years imprisonment.

**(3)** In sentencing an offender who is a prostitute or client, the court may, in mitigation of sentence, have regard to evidence of an appropriate sexual health check undergone by the offender within 3 months before the offence.

**Certificate of discharge for s 229I offence**

**229J.(1)** In this section—

**“defendant”** means a person charged with an unlawful presence offence;

**“identifying matter”** means—

- (a) the name, address, place of employment or another particular of the defendant or another person that is likely to lead to the identification of the defendant; or
- (b) any photograph, picture, videotape or other visual representation of the defendant or another person that is likely to lead to the identification of the defendant;

**“the court”** means a court before which is brought a charge against a defendant for an unlawful presence offence, and includes a justice conducting an examination of witnesses in relation to an unlawful presence offence charged against a defendant;

**“unlawful presence offence”** means an offence against section 229I.

(2) At any time before being found guilty of the unlawful presence offence, the defendant—

- (a) may apply to the court for the issue of the certificate of discharge mentioned in subsection (6) in relation to the unlawful presence offence; and
- (b) may apply to the court for an order prohibiting publication of identifying matter in relation to the defendant if the certificate is granted.

(3) The application may be heard in court or in chambers.

(4) If the defendant has been charged on indictment, the application is to be heard and determined by a judge sitting alone without a jury.

(5) On making the application the defendant must give evidence, and may be cross-examined, in relation to all matters relevant to—

- (a) the commission, by the defendant, of the unlawful presence offence; and
- (b) the commission, by any other person, of an offence against this Code in relation to the premises.

(6) If the court is satisfied that the evidence is a full and true disclosure by the defendant of all material particulars within the defendant’s knowledge relevant to the application, the court must immediately give the defendant a certificate stating that the defendant is discharged on the unlawful presence offence.

(7) The defendant cannot afterwards be convicted or further prosecuted for the unlawful presence offence.

(8) If the court grants an application under subsection (2)(b), the court may make an order prohibiting the publishing of any identifying matter in relation to the defendant either indefinitely or until further order.

(9) A police officer or other person may serve a copy of the order on any person.

(10) A person who knowingly contravenes an order under subsection (8) commits a crime.

Maximum penalty for subsection (10)—2 000 penalty units, imprisonment for 5 years.

**Having an interest in premises used for the purposes of prostitution etc.**

**229K.(1)** In this section—

**“interested person”**, in relation to premises, means a person who—

- (a) owns, leases, rents or otherwise has an interest in premises; or
- (b) is entitled to occupy or use premises; or
- (c) controls an entity that—
  - (i) owns, leases, rents or otherwise has an interest in premises; or
  - (ii) is entitled to occupy or use premises.

**(2)** A person who—

- (a) is an interested person in relation to premises; and
- (b) knowingly allows the premises to be used for the purposes of prostitution by 2 or more prostitutes;

commits a crime.

Maximum penalty—

- (a) for a first offence—imprisonment for 3 years; or
- (b) for a second offence—imprisonment for 5 years; or
- (c) for a third or subsequent offence—imprisonment for 7 years.

**(3)** However, if a person who is not an adult or is an intellectually impaired person is, to the offender’s knowledge, in the premises at a time of the offence, the offender is liable to a maximum penalty of 14 years imprisonment.

**(4)** A person allows premises to be used for the purposes of prostitution if the person—

- (a) knowingly permits the premises to be used for the purposes of prostitution; or

(b) knowing that the premises are being used for the purposes of prostitution, fails to take every reasonable step to stop that use.

(5) A police officer may serve on a person who is an interested person in relation to premises a written warning to the effect that the premises are being used for the purposes of prostitution by 2 or more prostitutes.

(6) In a prosecution against the interested person mentioned in subsection (5), or another person aware of the warning, for an offence against subsection (2), evidence of the warning and its contents are admissible against the defendant.

(7) If a person who is an interested person in relation to premises—

- (a) is served with a warning under subsection (5) in relation to the premises; or
- (b) otherwise has reasonable grounds to suspect that the premises are being used for the purposes of prostitution by 2 or more prostitutes;

the person may, by writing served on an occupier or user of the premises, require the occupier or user to leave the premises not later than 7 days after the service of the notice and not return.

(8) A person who, without reasonable excuse, contravenes a requirement made of the person under subsection (7) commits a crime.

*Example of reasonable excuse*

If the premises concerned were not used for the purposes of prostitution by 2 or more prostitutes, the person has a reasonable excuse for failing to comply with the requirement.

Maximum penalty—imprisonment for 7 years.

### **Permitting young person etc. to be at place used for prostitution**

**229L.** A person who knowingly causes or permits a person who is not an adult or is an intellectually impaired person to be at a place used for the purposes of prostitution by 2 or more prostitutes commits a crime.

Maximum penalty—imprisonment for 14 years.

**Police officer may require person to provide name and address etc.**

**229M.(1)** This section applies if a police officer—

- (a) finds a person committing an offence against this Chapter; or
- (b) finds a person who the officer has reasonable grounds for suspecting has committed an offence against this Chapter; or
- (c) believes on reasonable grounds that the name and address, or age, of a person is required for the purposes of the enforcement of this Chapter.

**(2)** The police officer may—

- (a) require the person to state the person's name and address or age; and
- (b) if the officer believes on reasonable grounds that the name, address or age given by the person is false—require evidence of its correctness.

**(3)** If the police officer makes a requirement under subsection (2), the officer must warn the person—

- (a) that it is an offence—
  - (i) to fail, without reasonable excuse, to comply with the requirement; or
  - (ii) to give false information or evidence; and
- (b) that the person may be arrested if the person fails to comply with the requirement or gives false information or evidence.

**(4)** If the police officer is not in uniform, the police officer must, at the person's request, give the person particulars of the officer's rank, surname and station or establishment.

**(5)** A person who is required under subsection (2) to state the person's name and address or age must not—

- (a) without reasonable excuse, fail to comply with the requirement; or
- (b) state a false name, address or age.

Maximum penalty—5 penalty units.

(6) A person who is required under subsection (2) to give evidence of the correctness of the person's name, address or age must not—

- (a) without reasonable excuse, fail to give the evidence; or
- (b) give false evidence.

Maximum penalty—5 penalty units.

(7) A police officer may arrest a person if the police believes on reasonable grounds—

- (a) that the person has contravened subsection (5) or (6); and
- (b) that proceedings by way of complaint and summons against the person would be ineffective.

(8) If—

- (a) a police officer makes a requirement of a person under subsection (2) on a suspicion of the person having committed an offence; and
- (b) the person is not proved to have committed the offence;

the person is not guilty of an offence against this section.

(9) Proceedings for an offence against this section are to be taken summarily under the *Justices Act 1886*.

### **Evidence that place is being used for prostitution**

**229N.(1)** The fact that a place is being used for the purposes of prostitution may be inferred from evidence of the condition of the place, material found at the place and other relevant factors and circumstances.

(2) However, evidence of condoms and other material for safe sex practices is not admissible against a defendant.

### **Non-compellability of health service providers**

**229O.(1)** In this section—

“**health service**” means a service genuinely provided to a person for the benefit of human health, and includes services specified in Schedule 1, Part 1 of the *Health Rights Commission Act 1991*;

**“health services provider”** means—

- (a) a registered provider within the meaning of the *Health Rights Commission Act 1991*; or
- (b) another person who provides a health service; or
- (c) an employee of a person mentioned in paragraph (a) or (b).

(2) A health services provider is entitled to refuse to provide any document or information, or answer any question, in relation to an investigation of, or prosecution for, an offence against this Chapter on the ground that it would disclose information gained in providing a health service.

### **Summary proceedings**

**229P.(1)** A proceeding for an indictable offence against this Chapter may be dealt with summarily.

(2) The maximum penalty that may be imposed on a summary proceeding for an indictable offence against this Chapter is imprisonment for 2 years.

(3) A proceeding for an indictable offence against this Chapter may be dealt with summarily even though the proceeding was started more than 1 year after the offence was committed.

(4) A proceeding for an indictable offence against this Chapter may be dealt with summarily at any place appointed for holding Magistrates Courts regardless of where the offence was committed.

(5) The summary jurisdiction conferred by this section must be exercised in the way, and subject to the conditions, prescribed by section 444 in relation to the summary trial and punishment of offenders who may be summarily convicted of indictable offences under that section.

## CHAPTER 23—NUISANCES—MISCONDUCT RELATING TO CORPSES

### Common nuisances

**230.** Any person who—

- (a) without lawful justification or excuse, the proof of which lies on the person, does any act, or omits to do any act with respect to any property under the person's control, by which act or omission danger is caused to the lives, safety, or health, of the public; or
- (b) without lawful justification or excuse, the proof of which lies on the person, does any act, or omits to do any act with respect to any property under the person's control, by which act or omission danger is caused to the property or comfort of the public, or the public are obstructed in the exercise or enjoyment of any right common to all Her Majesty's subjects, and by which injury is caused to the person of some person;

is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

### Gaming houses

**232.(1)** A person who—

- (a) keeps for gain any place to which persons resort for the purpose of playing at any game of chance; or
- (b) keeps any place which is kept or used for playing therein at any game of chance, or any game of mixed chance and skill, and in which—
  - (i) a bank is kept by 1 or more of the players exclusively of the others; or
  - (ii) any game is played the chances of which are not alike favourable to all the players, including the banker or other persons by whom the game is managed, or against whom the other players stake, play, or bet;

is said to keep a common gaming house.

(2) Any person who keeps a common gaming house is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

### **Betting houses**

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

- (a) for the purposes of bets being made therein between persons resorting to the place and—
  - (i) the owner, occupier, or keeper of the place, or any person using the place; or
  - (ii) any person procured or employed by or acting for or on behalf of any such owner, occupier, or keeper, or person using the place; or
  - (iii) any person having the care or management, or in any manner conducting the business, of the place;
- (b) for the purpose of any money or other property being paid or received therein by or on behalf of any such owner, occupier, or keeper, or person using the place, as or for the consideration—
  - (i) for an assurance, undertaking, promise, or agreement, express or implied, to pay or give thereafter any money or other property on any event or contingency of or relating to any horse race, or other race, fight, game, sport, or exercise; or
  - (ii) for securing the paying or giving by some other person of any money or other property on any such event or contingency;

is called a common betting house.

**(1A)** Any person who opens, keeps, or uses, a common betting house is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

**(1B)** Or the person may be summarily convicted before 2 justices, in which case the person is liable to imprisonment for 1 year, and to a fine of \$2 000.

(2) Any person who, being the owner or occupier of any house, room, or

place, knowingly and wilfully permits it to be opened, kept, or used, as a common betting house by another person, or who has the use or management, or assists in conducting the business, of a common betting house, is guilty of an offence, and is liable on summary conviction to imprisonment for 1 year, and to a fine of \$2 000.

### **Lotteries**

**234.(1)** Any person who opens, keeps, or uses, any place for carrying on a lottery of any kind whatever, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

**(2)** In this section—

“**lottery**” includes any scheme or device for the sale, gift, disposal, or distribution, of any property depending upon or to be determined by lot or chance, whether by the throwing or casting of dice, or the drawing of tickets, cards, lots, numbers, or figures, or by means of a wheel or trained animal, or otherwise howsoever.

**(3)** This section does not apply to any lottery which has obtained the sanction of a Crown Law Officer.

**(4)** However, where any lottery has obtained the sanction of a Crown Law Officer, and such sanction has been granted provided certain prescribed regulations, conditions, provisions, and/or stipulation are observed and obeyed by the person or persons having the management or conduct of such lottery, the exemption in respect of such lottery shall not apply in any case where the said regulations, conditions, provisions, and stipulation are not observed and obeyed by the person or persons having the management or conduct of such lottery.

### **Acting as keeper of gaming houses, betting houses, and lotteries**

**235.** Any person who appears, acts, or behaves, as master or mistress, or as the person having the care or management, of any such house, room, set of rooms, or place, as is mentioned in sections 232 to 234, is to be taken to be the keeper thereof, whether the person is or is not the real keeper.

**Misconduct with regard to corpses**

**236.** Any person who, without lawful justification or excuse, the proof of which lies on the person—

- (a) neglects to perform any duty imposed upon the person by law, or undertaken by the person, whether for reward or otherwise, touching the burial or other disposition of a human body or human remains; or
- (b) improperly or indecently interferes with, or offers any indignity to, any dead human body or human remains, whether buried or not;

is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

## **CHAPTER 24—OFFENCES AGAINST PUBLIC HEALTH**

**False information as to health of foreign ships**

**237.** Any person who, being the master or medical officer of a ship arriving from beyond sea, neglects or refuses to give to any officer employed in the public service any information which the person is required by law to give to the officer, or gives to any such officer, either verbally or in writing, any information touching any matter as to which the person is required by law to give the officer information, which information is, to the person's knowledge, false in any material particular, is guilty of a misdemeanour, and is liable to imprisonment for 2 years, and to a fine of \$600.

**Exposing for sale things unfit for food**

**238.** Any person who knowingly exposes for sale as food for human consumption, or has in the person's possession with intent to sell it as food for human consumption, any article which the person knows to be unfit as food for human consumption, is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

**Dealing in diseased meat**

**239.** Any person who—

- (a) knowingly takes into a slaughter house used for the slaughter of any animals intended as food for human consumption the whole or any part of the carcass of any animal which has died of any disease; or
- (b) knowingly sells or exposes for sale the whole or part of the carcass of any animal which has died of any disease or which was diseased when slaughtered;

is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

**Adulterating liquor**

**240.** Any person who—

- (a) puts any deleterious or poisonous substance into any spirituous or fermented liquor, or mixes any such substance with any such liquor; or
- (b) sells or otherwise disposes of, or keeps for sale, any spirituous or fermented liquor into which any such substance has been put, or with which any such substance has been mixed;

is guilty of a misdemeanour, and is liable on conviction to imprisonment for 2 years, or to a fine of \$400.

**Adulteration of beverages**

**241.(1)** Any person who, being a public brewer or maker of any liquor intended to be used as a beverage for human consumption—

- (a) uses in the brewing or making of the liquor any deleterious or poisonous substance; or
- (b) puts any such substance into, or mixes any such substance with, the liquor, whether before or after the brewing or making is complete;

is guilty of an offence, and is liable on summary conviction to a fine of \$400 and to forfeiture of the liquor.

(2) If the offender, before committing the offence, had been previously convicted of any such offence, the offender is guilty of a misdemeanour, and is liable to imprisonment for 2 years, as well as to forfeiture of the liquor.

## **CHAPTER 25—MISCELLANEOUS OFFENCES**

### **Frauds on land laws**

**242.(1)** Any person who, for the purpose of acquiring land from the Crown, fraudulently evades or attempts to evade any of the provisions of the statutes relating to the sale or leasing of Crown lands, is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

(2) And all the person's interest (if any) in the land is forfeited to Her Majesty.

### **Dealing with land fraudulently acquired from the Crown**

**243.(1)** Any person who buys or takes on lease any land, or any estate in any land, from any person who has acquired the land or the estate by means of any fraudulent evasion of the laws relating to the sale or leasing of Crown lands, knowing that the seller or lessor has so acquired the same, is guilty of a misdemeanour, and is liable to imprisonment for 1 year.

(2) And all the person's estate in the land is forfeited to Her Majesty.

### **Fraudulent destruction or removal of goods liable to duty**

**244.** Any person who fraudulently destroys, or takes from their lawful place of deposit or detention, any goods which are liable to the payment of duty, and which are deposited or detained for the purpose of securing payment thereof, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

**PART 5—OFFENCES AGAINST THE PERSON  
AND RELATING TO MARRIAGE AND  
PARENTAL RIGHTS AND DUTIES AND  
AGAINST THE REPUTATION OF INDIVIDUALS**

**CHAPTER 26—ASSAULTS AND VIOLENCE TO THE  
PERSON GENERALLY—JUSTIFICATION AND  
EXCUSE**

**Definition of “assault”**

**245.(1)** A person who strikes, touches, or moves, or otherwise applies force of any kind to, the person of another, either directly or indirectly, without the other person’s consent, or with the other person’s consent if the consent is obtained by fraud, or who by any bodily act or gesture attempts or threatens to apply force of any kind to the person of another without the other person’s consent, under such circumstances that the person making the attempt or threat has actually or apparently a present ability to effect the person’s purpose, is said to assault that other person, and the act is called an “assault”.

**(2)** In this section—

“**applies force**” includes the case of applying heat, light, electrical force, gas, odour, or any other substance or thing whatever if applied in such a degree as to cause injury or personal discomfort.

**Assaults unlawful**

**246.(1)** An assault is unlawful and constitutes an offence unless it is authorised or justified or excused by law.

**(2)** The application of force by one person to the person of another may be unlawful, although it is done with the consent of that other person.

**Execution of sentence**

**247.** It is lawful for a person who is charged by law with the duty of executing or giving effect to the lawful sentence of a court to execute or give effect to that sentence.

**Execution of process**

**248.** It is lawful for a person who is charged by law with the duty of executing the lawful process of a court, and who is required to arrest or detain another person under such process, and for every person lawfully assisting a person so charged, to arrest or detain that other person according to the terms of the process.

**Execution of warrants**

**249.** It is lawful for a person who is charged by law with the duty of executing a lawful warrant issued by any court or justice or other person having jurisdiction to issue it, and who is required to arrest or detain another person under such warrant, and for every person lawfully assisting a person so charged, to arrest or detain that other person according to the directions of the warrant.

**Erroneous sentence or process or warrant**

**250.** If the sentence was passed, or the process was issued, by a court having jurisdiction under any circumstances to pass such a sentence or to issue such process, or if the warrant was issued by a court or justice or other person having authority under any circumstances to issue such a warrant, it is immaterial whether the court or justice or person had or had not authority to pass the sentence or issue the process or warrant in the particular case; unless the person executing the same knows that the sentence or process or warrant was in fact passed or issued without authority.

**Sentence or process or warrant without jurisdiction**

**251.** A person who executes or assists in executing any sentence, process, or warrant, which purports to be passed or issued by a court,

justice, or other person, and who would be justified, under the provisions of sections 247 to 250, in executing the same if it had been passed or issued by a court, justice, or person having authority to pass or issue it, is not criminally responsible for any act done in such execution, notwithstanding that the court, justice, or person, had no authority to pass the sentence or issue the process or warrant, if in such execution the person acted in good faith and in the belief that the sentence, process, or warrant, was that of a court, justice, or other person, having such authority.

### **Arrest of wrong person**

**252.(1)** A person who, being duly authorised to execute a warrant to arrest one person, arrests another person, believing in good faith and on reasonable grounds that the person arrested is the person named in the warrant, is not criminally responsible for doing so to any greater extent than if the person arrested had been the person named in the warrant.

**(2)** Any person who lawfully assists in making such an arrest, believing that the person arrested is the person named in the warrant, or who, being required by the warrant to receive and detain the person named in it, receives and detains the person so arrested, is not criminally responsible for doing so to any greater extent than if the person arrested had been the person named in the warrant.

### **Irregular process or warrant**

**253.** When any process or warrant is bad in law by reason of some defect in substance or in form apparent on the face of it, a person who, in good faith and believing that it is good in law, acts in the execution of the process or warrant, is not criminally responsible for anything done in such execution to any greater extent than if the process or warrant were good in law.

### **Force used in executing process or in arrest**

**254.** It is lawful for a person who is engaged in the lawful execution of any sentence, process, or warrant, or in making any arrest, and for any person lawfully assisting the person, to use such force as may be

reasonably necessary to overcome any force used in resisting such execution or arrest.

### **Duty of persons arresting**

**255.(1)** It is the duty of a person executing any process or warrant to have it with him or her, and to produce it if required.

**(2)** It is the duty of a person arresting another, whether with or without warrant, to give notice, if practicable, of the process or warrant under which the person is acting or of the cause of the arrest.

**(3)** A failure to fulfil either of the aforesaid duties does not of itself make the execution of the process or warrant or the arrest unlawful, but is relevant to the inquiry whether the process or warrant might not have been executed or the arrest made by reasonable means in a less forcible manner.

### **Police officer preventing escape from arrest**

**256.(1)** When a police officer is proceeding lawfully to arrest, with or without warrant, a person for an offence which is such that the offender may be arrested without warrant, and the person sought to be arrested takes to flight in order to avoid arrest, it is lawful for the police officer, and for any person lawfully assisting the officer, to use such force as may be reasonably necessary to prevent the escape of the person sought to be arrested.

**(2)** But this section does not authorise the use of force which is intended or is likely to cause death or grievous bodily harm, except in a case where the person sought to be arrested is reasonably suspected of having committed an offence punishable with imprisonment for life under this Code, nor until the person sought to be arrested has been called upon to surrender.

### **Other cases of preventing escape from arrest**

**257.(1)** When a person who is not a police officer is proceeding lawfully to arrest, without warrant, another person for an offence which is such that the offender may be arrested without warrant, and when any person is proceeding lawfully to arrest another person for any cause other than such

an offence, and, in either case, the person sought to be arrested takes to flight in order to avoid arrest, it is lawful for the person seeking to arrest the other person to use such force as may be reasonably necessary to prevent the other person's escape.

(2) But this section does not authorise the use of force which is intended or is likely to cause death or grievous bodily harm.

### **Preventing escape or rescue after arrest**

**258.(1)** When any person has lawfully arrested another person for any offence, it is lawful for the person to use such force as the person believes, on reasonable grounds, to be necessary to prevent the escape or rescue of the person arrested.

(2) But, if the offence is not a crime which is such that the offender may be arrested without warrant, this section does not authorise the use of force which is intended or is likely to cause death or grievous bodily harm.

### **Examination of person of accused persons in custody**

**259.(1)** Where a person is in lawful custody upon a charge of committing an offence—

- (a) a police officer of the same sex as the person in custody; or
- (b) a legally qualified medical practitioner acting at the direction of a police officer;

may search the person of the person in custody and take from his or her person anything, including clothing, that the police officer believes on reasonable grounds may afford evidence as to the commission of the offence.

(2) Where clothing is taken from a person pursuant to subsection (1), the person shall be left with or provided with such clothing as is reasonably appropriate.

(3) When a person is in lawful custody upon a charge of committing an offence—

- (a) a legally qualified medical practitioner, acting in good faith and at the request of a police officer, or a person acting in good faith in

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aid of and at the direction of that medical practitioner, may do such of the following as may afford evidence as to the commission of the offence—

- (i) examine the person of the person in custody, including the orifices of the person's body;
  - (ii) take samples of the person's blood, saliva or hair;
  - (iii) require the person to provide a sample of the person's urine;
  - (iv) collect from his or her person, including the orifices of the person's body, any substance or thing if collecting the substance or thing would be unlikely to cause bodily harm to that person if the person cooperates therewith;
- (b) a legally qualified dentist, acting in good faith and at the request of a police officer, or a person acting in good faith in aid of and at the direction of that dentist, may do such of the following as may afford evidence as to the commission of the offence—
- (i) examine the mouth of the person in custody;
  - (ii) take samples of the person's saliva;
  - (iii) take dental impressions from the person.

(3A) In this section—

**“prescribed act”** means any act referred to in subsection (3)(a) or (b) including the making of a requisition pursuant to subsection (3)(a)(iii).

(4) A person shall not do a prescribed act unless—

- (a) the person in custody consents in writing to the doing of the act and, where the person is a child, consents in writing in the presence of a parent or guardian or an adult who is either a friend of the person in custody or does not have an interest in the matter in respect of which the charge is made; or
- (b) a Stipendiary Magistrate has, upon application made to the Magistrate in that behalf, given approval pursuant to this section to the doing of the act;

and a police officer has informed the person in custody of the person's right to have present while the act is being done 2 persons of the person's choice.

*Criminal Code Act 1899*

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(5) Subject to subsection (8) an application referred to in subsection (4)(b) shall be made by a police officer upon oath and in the prescribed form.

(6) A Stipendiary Magistrate shall not approve the doing of a prescribed act unless the Magistrate is satisfied—

- (a) that the person to whom the act is to be done is in lawful custody upon a charge of committing an offence; and
- (b) that there are reasonable grounds for believing that the doing of the act may afford evidence as to the commission of that offence; and
- (c) that the person in custody has been informed of the person's right to have present while the act is being done 2 persons of the person's choice.

(7) A Stipendiary Magistrate shall give his or her decision in the prescribed form.

(8) Where it is not practicable to make an application in the manner provided in subsection (5) the application may be made and the decision of the Stipendiary Magistrate given as follows—

- (a) the application may be made and any information concerning it given in whole or in part by telephone, telex, radio or other similar facility;
- (b) the application shall be made upon oath which may be administered by means of any facility mentioned in paragraph (a);
- (c) the applicant shall inform the Stipendiary Magistrate of the applicant's name, rank and number (if any) in the Police Service and the Stipendiary Magistrate may thereupon assume, without further inquiry, that the applicant is a police officer;
- (d) the Stipendiary Magistrate may grant approval if satisfied of the matters mentioned in subsection (6)(a) to (c);
- (e) as soon as is practicable after an application is made pursuant to this subsection the applicant shall forward to the Stipendiary Magistrate a duly completed application in the prescribed form verifying the information given in support of the application made pursuant to this subsection.

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**(9)** Where a Stipendiary Magistrate, upon application made pursuant to subsection (8), grants approval to do a prescribed act and it is not practicable for the applicant to obtain that approval in the prescribed form before the act is done—

- (a) the applicant shall, as directed by the Stipendiary Magistrate, complete a document in substantially the same terms as the prescribed form duly completed by the Stipendiary Magistrate pursuant to subsection (7); and
- (b) the applicant shall place the applicant's signature on the document and note on it that the applicant has signed on behalf of the Stipendiary Magistrate and endorse on the back the applicant's name, rank and number (if any) in the Police Service; and
- (c) the Stipendiary Magistrate shall, within 7 days after giving the approval, send the prescribed form containing the Magistrate's decision to the Commissioner of the Police Service unless otherwise requested by the applicant in which case the Magistrate shall send a copy of the form to the Commissioner of the Police Service.

**(10)** When a Stipendiary Magistrate has approved the doing of a prescribed act, the applicant or another police officer shall, before the act is done, give to the person in custody—

- (a) a copy of the document containing the Stipendiary Magistrate's decision; or
- (b) in a case referred to in subsection (9)—a copy of the document completed by the applicant pursuant to that subsection;

and shall inform the person in custody of the contents of the document.

**(11)** Where the person in custody informs a police officer of the name of any person the person desires to be present while a prescribed act is being done, the police officer shall immediately take such steps as are reasonable to advise the person thereof and, if that person indicates the person is willing and able to attend within a reasonable period, the prescribed act shall not be done until the expiration of that period.

**(12)** Where a person whose presence is desired by a person in custody attends upon the person in custody, the person in custody shall be responsible for the cost of attendance.

(13) The legality of the detention in custody of a person or of the doing of a prescribed act shall not be affected by the absence while the act is being done of the person desired to be present by the person in custody if—

- (a) such steps as are reasonable have been taken to contact the person; and
- (b) where the person has indicated that the person is willing and able to attend—the person has failed to attend within a reasonable period.

(14) A prescribed act shall not be done to a person in custody within view of a person of the opposite sex, other than a legally qualified medical practitioner, if the presence of that person would in the circumstances be likely to embarrass the person in custody.

(15) A person who, pursuant to this section, takes or collects any sample or other thing from the person of a person in custody shall, where practicable, provide the person in custody with a portion of that sample or thing or with an equivalent sample or thing for the person's own purposes.

(16) The results of any test conducted with respect to any sample or other thing taken or collected pursuant to this section from the person of a person in custody shall be furnished to that person or to a person nominated by the person as soon as is practicable after those results are available to any police officer.

(17) A person authorised by or pursuant to this section to carry out a search or do any act may use such force as is reasonable for that purpose.

### **Preventing a breach of the peace**

**260.(1)** It is lawful for any person who witnesses a breach of the peace to interfere to prevent the continuance or renewal of it, and to use such force as is reasonably necessary for such prevention and is reasonably proportioned to the danger to be apprehended from such continuance or renewal, and to detain any person who is committing or who is about to join in or to renew the breach of the peace for such time as may be reasonably necessary in order to give the person into the custody of a police officer.

(2) It is lawful for a police officer who witnesses a breach of the peace, and for any person lawfully assisting the police officer, to arrest any person whom the officer or person finds committing it, or whom the officer or

person believes, on reasonable grounds, to be about to join in or renew the breach of the peace.

(3) It is lawful for a police officer to receive into custody and detain in custody any person given into the police officer's charge as having been a party to a breach of the peace by a person whom the police officer believes, on reasonable grounds, to have witnessed the breach of the peace.

### **Suppression of riot**

**261.** It is lawful for any person to use such force as is necessary to suppress a riot, and is reasonably proportioned to the danger to be apprehended from its continuance.

### **Suppression of riot by Magistrates and police officers**

**262.** It is lawful for a justice to use or order to be used, and for a police officer to use, such force as the justice or officer believes, on reasonable grounds, to be necessary in order to suppress a riot, and is reasonably proportioned to the danger which the justice or officer believes, on reasonable grounds, is to be apprehended from its continuance.

### **Suppression of riot by person acting under lawful orders**

**263.(1)** It is lawful for any person acting in good faith in obedience to orders, not manifestly unlawful, given by a justice for the suppression of a riot, to use such force as the person believes, on reasonable grounds, to be necessary for carrying such orders into effect.

(2) Whether any particular order so given is or is not manifestly unlawful is a question of law.

### **Suppression of riot by person acting without order in case of emergency**

**264.** When any person, whether subject to military law or not, believes, on reasonable grounds, that serious mischief will arise from a riot before there is time to procure the intervention of a justice, it is lawful for the person to use such force as the person believes, on reasonable grounds, to

be necessary for the suppression of the riot, and as is reasonably proportioned to the danger which the person believes, on reasonable grounds, is to be apprehended from its continuance.

### **Riot—persons subject to military law**

**265.(1)** It is lawful for a person who is bound by military law to obey the lawful commands of the person's superior officer to obey any command given to the person by his or her superior officer in order to the suppression of a riot, unless the command is manifestly unlawful.

**(2)** Whether any particular command is or is not manifestly unlawful is a question of law.

### **Prevention of crimes and offences for which an offender may be arrested without warrant—prevention of violence by patients under Mental Health Act 1974**

**266.** It is lawful for any person to use such force as is reasonably necessary in order to prevent the commission of an offence which is such that the offender may be arrested without warrant; or in order to prevent any act from being done as to which the person believes, on reasonable grounds, that it would, if done, amount to any such offence; or in order to prevent a person whom the person believes, on reasonable grounds, to be a patient (within the meaning of the *Mental Health Act 1974*) from doing violence to any person or property.

### **Defence of dwelling house**

**267.** It is lawful for any person who is in peaceable possession of a dwelling house, and for any person lawfully assisting the person or acting by the person's authority, to use such force as the person believes, on reasonable grounds, to be necessary in order to prevent the forcible breaking and entering of the dwelling house, either by night or day, by any person whom the person believes, on reasonable grounds, to be attempting to break and enter the dwelling house with intent to commit any indictable offence therein.

**Provocation**

**268.(1)** In this section—

“**provocation**”, used with reference to an offence of which an assault is an element, 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 the person’s immediate care, or to whom the person stands in a conjugal, parental, filial, or fraternal, relation, or in the relation of master or servant, to deprive the person of the power of self-control, and to induce the person to assault the person by whom the act or insult is done or offered.

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

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

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

**Defence of provocation**

**269.(1)** A person is not criminally responsible for an assault committed upon a person who gives the person provocation for the assault, if the person is in fact deprived by the provocation of the power of self-control, and acts upon it on the sudden and before there is time for the person’s passion to cool, and if the force used is not disproportionate to the provocation and is not intended, and is not such as is likely, to cause death or grievous bodily harm.

(2) Whether any particular act or insult is such as to be likely to deprive an ordinary person of the power of self-control and to induce the ordinary

person to assault the person by whom the act or insult is done or offered, and whether, in any particular case, the person provoked was actually deprived by the provocation of the power of self-control, and whether any force used is or is not disproportionate to the provocation, are questions of fact.

### **Prevention of repetition of insult**

**270.** It is lawful for any person to use such force as is reasonably necessary to prevent the repetition of an act or insult of such a nature as to be provocation to the person for an assault, if the force used is not intended, and is not such as is likely, to cause death or grievous bodily harm.

### **Self-defence against unprovoked assault**

**271.(1)** When a person is unlawfully assaulted, and has not provoked the assault, it is lawful for the person to use such force to the assailant as is reasonably necessary to make effectual defence against the assault, if the force used is not intended, and is not such as is likely, to cause death or grievous bodily harm.

**(2)** If the nature of the assault is such as to cause reasonable apprehension of death or grievous bodily harm, and the person using force by way of defence believes, on reasonable grounds, that the person cannot otherwise preserve the person defended from death or grievous bodily harm, it is lawful for the person to use any such force to the assailant as is necessary for defence, even though such force may cause death or grievous bodily harm.

### **Self-defence against provoked assault**

**272.(1)** When a person has unlawfully assaulted another or has provoked an assault from another, and that other assaults the person with such violence as to cause reasonable apprehension of death or grievous bodily harm, and to induce the person to believe, on reasonable grounds, that it is necessary for the person's preservation from death or grievous bodily harm to use force in self-defence, the person is not criminally responsible for using any such force as is reasonably necessary for such preservation, although such force may cause death or grievous bodily harm.

(2) This protection does not extend to a case in which the person using force which causes death or grievous bodily harm first begun the assault with intent to kill or to do grievous bodily harm to some person; nor to a case in which the person using force which causes death or grievous bodily harm endeavoured to kill or to do grievous bodily harm to some person before the necessity of so preserving himself or herself arose; nor, in either case, unless, before such necessity arose, the person using such force declined further conflict, and quitted it or retreated from it as far as was practicable.

### **Aiding in self-defence**

**273.** In any case in which it is lawful for any person to use force of any degree for the purpose of defending himself or herself against an assault, it is lawful for any other person acting in good faith in the first person's aid to use a like degree of force for the purpose of defending the first person.

### **Defence of moveable property against trespassers**

**274.** It is lawful for any person who is in peaceable possession of any moveable property, and for any person acting by the person's authority, to use such force as is reasonably necessary in order to resist the taking of such property by a trespasser, or in order to retake it from a trespasser, provided that the person does not do bodily harm to the trespasser.

### **Defence of moveable property with claim of right**

**275.** When a person is in peaceable possession of any moveable property under a claim of right, it is lawful for the person, and for any person acting by the person's authority, to use such force as is reasonably necessary in order to defend the person's possession of the property, even against a person who is entitled by law to possession of the property, provided that the person does not do bodily harm to such other person.

### **Defence of moveable property without claim of right**

**276.** When a person who is entitled by law to the possession of moveable property attempts to take it from a person who is in possession of

the property, but who neither claims right to it, nor acts by the authority of a person who claims right, and the person in possession resists the person, it is lawful for the person so entitled to possession to use force in order to obtain possession of the property, provided that the person does not do bodily harm to the person in possession.

### **Defence of premises against trespassers—removal of disorderly persons**

**277.(1)** It is lawful for a person who is in peaceable possession of any land, structure, vessel, or place, or who is entitled to the control or management of any land, structure, vessel, or place, and for any person acting by the person's authority, to use such force as is reasonably necessary in order to prevent any person from wrongfully entering upon such land, structure, vessel, or place, or in order to remove therefrom a person who wrongfully remains therein, provided that the person does not do bodily harm to such person.

**(2)** It is lawful for a person who is in peaceable possession of any land, structure, vessel, or place, or who is entitled to the control or management of any land, structure, vessel, or place, and for any person acting by the person's authority, to use force in order to remove therefrom any person who conducts himself or herself in a disorderly manner therein, provided that the person does not do the person bodily harm.

**(3)** In this section—

**“place”** includes any part of an enclosure or structure, whether separated from the rest of the enclosure or structure by a partition, fence, rope, or any other means, or not.

### **Defence of possession of real property or vessel with claim of right**

**278.** When a person is in peaceable possession of any land, structure, or vessel, with a claim of right, it is lawful for the person, and for any person acting by the person's authority, to use such force as is reasonably necessary in order to defend the person's possession, even against a person who is entitled by law to the possession of the property, provided that the person does not do bodily harm to such person.

**Exercise of right of way or easement**

**279.** When a person who is lawfully entitled to enter upon land for the exercise of a right of way or other easement or profit enters upon the land for the purpose of exercising such right of way, easement, or profit, after notice that the person's right to use such way or easement or to take such profit is disputed by the person in possession of the land, or having entered persists in entry after such notice, it is lawful for the person in possession, and for any person acting by the person's authority, to use such force as is reasonably necessary for the purpose of making the person so entering desist from the entry, provided that the person does not do the person entering bodily harm.

**Domestic discipline**

**280.** It is lawful for a parent or a person in the place of a parent, or for a schoolteacher or master, to use, by way of correction, towards a child, pupil, or apprentice, under the person's care such force as is reasonable under the circumstances.

**Discipline of ship or aircraft**

**281.** It is lawful for the master or other person in command of—

- (a) a vessel on a voyage; or
- (b) an aircraft on a flight;

himself or herself and for any person acting by the person's authority to use, for the purpose of maintaining good order and discipline on board the vessel or aircraft, such force as the person or such person acting by the person's authority believes, on reasonable grounds, to be necessary, and as is reasonable under the circumstances.

**Surgical operations**

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

**Excessive force**

**283.** In any case in which the use of force by one person to another is lawful the use of more force than is justified by law under the circumstances is unlawful.

**Consent to death immaterial**

**284.** Consent by a person to the causing of the person's own death does not affect the criminal responsibility of any person by whom such death is caused.

**CHAPTER 27—DUTIES RELATING TO THE  
PRESERVATION OF HUMAN LIFE****Duty to provide necessaries**

**285.** 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 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 the person is held to have caused any consequences which result to the life or health of the other person by reason of any omission to perform that duty.

**Duty of head of family**

**286.** It is the duty of every person who, as head of a family, has the charge of a child under the age of 16 years, being a member of the person's household, to provide the necessaries of life for such child; and the person is held to have caused any consequences which result to the life or health of the child by reason of any omission to perform that duty, whether the child is helpless or not.

**Duty of masters**

**287.** It is the duty of every person who as a master or mistress has contracted to provide necessary food, clothing, or lodging, for any servant or apprentice under the age of 16 years to provide the same, and he or she is held to have caused any consequences which result to the life or health of the servant or apprentice by reason of any omission to perform that duty.

**Duty of persons doing dangerous acts**

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

**Duty of persons in charge of dangerous things**

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

**Duty to do certain acts**

**290.** When a person undertakes to do any act the omission to do which is or may be dangerous to human life or health, it is the person's duty to do that act: and the person is held to have caused any consequences which result to the life or health of any person by reason of any omission to perform that duty.

## **CHAPTER 28—HOMICIDE—SUICIDE— CONCEALMENT OF BIRTH**

### **Killing of a human being unlawful**

**291.** It is unlawful to kill any person unless such killing is authorised or justified or excused by law.

### **When a child becomes a human being**

**292.** 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.

### **Definition of “killing”**

**293.** Except as hereinafter set forth, any person who causes the death of another, directly or indirectly, by any means whatever, is deemed to have killed that other person.

### **Death by acts done at childbirth**

**294.** When a child dies in consequence of an act done or omitted to be done by any person before or during its birth, the person who did or omitted to do such act is deemed to have killed the child.

### **Causing death by threats**

**295.** A person who, by threats or intimidation of any kind, or by deceit, causes another person to do an act or make an omission which results in the death of that other person, is deemed to have killed the other person.

### **Acceleration of death**

**296.** A person who does any act or makes any omission which hastens the death of another person who, when the act is done or the omission is

made, is labouring under some disorder or disease arising from another cause, is deemed to have killed that other person.

### **When injury or death might be prevented by proper precaution**

**297.** When a person causes a bodily injury to another from which death results, it is immaterial that the injury might have been avoided by proper precaution on the part of the person injured, or that the injured person's death from that injury might have been prevented by proper care or treatment.

### **Injuries causing death in consequence of subsequent treatment**

**298.** When a person does grievous bodily harm to another, and such other person has recourse to surgical or medical treatment, and death results either from the injury or the treatment, the person is deemed to have killed that other person, although the immediate cause of death was the surgical or medical treatment, provided that the treatment was reasonably proper under the circumstances, and was applied in good faith.

### **Unlawful homicide**

**300.** Any person who unlawfully kills another is guilty of a crime, which is called murder or manslaughter, according to the circumstances of the case.

### **Definition of "murder"**

**302.(1)** Except as hereinafter set forth, a person who unlawfully kills another under any of the following circumstances, that is to say—

- (a) if the offender intends to cause the death of the person killed or that of some other person or if the offender intends to do to the person killed or to some other person some grievous bodily harm;
- (b) if death is caused by means of an act done in the prosecution of an unlawful purpose, which act is of such a nature as to be likely to endanger human life;

- (c) if the offender intends to do grievous bodily harm to some person for the purpose of facilitating the commission of a crime which is such that the offender may be arrested without warrant, or for the purpose of facilitating the flight of an offender who has committed or attempted to commit any such crime;
- (d) if death is caused by administering any stupefying or overpowering thing for either of the purposes mentioned in paragraph (c);
- (e) if death is caused by wilfully stopping the breath of any person for either of such purposes;

is guilty of “**murder**”.

(2) Under subsection (1)(a) it is immaterial that the offender did not intend to hurt the particular person who is killed.

(3) Under subsection (1)(b) it is immaterial that the offender did not intend to hurt any person.

(4) Under subsection (1)(c) to (e) it is immaterial that the offender did not intend to cause death or did not know that death was likely to result.

### **Definition of “manslaughter”**

**303.** A person who unlawfully kills another under such circumstances as not to constitute murder is guilty of “**manslaughter**”.

### **Killing on provocation**

**304.** 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, and before there is time for the person’s passion to cool, the person is guilty of manslaughter only.

### **Diminished responsibility**

**304A.(1)** When a person who unlawfully kills another under circumstances which, but for the provisions of this section, would constitute murder, is at the time of doing the act or making the omission which causes

death in such a state of abnormality of mind (whether arising from a condition of arrested or retarded development of mind or inherent causes or induced by disease or injury) as substantially to impair the person's capacity to understand what the person is doing, or the person's capacity to control the person's actions, or the person's capacity to know that the person ought not to do the act or make the omission, the person is guilty of manslaughter only.

(2) On a charge of murder, it shall be for the defence to prove that the person charged is by virtue of this section liable to be convicted of manslaughter only.

(3) When 2 or more persons unlawfully kill another, the fact that 1 of such persons is by virtue of this section guilty of manslaughter only shall not affect the question whether the unlawful killing amounted to murder in the case of any other such person or persons.

### **Punishment of murder**

**305.** Any person who commits the crime of murder is liable to imprisonment for life, which cannot be mitigated or varied under this Code or any other law or is liable to an indefinite sentence under Part 10 of the *Penalties and Sentences Act 1992*.

### **Attempt to murder**

**306.** Any person who—

- (a) attempts unlawfully to kill another; or
- (b) with intent unlawfully to kill another does any act, or omits to do any act which it is the person's duty to do, such act or omission being of such a nature as to be likely to endanger human life;

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

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

**307.** Any person who becomes an accessory after the fact to murder is guilty of a crime, and is liable to imprisonment for life.

**Written threats to murder**

**308.** Any person who, knowing the contents thereof, directly or indirectly causes any person to receive any writing threatening to kill any person, is guilty of a crime, and is liable to imprisonment for 7 years.

**Conspiring to murder**

**309.** Any person who conspires with any other person to kill any person, whether such person is in Queensland or elsewhere, is guilty of a crime, and is liable to imprisonment for 14 years.

**Punishment of manslaughter**

**310.** Any person who commits the crime of manslaughter is liable to imprisonment for life.

**Aiding suicide**

**311.** Any person who—

- (a) procures another to kill himself or herself; or
- (b) counsels another to kill himself or herself and thereby induces the other person to do so; or
- (c) aids another in killing himself or herself;

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

**Killing unborn child**

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

**Concealing the birth of children**

**314.** Any person who, when a woman is delivered of a child,

endeavours, by any secret disposition of the dead body of the child, to conceal the birth, whether the child died before, at, or after, its birth, is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

## **CHAPTER 29—OFFENCES ENDANGERING LIFE OR HEALTH**

### **Disabling in order to commit indictable offence**

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

### **Stupefying in order to commit indictable offence**

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

### **Acts intended to cause grievous bodily harm or prevent apprehension**

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

- (a) unlawfully wounds or does any grievous bodily harm to any person by any means whatever; or
- (b) unlawfully attempts in any manner to strike any person with any kind of projectile; or

- (c) unlawfully causes any explosive substance to explode; or
- (d) sends or delivers any explosive substance or other dangerous or noxious thing to any person; or
- (e) causes any such substance or thing to be taken or received by any person; or
- (f) puts any corrosive fluid or any destructive or explosive substance in any place; or
- (g) unlawfully casts or throws any such fluid or substance at or upon any person, or otherwise applies any such fluid or substance to the person of any person;

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

### **Taking or sending dangerous goods on aircraft**

**317A.(1)** Any person who—

- (a) carries or places dangerous goods on board an aircraft; or
- (b) delivers dangerous goods to another person for the purpose of such goods being placed on board an aircraft; or
- (c) has dangerous goods in the person's possession on board an aircraft;

is guilty of a crime and is liable to imprisonment for 7 years.

(2) It is a defence to a charge of any offence defined in this section to prove that the act constituting the offence was lawfully consented to by the owner or operator of the aircraft with knowledge by the owner or operator of the nature of the goods concerned or that the act was done by authority or permission of or under a law of the Commonwealth or of the State.

(3) For the purposes of this section—

**“dangerous goods”** means—

- (a) firearms, ammunition, weapons and explosive substances; and
- (b) substances and things which by reason of their nature or condition may endanger the safety of an aircraft or of a person on board an aircraft.

**Preventing escape from wreck**

**318.** Any person who unlawfully—

- (a) prevents or obstructs any person who is on board of or is escaping from a vessel which is in distress or wrecked or cast ashore, in the person's endeavours to save the person's life; or
- (b) obstructs any person in the person's endeavours to save the life of any person so situated;

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

**Intentionally endangering safety of persons travelling by railway**

**319.** Any person who, with intent to injure or to endanger the safety of any person travelling by any railway, whether a particular person or not—

- (a) deals with the railway, or with anything whatever upon or near the railway in such a manner as to affect or endanger the free and safe use of the railway or the safety of any such person; or
- (b) shows any light or signal, or in any way deals with any existing light or signal, upon or near the railway; or
- (c) by any omission to do any act which it is the person's duty to do causes the safety of any such person to be endangered;

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

**Endangering safety of persons travelling by aircraft**

**319A.** Any person who with intent to injure or to endanger the safety of any person whilst the person is on board any aircraft whether a particular person or not—

- (a) deals with the aircraft or with anything whatever upon or near the aircraft or with anything whatever either directly or indirectly connected with the guidance control or operation of the aircraft in such a manner as to affect or endanger or be likely to affect or endanger the free and safe use of the aircraft or the safety of any such person; or
- (b) by any omission to do any act which it is the person's duty to do

causes the safety of any such person to be endangered;  
is guilty of a crime and is liable to imprisonment for life.

### **Grievous bodily harm**

**320.** Any person who unlawfully does grievous bodily harm to another is guilty of a crime, and is liable to imprisonment for 14 years.

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

**321.** Any person who unlawfully, and with intent to do any bodily harm to another, puts any explosive substance in any place whatever, is guilty of a crime, and is liable to imprisonment for 14 years.

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

**322.** Any person who unlawfully, and with intent to injure or annoy another, causes any poison or other noxious thing to be administered to, or taken by, any person and thereby endangers the person's life, or does the person some grievous bodily harm, is guilty of a crime, and is liable to imprisonment for 14 years.

### **Wounding and similar acts**

**323.(1)** Any person who—

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

is guilty of a misdemeanour, and is liable to imprisonment for 7 years.

**(2)** The offender may be arrested without warrant.

### **Failure to supply necessities**

**324.** Any 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 the other person's health is or is likely to be permanently injured, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

### **Endangering life or health of apprentices or servants**

**325.** Any person who, being charged as a master or mistress with the duty of providing necessary food, clothing, or lodging, for a servant or apprentice under the age of 16 years, unlawfully fails to perform that duty, or in any other manner does any bodily harm or causes any bodily harm to be done to such servant or apprentice whereby, in either case, the life of such servant or apprentice is or is likely to be endangered, or his or her health is or is likely to be permanently injured, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

### **Endangering life of children by exposure**

**326.** Any person who unlawfully abandons or exposes a child under the age of 2 years, whereby the life of such child is or is likely to be endangered, or the child's health is or is likely to be permanently injured, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

### **Setting mantraps**

**327.(1)** Any person who sets or places any spring-gun, mantrap, or other engine calculated to destroy human life or to inflict grievous bodily harm, or causes any such thing to be set or placed, in any place with the intent that it may kill or inflict grievous bodily harm upon a trespasser or other person coming in contact with it, or sets or places any such thing in any such place and in any such manner that it is likely to cause any such result, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

**(2)** Any person who knowingly permits any such spring-gun, mantrap, or other engine, which has been set or placed by another person in any such place and in any such manner that it is likely to cause any such result, to continue so set or placed in any place which is then in, or afterwards comes into, the person's possession or occupation, is deemed to have set and placed the gun, trap, or engine, with the intent aforesaid.

**(3)** This section does not make it unlawful to set any gin or trap such as

is usually set for the purpose of destroying vermin; or to set any spring gun, mantrap, or engine, at night in a dwelling house for the protection of the dwelling house.

### **Negligent acts causing harm**

**328.(1)** Any person who unlawfully does any act, or omits to do any act which it is the person's duty to do, by which act or omission bodily harm is actually caused to any person, is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

(2) The offender may be arrested without warrant.

### **Dangerous driving of a motor vehicle**

**328A.(1)** Any person who drives a motor vehicle on a road or in a public place dangerously is guilty of a misdemeanour and is liable to a fine of 200 penalty units or to imprisonment for 3 years, or the person may be summarily convicted before 2 justices in which case the person is liable to a fine of 40 penalty units or to imprisonment for 12 months.

(2) If the offender—

- (a) at the time of committing the offence is adversely affected by an intoxicating substance; or
- (b) has been previously convicted either upon indictment or summarily under this section;

the person is liable, upon conviction upon indictment, to a fine of 400 penalty units or to imprisonment for 5 years or, upon summary conviction, to a fine of 100 penalty units or to imprisonment for 2 years.

(3) If the offender has been—

- (a) previously convicted either upon indictment or summarily of an offence against this section committed while the offender was adversely affected by an intoxicating substance; or
- (b) twice previously convicted either upon indictment or summarily (or once upon indictment and once summarily) of the same prescribed offence or different prescribed offences;

the court or justices shall, upon conviction, impose as the whole or part of

the punishment, imprisonment.

(4) If the offender causes the death of or grievous bodily harm to another person the offender is liable upon conviction upon indictment to imprisonment for 7 years unless at the time of committing the offence the offender is adversely affected by an intoxicating substance in which case the offender is liable upon conviction upon indictment—

- (a) to imprisonment for 10 years; or
- (b) if the intoxicating substance is alcohol and the concentration of alcohol in the offender's blood at that time equals or exceeds 150 mg of alcohol per 100 ml of blood—to imprisonment for 14 years.

(5) In this section—

**“drives a motor vehicle on a road or in a public place dangerously”**

includes the driving of a motor vehicle at a speed or in a manner dangerous to the public, having regard to all the circumstances of the case, including the nature, condition, and use of the road or public place and the amount of traffic which is on the road or in the public place at the time or which might reasonably be expected to be on the road or in the public place and the concentration of alcohol in the driver's blood at the time and the presence of any other intoxicating substance in the driver's body at the time;

**“prescribed offence”** means an offence against this section or any other offence (prosecuted upon indictment) in connection with or arising out of the driving of a motor vehicle in such a manner as to cause or be likely to cause injury to any person or an offence defined in section 16(1), (2), (2A), (2B) or (2D) of the *Traffic Act 1949*;

**“public place”** includes every place of public resort open to or used by the public as of right and any field, ground, park, reserve, garden, wharf, pier, jetty, market, passage or any other place for the time being used for a public purpose or open to access by the public, whether on payment or otherwise, or open to access by the public by the express or tacit consent or sufferance of the owner, and whether the same is or is not at all times so open, but not including a track which for the time being is used as a course for the racing or testing of motor vehicles and

from which other traffic at the time is excluded.

(6) The offender may be arrested without warrant.

### **Additional power to convict for dangerous driving**

**328B.(1)** Upon an indictment charging a person with any offence in connection with or arising out of the driving of a motor vehicle by the person (not being the offence defined in section 328A), the person may be convicted of the offence defined in section 328A with or without a circumstance of aggravation specified in section 328A(4), if such offence is established by the evidence.

(2) The provisions of this section shall apply notwithstanding the provisions of section 576.

### **Endangering safety of persons travelling by railway**

**329.** Any person who by any unlawful act, or by any omission to do any act which it is the person's duty to do, causes the safety of any person travelling by any railway to be endangered, is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

### **Sending or taking unseaworthy ships to sea**

**330.(1)** Any person who—

- (a) sends or attempts to send a ship to sea in such an unseaworthy state that the life of any person is likely to be thereby endangered; or
- (b) being a master of a British ship, knowingly takes or attempts to take the ship to sea in such an unseaworthy state that the life of any person is likely to be thereby endangered;

is guilty of a crime, and is liable to imprisonment for 14 years.

(2) It is a defence to a charge of any of the offences defined in this section to prove that the going of the ship to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable.

(3) It is a defence to a charge of either of the offences defined in this

section to show that the accused person used all reasonable means to ensure the ship being sent to sea in a seaworthy state.

### **Endangering steamships by tampering with machinery**

**331.** Any person who, being a person having actual control over a steam vessel, or over any part of the machinery of a steam vessel, does any act or makes any omission or is privy to any act or omission with respect to the machinery of the vessel, whereby to the person's knowledge, the safety of any person on board the vessel is, or is likely to be endangered, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

### **The like by engineers**

**332.(1)** Any person who is engineer, or 1 of the engineers, in charge of the machinery of a steam vessel at any time when any act is done or omitted to be done by any other person with respect to the machinery of the vessel, whereby the safety of any person on board the vessel is, or is likely to be, endangered, is guilty of an offence, and is liable on summary conviction to a fine of \$200.

**(2)** It is a defence to a charge of the offence defined in this section to prove that the act or omission was done or made without the knowledge of the accused person, and without any neglect or default on the person's part.

### **Evading laws as to equipment of ships and shipping dangerous goods**

**333.** Any person who—

- (a) being a person having actual control over a vessel on board of which any article has been placed with the person's knowledge or consent in order to the obtaining of permission or authority to leave a port, removes or allows the removal of such article from the vessel after such permission or authority has been obtained; or
- (b) knowingly sends by any vessel, or carries in any vessel, any explosive substance, or any acid or other thing of a dangerous or destructive nature, under a false description of the substance or thing, or with a false description of the sender thereof;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

**Landing explosives**

**334.(1)** Any person who—

- (a) being charged by law with any duty respecting the landing or delivery of any explosive substance or of any acid or other thing of a dangerous or destructive nature, from any vessel, fails to perform that duty; or
- (b) being concerned in the landing of any such substance or thing from any vessel, violates the provisions of the laws relating to such landing;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

(2) This section does not apply to gunpowder the property of Her Majesty while it is under the control of an officer of Her Majesty's army or navy, or ordinance, or of the Defence Force of Queensland.

**CHAPTER 30—ASSAULTS****Common assault**

**335.** Any person who unlawfully assaults another is guilty of a misdemeanour, and is liable, if no greater punishment is provided, to imprisonment for 1 year.

**Assault with intent to have unlawful anal intercourse**

**336.** Any person who assaults another with intent to have carnal knowledge of him or her by anal intercourse is guilty of a crime, and is liable to imprisonment for 14 years.

**Indecent assaults**

**337.(1)** Any person who—

- (a) unlawfully and indecently assaults another;
- (b) procures another person, without the consent of that other person

or with consent if it 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 and fraudulent representations as to the nature of the act of gross indecency or by personating the spouse of that other person—

- (i) to commit an act of gross indecency; or
- (ii) to witness an act of gross indecency by the offender or any other person;

is guilty of a crime, and is liable to imprisonment for 7 years.

(2) In the case of an offence defined in subsection (1)(a) or (b)(i), if the indecent assault or the act of gross indecency consists (wholly or in part)—

- (a) in an act of carnal knowledge, by anal intercourse—the offender is liable to imprisonment for life;
- (b) in penetrating the vagina or anus with any object or with any part of the body other than the penis or in bringing into contact any part of the mouth and the anus or any part of the genitalia—the offender is liable to imprisonment for 14 years.

(3) In this section—

“spouse” includes a person living with the person procured as his or her spouse though not lawfully married to him or her.

### **Assaults on persons protecting wrecks**

**338.** Any person who unlawfully assaults and uses actual violence to a justice or any other person while acting in the execution of his or her duty in or concerning the preservation of a vessel in distress, or of any vessel or goods wrecked, stranded, or cast on shore, or lying under water, is guilty of a crime, and is liable to imprisonment for 7 years.

### **Assaults of member of crew on aircraft**

**338A.** Any person who while on board an aircraft unlawfully assaults a member of the crew of the aircraft or threatens such a member with any violence injury or detriment of any kind to be caused to the member or any other person on the aircraft by the offender or by any other person with the

intention of affecting the performance by the member of the member's functions or duties in connection with the operation of the aircraft or with the intention of lessening the member's ability to perform those functions or duties is guilty of a crime and is liable to imprisonment for 14 years.

### **Assaults occasioning bodily harm**

**339.(1)** Any person who unlawfully assaults another and thereby does the other person bodily harm is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

(2) The offender may be arrested without warrant.

(3) If the offender is or pretends to be armed with any dangerous or offensive weapon or instrument or is in company with 1 or more other person or persons, the offender is liable to imprisonment for 7 years.

### **Serious assaults**

**340.** Any person who—

- (a) assaults another with intent to commit a crime, or with intent to resist or prevent the lawful arrest or detention of himself or herself or of any other person; or
- (b) assaults, resists, or wilfully obstructs, a police officer while acting in the execution of the officer's duty, or any person acting in aid of a police officer while so acting; or
- (c) unlawfully assaults, resists, or obstructs, any person engaged in the lawful execution of any process against any property, or in making a lawful distress, while so engaged; or
- (d) assaults, resists, or obstructs, any person engaged in such lawful execution of process, or in making a lawful distress, with intent to rescue any property lawfully taken under such process or distress; or
- (e) assaults any person on account of any act done by the person in the execution of any duty imposed on the person by law; or
- (f) assaults any person in pursuance of any unlawful conspiracy respecting any manufacture, trade, business, or occupation, or

respecting any person or persons concerned or employed in any manufacture, trade, business, or occupation, or the wages of any such person or persons;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

## **CHAPTER 31—ASSAULTS PUNISHABLE ON SUMMARY CONVICTION**

### **Jurisdiction of justices**

**341.** Any person who unlawfully assaults another may, subject to the provisions of this Chapter, be summarily convicted before 2 justices.

### **Some assaults not to be so dealt with**

**342.** If the justices find that the assault complained of was accompanied by an attempt to commit a crime, or if for any reason the justices are of opinion that the charge is a fit subject for prosecution by indictment, they are required to abstain from dealing with the case summarily.

### **Common assaults**

**343.(1)** Any person who unlawfully assaults another is liable on summary conviction to a fine of \$500, inclusive of costs, and in default of payment to imprisonment for 6 months unless the fine and costs are sooner paid, or to imprisonment for 6 months in the first instance.

**(2)** If the justices are of opinion that the assault was so trifling as not to deserve any punishment, they may convict the defendant, and discharge the defendant without inflicting any punishment.

**(3)** This section does not authorise justices to deal summarily with a charge of assault on which a question arises as to the title to land, or an estate in land, or to any interest in or accruing from land, or as to any insolvency, or as to the execution of the process of any court of justice.

**Assaults occasioning bodily harm**

**343A.(1)** Any person who unlawfully assaults another and thereby does the other person bodily harm is liable on summary conviction to a fine of \$1 000 inclusive of costs and in default of payment thereof to imprisonment for 2 years, or to imprisonment for 2 years in the first instance.

(2) This section does not authorise justices to deal summarily with a charge of assault occasioning bodily harm on which a question arises as to the title to land, or an estate in land, or to any interest in or accruing from land, or as to any insolvency, or as to the execution of the process of any court of justice.

(3) This section shall be read as subject to the provisions of section 342.

(4) A person charged before justices with an offence defined in this section may be convicted of an offence defined in section 343, if that offence is established by the evidence.

**Aggravated assaults**

**344.(1)** If the justices are of opinion that the assault is of such an aggravated nature that the offender cannot be sufficiently punished under the provisions of section 343, the offender is liable on summary conviction to a fine of \$1 000, inclusive of costs, and in default of payment to imprisonment for 12 months unless the fine and costs are sooner paid, or to imprisonment for 12 months in the first instance.

(2) The justices may also, if they think fit, require the offender to enter into a recognisance to keep the peace and be of good behaviour for any term not exceeding 6 months from the expiration of the sentence.

(3) Without prejudice to the generality of subsection (1), the following shall be circumstances of aggravation—

- (a) that the unlawful assault is an offence of a sexual nature as defined by section 2A of the *Criminal Law Amendment Act 1945*;
- (b) that the person assaulted is a child under the age of 16 years;
- (c) that the person assaulted is a female;
- (d) that the person assaulted is a male child under the age of 14 years.

(4) An offender shall not be punished as for an assault of an aggravated

nature within the meaning of this section unless the offender has been charged therewith and the circumstance or circumstances of such aggravation have been stated in such charge.

(5) If the justices find that the assault is an offence of a sexual nature and that the person assaulted is a child under the age of 16 years, they may in addition to or before sentencing the person found guilty of such assault proceed to exercise the powers conferred on a Magistrates Court or justices in such circumstances by Part 4 of the *Criminal Law Amendment Act 1945*.

(6) This section shall be read as subject to the provisions of section 342 hereof.

### **Assaults in interference with freedom of trade or work**

**346.** Any person who assaults another with intent to hinder or prevent the other person from working at or exercising the other person's lawful trade, business, or occupation, or from buying, selling, or otherwise dealing, with any property intended for sale, is guilty of an offence, and is liable on summary conviction to imprisonment for 3 months.

## **CHAPTER 32—ASSAULTS ON FEMALES—ABDUCTION**

### **Definition of “rape”**

**347.(1)** Any person who has carnal knowledge of a female without her consent or with her consent if it 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 and fraudulent representations as to the nature of the act, or, in the case of a married woman, by personating her husband, is guilty of a crime, which is called “**rape**”.

(2) In this section—

“**married woman**” includes a woman living with a man as his wife though not lawfully married to him and “**husband**” has a corresponding meaning.

**Punishment of rape**

**348.** Any person who commits the crime of rape is liable to imprisonment for life.

**Attempt to commit rape**

**349.** Any person who attempts to commit the crime of rape is guilty of a crime, and is liable to imprisonment for 14 years.

**Abduction**

**351.(1)** Any person who—

- (a) with intent to marry or carnally know a woman, or to cause her to be married or carnally known by any other person, takes her away, or detains her, against her will; or
- (b) from motives of gain, and with any such intent as mentioned in paragraph (a), takes or entices away, or detains, a woman who is under the age of 18 years, and who has any interest, whether legal or equitable, present or future, absolute, conditional, or contingent, in any property, or who is a presumptive heiress or co-heiress, or the presumptive next of kin, or 1 of the presumptive next of kin, to any person who has such an interest, out of the custody or protection of her father or mother, or other person having the lawful care or charge of her, and against the will of such father or mother or other person;

is guilty of a crime, and is liable to imprisonment for 7 years.

**(2)** A person convicted of any of the offences defined in this section, which was committed with respect to a woman who has any such interest in property, or who is a presumptive heiress or co-heiress, or the presumptive next of kin, or 1 of the presumptive next of kin, to any person who has such an interest as aforesaid, is incapable of taking any estate or interest, legal or equitable, in any property of such woman, or in which she has any interest, or which comes to her as such heiress, co-heiress, or next of kin as aforesaid; and, if he has married the woman, such property is, upon his conviction, to be settled in such manner as the Supreme Court may, upon an information at the suit of a Crown Law Officer, appoint.

## CHAPTER 33—OFFENCES AGAINST LIBERTY

### **Kidnapping**

**354.** Any person who forcibly takes or detains another with intent to compel that other person to work for the person or for any other person against the person's will is guilty of a crime, and is liable to imprisonment for 7 years.

### **Kidnapping for ransom**

**354A.(1)** Any person who—

- (a) with intent to extort or gain anything from or procure anything to be done or omitted to be done by any person by a demand containing threats of any injury or detriment of any kind to be caused to any person, either by the offender or any other person, if the demand is not complied with, takes or entices away, or detains, the person in respect of whom the threats are made; or
- (b) receives or harbours the said person in respect of whom the threats are made, knowing such person to have been so taken or enticed away, or detained;

is guilty of a crime which is called “**kidnapping for ransom**”.

(2) Any person who commits the crime of kidnapping for ransom is liable to imprisonment for 14 years.

(3) If the person kidnapped has been unconditionally set at liberty without such person having suffered any grievous bodily harm, the offender is liable to imprisonment for 10 years.

(4) Any person who attempts to commit the crime of kidnapping for ransom is guilty of a crime and is liable to imprisonment for 7 years.

(5) The wife of the accused person is a competent but not a compellable witness.

### **Deprivation of liberty**

**355.** Any person who unlawfully confines or detains another in any place

against the other person's will, or otherwise unlawfully deprives another of the other person's personal liberty, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

### **False certificates by officers charged with duties relating to liberty**

**356.** Any person who—

- (a) being required by law to give any certificate touching any matter by virtue whereof the liberty of any person may be affected, gives a certificate which, in any material particular, is to the person's knowledge false; or
- (b) not being a person authorised by law to give such a certificate as aforesaid, gives such a certificate, and represents himself or herself to be a person authorised to give the same;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

### **Concealment of matters affecting liberty**

**357.** Any person who—

- (a) being required by law to keep any record touching any matter relating to any person in confinement, refuses or neglects to keep such record, or makes in such record an entry which, in any material particular, is to the person's knowledge false; or
- (b) being required by law to give any information to any person touching any person in confinement, or to show to any person any person in confinement, or any place in which a person is confined—
  - (i) refuses or neglects to give such information, or to show such person or place, to any person to whom the person is so required to give the information or show the person or place; or
  - (ii) gives to any person to whom the person is so required to give it, information touching any such matter which, in any material particular, is to the person's knowledge false;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

**Unlawful custody of patient under Mental Health Act 1974**

**358.** Any person who detains or assumes the custody of a patient (within the meaning of the *Mental Health Act 1974*) contrary to the provisions of the laws relating to such persons is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

**Threats**

**359.** Any person who threatens to do any injury, or cause any detriment, of any kind to another with intent to prevent or hinder that other person from doing any act which the other person is lawfully entitled to do, or with intent to compel the other person to do any act which the other person is lawfully entitled to abstain from doing, is guilty of a misdemeanour, and is liable to imprisonment for 1 year or to a fine of \$400.

**Unlawful stalking**

**359A.(1)** A person must not unlawfully stalk another person.

**(2)** A person (the “**first person**”) unlawfully stalks another person (the “**second person**”) if—

- (a) the first person engages in a course of conduct involving doing a concerning act on at least 2 separate occasions to another person or other persons (whether the second person, another or others); and
- (b) the first person intends that the second person be aware that the course of conduct is directed at the second person, even if the concerning acts or particular concerning acts are done to, or to the property of, a person other than the second person; and
- (c) the second person is aware that the course of conduct is directed at the second person; and
- (d) the course of conduct would cause a reasonable person in the second person’s circumstances to believe that an offensive act (a “**concerning offensive act**”) is likely to happen.

**(3)** For the purpose of subsection (2)(d), the second person’s circumstances are those known or foreseen by the first person and those reasonably foreseeable by the first person.

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(4) It is a defence to a charge under this section to prove that the course of conduct was engaged in for the purposes of a genuine—

- (a) industrial dispute; or
- (b) political or other public dispute or issue carried on in the public interest.

(5) The offence under this section may only be committed against an individual.

(6) Unlawful stalking is a crime for which the first person is liable to a maximum penalty of—

- (a) imprisonment for 5 years if, for any of the concerning acts constituting the offence, the first person—
  - (i) unlawfully uses or threatens to use unlawful violence against another person or another person's property; or
  - (ii) has possession of a weapon within the meaning of the *Weapons Act 1990*; or
  - (iii) contravenes an injunction or order imposed or made by a court under a law of the State, the Commonwealth, another State or a Territory, or threatens this; or
- (b) imprisonment for 3 years in any other case.

(7) In this section—

**“concerning act”** means any of the following acts—

- (a) following, loitering near, watching or approaching another person;
- (b) telephoning or otherwise contacting another person;
- (c) loitering near, watching, approaching or entering a place where another person lives, works or visits;
- (d) interfering with property in the possession of another person;
- (e) leaving offensive material where it will be found by, given to or brought to the attention of, another person;
- (f) giving offensive material to another person, directly or indirectly;
- (g) an act of harassment, intimidation or threat against another

person;

- (h) an unlawful act committed against the person or property of another person;

**“concerning offensive act”** means an unlawful act of violence by the first person against—

- (a) the second person’s person or property; or
- (b) a person, other than the second person, about whose health or custody the second person would reasonably be expected to be seriously concerned if the act were done, including, for example, a dependant, relative, friend, employer or associate of the second person; or
- (c) the property of a person, other than the second person, about whose property the second person would reasonably be expected to be seriously concerned if the act were done, including, for example, the premises where the second person lives or works, or the property of a dependant, relative, friend, employer or associate of the second person;

**“property”** of a person other than the first person includes property in which both the first person and the other person have an interest;

**“unlawful”** act means an unlawful act constituting an offence;

**“violence”** against the person includes an act depriving a person of liberty;

**“violence”** against property includes an unlawful act of damaging, destroying, removing, using or interfering with property.

### **Summary proceedings for unlawful stalking**

**359B.(1)** A proceeding for an indictable offence against section 359A may be dealt with summarily, unless the accused is charged with a circumstance of aggravation mentioned in section 359A(6)(a).

**(2)** The maximum sentence that may be imposed on a summary conviction for an indictable offence against section 359A is imprisonment for 18 months.

**(3)** A proceeding for an indictable offence against section 359A may be dealt with summarily even though the proceeding was started more than

1 year after the offence was committed.

(4) A proceeding for an indictable offence against section 359A may be dealt with summarily at any place appointed for holding Magistrates Courts regardless of where the offence was committed.

(5) The summary jurisdiction conferred by this section must be exercised in the way, and subject to the conditions, prescribed by section 444 for the summary trial and punishment of offenders who may be summarily convicted of indictable offences under that section.

## **CHAPTER 34—OFFENCES RELATING TO MARRIAGE AND PARENTAL RIGHTS AND DUTIES**

### **Bigamy**

**360.(1)** Any person who—

- (a) being married, goes through the form of marriage with any other person during the life of his or her wife or husband; or
- (b) goes through the form of marriage with any person whom he or she knows to be married;

is guilty of a crime, and is liable to imprisonment for 7 years.

(2) It is a defence to a charge of either of the offences defined in this section to prove that at the time of committing the alleged offence the wife or husband of the person already married had been continually absent from him or her for the space of 7 years then last past, unless it is shown that the accused person knew that such wife or husband was living within that time.

### **Unlawful celebration of marriage**

**361.** Any person who—

- (a) celebrates, or attempts or professes to celebrate, the marriage of any person who, to the person's knowledge, is under the age of 18 years, and is not a widower or widow, without the written consent of some person authorised by law to give such consent,

or with a written consent which, to the person's knowledge, is not given by a person authorised by law to give it; or

- (b) celebrates, or attempts or professes to celebrate, any marriage contrary to the provisions of the laws relating to the solemnisation of marriage; or
- (c) celebrates, or attempts or professes to celebrate, any marriage in any case in which any provision of those laws has not been complied with, knowing that it has not been complied with; or
- (d) induces, or attempts to induce, any person to celebrate the marriage of any person who is to the knowledge of the offender under the age of 18 years, and is not a widower or widow, without the consent mentioned in paragraph (a), or with a consent which, to the person's knowledge, is not given by a person authorised by law to give it, or to celebrate any marriage contrary to or without compliance with the laws relating to the solemnisation of marriage; or
- (e) marries a person who is, to his or her knowledge, under the age of 18 years, and is not a widow or widower, without the consent mentioned in paragraph (a), or with a consent which, to his or her knowledge, is not given by a person authorised by law to give it;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

### **Unqualified persons procuring registration as persons qualified to celebrate marriages**

**362.** Any person who, not being a person entitled to be registered under the laws relating to the solemnisation of marriage as a person authorised to celebrate marriages, and knowing that the person is not such a person, procures the person's name to be registered as a person so entitled, is guilty of a misdemeanour, and is liable to imprisonment for 2 years, and to a fine of \$400.

### **Child-stealing**

**363.(1)** Any person who, with intent to deprive any parent, guardian, or other person who has the lawful care or charge, of a child under the age of

16 years, of the possession of such child, or with intent to steal any article upon or about the person of any such child—

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

is guilty of a crime, and is liable to imprisonment for 7 years.

(2) For the purposes of this section—

**“parent”**, in addition to its ordinary meaning, shall, in the case of a child who has been legally adopted in Queensland or in any other State of the Commonwealth or in any Territory of the Commonwealth under the law relating to adoption for the time being in force in this State or other State or Territory, include the person or each of the persons (if more than 1) who shall have so adopted the child concerned, each of whom shall be a parent of such child; but in any such case shall not include any natural parent of such adopted child concerned.

(3) It is a defence to a charge of any of the offences defined in this section to prove that the accused person claimed in good faith a right to the possession of the child, or, in the case of a child whose parents were not married to each other at the time of its conception and have not since married each other, not being a child who has been adopted as aforesaid, is its mother or claimed in good faith to be its father.

### **Abduction of child under 16**

**363A.(1)** Any person who unlawfully takes an unmarried child under the age of 16 years out of the custody or protection of the child’s father or mother, or other person having the lawful care or charge of the child, and against the will of the father, mother or other person, is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

(2) It is immaterial that the offender believed the child to be of or above the age of 16 years.

(3) It is immaterial that the child was taken with the consent of or at the suggestion of the child.

**Desertion of children**

**364.** Any person who, being the parent, guardian, or other person who has the lawful care or charge, of a child under the age of 14 years, and being able to maintain such child, wilfully and without lawful or reasonable cause deserts the child and leaves it without means of support, is guilty of a misdemeanour, and is liable to imprisonment for 1 year.

**PART 6—OFFENCES RELATING TO PROPERTY  
AND CONTRACTS*****DIVISION 1—STEALING AND LIKE OFFENCES*****CHAPTER 36—STEALING****Things capable of being stolen**

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

**(2)** Every inanimate thing which is the property of any person, and which is capable of being made moveable, is capable of being stolen as soon as it becomes moveable, although it is made moveable in order to steal it.

**(3)** Every tame animal, whether tame by nature or wild by nature and tamed, which is the property of any person, is capable of being stolen, but tame pigeons are not capable of being stolen except while they are in a pigeon-house or on their owner's land.

**(4)** Animals wild by nature, of a kind which is not ordinarily found in a condition of natural liberty in Queensland, which are the property of any person, and which are usually kept in a state of confinement, are capable of being stolen, whether they are actually in confinement or have escaped from confinement.

**(5)** Animals wild by nature, of a kind which is ordinarily found in a

condition of natural liberty in Queensland, which are the property of any person, are capable of being stolen while they are in confinement and while they are being actually pursued after escaping from confinement, but not at any other time.

(6) An animal wild by nature is deemed to be in a state of confinement so long as it is in a den, cage, sty, tank, or other small enclosure, or is otherwise so placed that it cannot escape and that its owner can take possession of it at pleasure.

(7) Oysters and oyster brood are capable of being stolen while in oyster beds, layings, or fisheries, which are the property of any person, and which are sufficiently marked out, or are known by general repute as the person's property.

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

(9) Everything produced by or forming part of the body of an animal capable of being stolen is capable of being stolen.

### **Definition of “stealing”**

**391.(1)** A person who fraudulently takes anything capable of being stolen, or fraudulently converts to the person's own use or to the use of any other person 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 the person does so with any of the following intents, that is to say—

- (a) an intent to permanently deprive the owner of the thing of it;
- (b) an intent to permanently deprive any person who has any special property in the thing of such property;
- (c) an intent to use the thing as a pledge or security;
- (d) 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;
- (e) 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;

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- (f) in the case of money—an intent to use it at the will of the person who takes or converts it, although the person may intend to afterwards repay the amount to the owner.

**(2AA)** In this section—

**“special property”** includes any charge or lien upon the thing in question, and any right arising from or dependent upon holding possession of the thing in question, whether by the person entitled to such right or by some other person for the other person’s benefit.

**(2A)** A person who has taken possession of anything capable of being stolen in such circumstances that the thing thereupon is not identifiable is deemed to have taken or converted the thing fraudulently notwithstanding that the property in the thing has passed to the person if, at the time the person transports the thing away, the person has not discharged or made arrangements with the owner or previous owner of the thing for discharging the person’s indebtedness in respect of the thing.

**(2B)** The presumption provided for by subsection (2A) is rebuttable.

**(3)** The taking or conversion may be fraudulent, although it is effected without secrecy or attempt at concealment.

**(4)** In the case of conversion, it is immaterial whether the thing converted 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.

**(4A)** It is also immaterial that the person who converts the property is the holder of a power of attorney for the disposition of it, or is otherwise authorised to dispose of the property.

**(5)** 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.

**(6)** The act of stealing is not complete until the person taking or converting the thing actually moves it or otherwise actually deals with it by some physical act.

**(7)** In this section—

“owner” includes the owner, any part owner, or any person having possession or control of, or a special property in, the thing in question.

### **Special cases**

**392.(1)** When a wild animal in the enjoyment of its natural liberty has been killed by any person, the taking of the dead body of the animal by that person, or by any person acting under the person’s orders, before it has been reduced into actual possession by the owner of the land on which the animal was killed or on which it died, is not deemed to be stealing.

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

(3) When a servant, contrary to his or her master or mistress’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 the servant’s master or mistress, such taking is not deemed to be stealing.

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

**393.(1)** When a person receives, either alone or jointly with another person, any money or valuable security, or a power of attorney for the sale, mortgage, pledge, or other disposition, of any property, whether capable of being stolen or not, with a direction in either case that such money or any part thereof, or any other money received in exchange for it, or any part thereof, or the proceeds or any part of the proceeds of such security, or of such mortgage, pledge, or other disposition, shall be applied to any purpose or paid to any person specified in the direction, such money and proceeds are deemed to be the property of the person from whom the money, security, or power of attorney, was received until the direction has been complied with.

(2) However, if the person receiving the money, security or power of

attorney, and the person from whom the person receives it ordinarily deal with each other on such terms that in the absence of any special direction all money paid to the former on account of the later would be properly treated as an item in a debtor and creditor account between them, the former cannot be charged with stealing the money or any such proceeds unless the direction is in writing.

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

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

### **Money received for another**

**395.** 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.

### **Stealing by persons having an interest in the thing stolen**

**396.** When any person takes or converts anything capable of being stolen, under such circumstances as would otherwise amount to stealing, it is immaterial that the person has a special property or interest therein, or that

the person is the owner of the thing taken or converted subject to some special property or interest of some other person therein; or that the person is lessee of the thing, or that the person is 1 of 2 or more joint owners of the thing; or that the person is a director or officer of a corporation or company or society who are the owners of it.

### **Husband and wife**

**397.** A person who, while a husband and wife are living together, procures either of them to deal with anything which is, to the person's knowledge, the property of the other in a manner which would be stealing if they were not married, is deemed to have stolen the thing, and may be charged with stealing it.

### **Punishment of stealing**

**398.(1)** Any person who steals anything capable of being stolen is guilty of a crime, and is liable, if no other punishment is provided, to imprisonment for 3 years.

**(2)** If the thing stolen is 1 of the following animals, that is to say, a horse, mare, gelding, ass, mule, camel, bull, cow, ox, ram, ewe, wether, boar, sow, barrow, deer, buffalo or goat, or the young of any such animal, and the offender is sentenced to pay a fine in addition to, or instead of, imprisonment, whether the offender is liable to imprisonment for 3 years or for any longer period provided under this section, the fine shall be not less than \$200 or, where in respect of the animal in question a value is determined in accordance with the provisions of the regulations made pursuant to section 450F, not less than that value, whichever is the higher amount, for every animal stolen.

**(3)** However, the fine imposed in respect of the offence shall not exceed \$25 000.

### **Punishment in special cases**

#### **Stealing wills**

**1.** If the thing stolen is a testamentary instrument, whether the testator is living or dead, the offender is liable to imprisonment for life.

**Stealing things sent by post**

2. If the thing stolen is anything in course of transmission by post, the offender is liable to imprisonment for life.

**Stealing from the person—stealing goods in transit etc.**

4. If the offence 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 \$40, or the offender at or immediately before or after the time of stealing uses or threatens to use violence to any person in the dwelling house;
- (c) if the thing is stolen from any kind of vessel or vehicle or place of deposit used for the conveyance or custody of goods in transit from 1 place to another;
- (d) if the thing is stolen from a vessel which is in distress or wrecked or stranded;
- (e) if the thing is stolen from a public office in which it is deposited or kept;
- (f) if the offender, in order to commit the offence, opens any locked room, box, or other receptacle, by means of a key or other instrument;

the offender is liable to imprisonment for 7 years.

**Stealing by persons in the public service**

5. If the offender is a person employed in the public service, and the thing stolen is the property of Her Majesty, or came into the possession of the offender by virtue of the offender's employment, the offender is liable to imprisonment for 7 years.

**Stealing by clerks and servants**

6. If the offender is a clerk or servant, and the thing stolen is the property

of the offender's employer, or came into the possession of the offender on account of the offender's employer, the offender is liable to imprisonment for 7 years.

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

7. 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, the offender is liable to imprisonment for 7 years.

### **Stealing by agents etc.**

8. 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) money received by the offender with a direction that the same should be applied to any purpose or paid to any person specified in the direction;
- (c) 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;
- (d) the whole or part of the proceeds arising from any disposition of any property which have been received by the offender by virtue of a power of attorney for such disposition, such power of attorney having been received by the offender with a direction that such proceeds should be applied to any purpose or paid to any person specified in the direction;

the offender is liable to imprisonment for 7 years.

### **Stealing property of value exceeding \$5 000**

9. If the value of the thing stolen exceeds \$5 000, the offender is liable to imprisonment for 7 years.

**Stealing by tenants or lodgers**

**10.** If the thing stolen is a fixture or chattel let to the offender to be used by the offender with a house or lodging, and its value exceeds \$500, the offender is liable to imprisonment for 7 years.

**Stealing after previous conviction**

**11.** If the offender, before committing the offence, had been convicted upon indictment of any of the indictable offences defined in this Division, or had been twice previously summarily convicted of an offence punishable on summary conviction under this Division, whether each of the convictions was in respect of an offence of the same character or not, the offender is liable to imprisonment for 7 years.

**Stealing of an aircraft**

**12.** If the thing stolen is an aircraft the offender is liable to imprisonment for 14 years.

## **CHAPTER 37—OFFENCES ANALOGOUS TO STEALING**

**Concealing registers**

**399.** Any person who, with intent to defraud, conceals or takes from its place of deposit any register which is authorised or required by law to be kept for authenticating or recording the title to any property, or for recording births, baptisms, marriages, deaths, or burials, or a copy of any part of any such register which is required by law to be sent to any public officer, is guilty of a crime, and is liable to imprisonment for 14 years.

**Concealing wills**

**400.** Any person who, with intent to defraud, conceals any testamentary

instrument, whether the testator is living or dead, is guilty of a crime, and is liable to imprisonment for 14 years.

### **Concealing deeds**

**401.** Any person who, with intent to defraud, conceals the whole or part of any document which is evidence of title to any land or estate in land is guilty of a crime, and is liable to imprisonment for 3 years.

### **Severing with intent to steal**

**403.** Any person who makes anything moveable with intent to steal it is guilty of a crime, and is liable to the same punishment as if the person had stolen the thing after it became moveable.

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

**405.** Any person who takes, conceals, or otherwise disposes of, any ore of any metal or mineral in or about a mine, with intent to defraud any person, is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

### **Bringing stolen goods into Queensland**

**406.** Any person who, having at any place not in Queensland obtained any property by any act which if it had been done in Queensland would have constituted the crime of stealing, and which is an offence under the laws in force in the place where it was done, brings such property into Queensland, or has it in the person's possession in Queensland, is guilty of a crime, and is liable to the same punishment as if the person had stolen it in Queensland; but so that the punishment does not exceed that which would be incurred for the same act under the laws in force in the place where the act by which the person obtained the property was done.

### **Fraudulent disposition of mortgaged goods**

**407.(1)** Any person who, being the mortgagor of mortgaged goods, removes or disposes of the goods without the consent of the mortgagee,

and with intent to defraud, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

(2) In this section—

**“mortgaged goods”** includes any goods and chattels of any kind, and any live animals, and any progeny of any animals, and any crops or produce of the earth, whether growing or severed, which are subject for the time being to the provisions of any written instrument by which a valid charge or lien is created upon them by way of security for any debt or obligation.

(3) The consent of the mortgagee may be either express or implied from the nature of the property mortgaged.

### **Fraudulent appropriation of power**

**408.** Any person who fraudulently abstracts or diverts to the person’s own use or to the use of any other person any mechanical, illuminating, or electrical, power derived from any machine, apparatus, or substance, the property of another person, is guilty of a crime, and is liable to imprisonment for 3 years.

### **Unlawful user or possession of motor vehicles, aircraft or vessels**

**408A.(1)** A person who—

- (a) unlawfully uses any motor vehicle, aircraft or vessel without the consent of the person in lawful possession thereof; or
- (b) has in the person’s possession any motor vehicle, aircraft or vessel without the consent of the person in lawful possession thereof with intent to deprive the owner or person in lawful possession thereof of the use and possession thereof either temporarily or permanently;

is guilty of a crime and is liable to imprisonment for 7 years.

(1A) If the offender uses or intends to use the motor vehicle, aircraft or vessel for the purpose of facilitating the commission of an indictable offence, the offender is liable to imprisonment for 10 years.

(1B) If the offender—

- (a) wilfully destroys, damages, removes or otherwise interferes with the mechanism (or part thereof) or other part of or equipment attached to the motor vehicle, aircraft or vessel;
- (b) intends to destroy, damage, remove or otherwise interfere with the mechanism (or part thereof) or other part of or equipment attached to the motor vehicle, aircraft or vessel;

the offender is liable to imprisonment for 12 years.

(1C) It is a defence to a charge of an offence defined in subsections (1) to (1B) to prove that the accused person had the lawful consent of the owner of the motor vehicle, aircraft or vessel to its use or possession by the accused person.

(2) This section applies without prejudice to any provision of any other Act relating to the unlawful use or possession of motor vehicles, aircraft or vessels save that an offender shall not be liable to be convicted under both this section and such other provision in respect of any one and the same unlawful use or possession of any motor vehicle, aircraft or vessel.

(3) In this section—

“vessel” means every kind of vessel designed for use on or in water, not propelled exclusively by oars.

### **Indictable offences relating to user or possession of motor vehicles, aircraft or vessels that may be dealt with summarily**

**408B.(1)** If—

- (a) a person charged before 2 justices with an offence defined in section 408A admits that the person is guilty of the offence; and
- (b) it appears to the justices that, having regard to the nature of the offence, the offender may be adequately punished on summary conviction, the justices may deal with the charge summarily.

Maximum penalty—17 penalty units, imprisonment for 2 years.

(2) A prosecution for an offence specified in subsection (1) in order to the summary conviction of the accused person may be brought notwithstanding that more than 1 year has elapsed since the offence was committed.

(3) A complaint for an offence specified in subsection (1) in order to the summary conviction of the accused person may with the consent of the accused person also be heard and determined at a place appointed for holding Magistrates Courts within the Magistrates Courts district in which the accused person was arrested or served with the summons.

(4) The summary jurisdiction conferred by this section shall be exercised in the manner and be subject to the conditions prescribed by section 444 with respect to the summary trial and punishment of offenders who may be summarily convicted of indictable offences under the provisions of that section.

### **Misappropriation of property**

**408C.(1)** Any person who dishonestly applies to the person's own use or to the use of any person—

- (a) property belonging to another; or
- (b) property belonging to the person, which is in the person's possession or control (either solely or conjointly with any other person) subject to a trust, direction or condition or on account of any other person;

is guilty of the crime of “**misappropriation of property**”.

(2) An offender guilty of the crime of misappropriation of property is liable to imprisonment for 5 years save in any of the following cases when the offender is liable to imprisonment for 10 years, that is to say—

- (a) if the offender is a director or member of the governing body of any corporation or company, and the property dishonestly applied belongs to that corporation or company or came into the possession or control of the offender on account of that corporation or company;
- (b) if the offender is an employee of any other person, and the property dishonestly applied belongs to that other person or came into the possession or control of the offender on account of that other person;
- (c) if the property dishonestly applied came into the possession or control of the offender subject to a trust, direction or condition

that it should be applied to any purpose or be paid to any person specified in the terms of trust, direction or condition or came into the offender's possession on account of any other person;

- (d) if the property dishonestly applied or the yield to the offender from the dishonest application of the property dishonestly applied is of a value of \$5 000 or upwards.

**(3)** For the purposes of this section—

- (a) **“property”** includes money and all other property real or personal, legal or equitable, including things in action and other intangible property;
- (b) a person's application of property may be dishonest notwithstanding that the person is willing to pay for the property or that the person intends to afterwards restore the property or to make restitution in respect thereof to the person to whom it belongs or to afterwards fulfil the person's obligations in relation to the property;
- (c) a person's application of property shall be taken not to be dishonest, save where the property came into the person's possession or control as trustee or personal representative, if when the person applies the property the person does not know to whom the property belongs and believes on reasonable grounds that such person cannot be discovered by taking reasonable steps;
- (d) persons to whom property belongs include the owner, any part owner, any person having a legal or equitable interest in or claim to the property and any person who, immediately before the offender's application of the property, had control of it.

## **CHAPTER 38—STEALING WITH VIOLENCE—EXTORTION BY THREATS**

### **Definition of “robbery”**

**409.** Any person who steals anything, and, at or immediately before or

immediately after the time of stealing it, uses or threatens to use actual violence to any person or property in order to obtain the thing stolen or to prevent or overcome resistance to its being stolen, is said to be guilty of “**robbery**”.

### **Loaded arms**

**410.** Any arm which is loaded in the barrel or chamber with any explosive substance, and with any solid substance capable of being projected, is deemed to be “**loaded arms**”, although an attempt to discharge the same may fail from want of proper appliances or from any other cause.

### **Punishment of robbery**

**411.(1)** Any person who commits the crime of robbery is liable to imprisonment for 14 years.

**(2)** If the offender is or pretends to be armed with any dangerous or offensive weapon or instrument, or is in company with 1 or more other person or persons, or if, at or immediately before or immediately after the time of the robbery, the offender wounds or uses any other personal violence to any person, the offender is liable to imprisonment for life.

### **Attempted robbery—accompanied by wounding, or in company**

**412.(1)** Any person who assaults any person with intent to steal anything, and, at or immediately before or immediately after the time of the assault, uses or threatens to use actual violence to any person or property in order to obtain the thing intended to be stolen, or to prevent or overcome resistance to its being stolen, is guilty of a crime, and is liable to imprisonment for 7 years.

**(2)** If the offender is or pretends to be armed with any dangerous or offensive weapon or instrument, or is in company with 1 or more other person or persons, the offender is liable to imprisonment for 14 years.

**(3)** If the offender is armed with any kind of loaded arms, and at or immediately before or immediately after the time of the assault the offender wounds any person by discharging the loaded arms, the offender is liable to imprisonment for life.

**Assault with intent to steal**

**413.** Any person who assaults any person with intent to steal anything is guilty of a crime, and is liable to imprisonment for 3 years.

**Demanding property with menaces with intent to steal**

**414.** Any person who, with intent to steal anything, demands it from any person with threats of any injury or detriment of any kind to be caused to the other person, either by the offender or by any other person, if the demand is not complied with, is guilty of a crime, and is liable to imprisonment for 3 years.

**Demanding property, benefit or performance of services with threats**

**415.(1)** Any person who with intent to extort or gain any property or benefit or the performance of services from any person—

- (a) knowing the contents of the writing, causes a person to receive a writing demanding without reasonable or probable cause—
  - (i) any property or benefit or the performance of services from any person; or
  - (ii) that anything be done or omitted to be done or be procured by any person;

and containing threats of injury or detriment of any kind to be caused to that person or any other person or to the public or any member or members of the public or to property, by the offender or any other person, if the demand is not complied with; or

- (b) orally demands without reasonable or probable cause—
  - (i) any property or benefit or the performance of services from any person; or
  - (ii) that anything be done or omitted to be done or be procured by any person;

with threats of injury or detriment of any kind to be caused to that person or any other person or to the public or any member or members of the public or to property, by the offender or any other person, if the demand is not complied with,

is guilty of a crime and is liable to imprisonment for 14 years.

(2) A person is not criminally responsible for an act referred to in subsection (1) if the injury or detriment is threatened to himself or herself only or to property of which the person is the sole owner.

(3) It is immaterial to the commission of an offence defined in this section that the threat does not specify the injury or detriment that is to be caused or the person or persons to whom or the property to which injury or detriment is to be caused.

(4) If the carrying out of the threat would be likely to cause—

- (a) loss of life or serious personal injury to any person; or
- (b) substantial economic loss in any industrial or commercial activity whether conducted by a public authority or as a private enterprise;

the offender is liable to imprisonment for life.

(5) A prosecution for an offence defined in this section in which it is intended to rely on a circumstance of aggravation referred to in subsection (4) shall not be commenced without the consent of the Attorney-General.

(6) In this section—

“**writing**” includes any gramophone record, wire, tape or other thing by which words or sounds are capable of being reproduced.

### **Attempts at extortion by threats**

**416.(1)** Any person who, with intent to extort or gain any property or benefit or the performance of services from any person—

- (a) accuses or threatens to accuse any person of committing any indictable offence, or of offering or making any solicitation or threat to any person as an inducement to commit or permit the commission of any indictable offence; or
- (b) threatens that any person shall be accused by any other person of any indictable offence or of any such act; or
- (c) knowing the contents of the writing, causes any person to receive any writing containing any such accusation or threat as aforesaid;

is guilty of a crime.

(2) If the accusation or threat of accusation is of—

- (a) an offence for which the punishment of imprisonment for life may be inflicted; or
- (b) any of the offences defined in Chapter 22, or an attempt to commit any of such offences; or
- (c) an assault with intent to have carnal knowledge of any person by anal intercourse, or an unlawful and indecent assault upon a male person; or
- (d) an attempt to commit the crime of rape, or an assault with intent to commit the crime of rape, or an unlawful and indecent assault upon a woman or girl; or
- (e) a solicitation or threat offered or made to any person as an inducement to commit or permit the commission of any of the offences aforesaid;

the offender is liable to imprisonment for 14 years.

(3) In any other case the offender is liable to imprisonment for 3 years.

(4) It is immaterial whether the person accused or threatened to be accused has or has not committed the offence or act of which the person is accused or threatened to be accused.

### **Procuring execution of deeds etc. by threats**

**417.** Any person who, with intent to defraud, and by means of any unlawful violence to, or restraint of, the person of another, or by means of any threat of violence or restraint to be used to the person of another, or by means of accusing or threatening to accuse any person of committing any indictable offence, or of offering or making any solicitation or threat to any person as an inducement to commit or permit the commission of any indictable offence, compels or induces any person—

- (a) to execute, make, accept, endorse, alter, or destroy, the whole or any part of any valuable security; or
- (b) to write, impress, or affix, any name or seal upon or to any paper or parchment, in order that it may be afterwards made or

converted into or used or dealt with as a valuable security;  
is guilty of a crime, and is liable to imprisonment for 14 years.

### **Taking control of aircraft**

**417A.(1)** Any person who unlawfully either directly or indirectly takes or exercises control of any aircraft is guilty of a crime and is liable to imprisonment for 7 years.

**(2)** If another person not being an accomplice of the offender is on board the aircraft the offender is liable to imprisonment for 14 years.

**(3)** If the offender at or immediately before or immediately after the time of taking or exercising such control uses or threatens to use actual violence to any person or property in order to take or exercise control of the aircraft or to prevent or overcome resistance to such control being taken or exercised or is armed with any dangerous or offensive weapon or instrument or is in company with one or more other person or persons or takes or exercises such control by any fraudulent representation trick device or other means the offender is liable to imprisonment for life.

## **CHAPTER 39—BURGLARY— HOUSEBREAKING—AND LIKE OFFENCES**

### **Definitions**

**418.(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 said to break the building.

**(2)** A person is said to enter a building as soon as any part of the person's body or any part of any instrument used by the person 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.

### **Housebreaking—burglary**

**419.(1)** Any person who—

- (a) breaks and enters the dwelling house of another with intent to commit an indictable offence therein; or
- (b) having entered the dwelling house of another with intent to commit an indictable offence therein, or having committed an indictable offence in the dwelling house of another, breaks out of the dwelling house;

is guilty of a crime, and is liable to imprisonment for 14 years.

(2) If the offence is committed in the night, the offender is liable to imprisonment for life.

### **Entering dwelling house with intent to commit an indictable offence**

**420.(1)** Any person who enters or is in the dwelling house of another with intent to commit an indictable offence therein, is guilty of a crime, and is liable to imprisonment for 7 years.

(2) If the offence is committed in the night, the offender is liable to imprisonment for 14 years.

### **Breaking into places and committing indictable offences**

**421.** Any person who—

- (a) breaks and enters a place and commits an indictable offence therein; or
- (b) having committed an indictable offence in any place breaks out of that place;

is guilty of a crime and is liable to imprisonment for 14 years.

**Breaking into places with intent to commit indictable offences**

**422.** Any person who—

- (a) breaks and enters a place with intent to commit an indictable offence therein; or
- (b) having entered any place with intent to commit an indictable offence therein breaks out of that place;

is guilty of a crime and is liable to imprisonment for 7 years.

**Persons found armed etc. with intent to commit an indictable offence**

**425.(1)** Any person who is found under any of the circumstances following, that is to say—

- (a) being armed with any dangerous or offensive weapon or instrument, and being so armed with intent to break or enter a dwelling house, and to commit an indictable offence therein;
- (b) being armed as aforesaid by night, and being so armed with intent to break or enter any building whatever, and to commit an indictable offence therein;
- (c) having in the person's possession by night without lawful excuse, the proof of which lies on the person, any instrument of housebreaking;
- (d) having in the person's possession by day any such instrument with intent to commit an indictable offence;
- (e) having his or her face masked or blackened or being otherwise disguised, with intent to commit an indictable offence;
- (f) being in any building whatever by night with intent to commit an indictable offence therein;

is guilty of a crime, and is liable to imprisonment for 3 years.

**(2)** If the offender has been previously convicted of a crime relating to property, the offender is liable to imprisonment for 7 years.

**Definitions for purposes of Chapter**

**425A.(1)** For the purposes of this Chapter—

**“building”** includes a tent, caravan, railway vehicle, ship, aircraft or vessel and any part of a building.

**(2)** For the purposes of sections 421 and 422—

**“place”** means—

- (a) a building or structure and any part thereof other than a dwelling house; and
- (b) a tent, caravan, railway vehicle, ship, aircraft or vessel; and
- (c) any place declared by the Governor in Council by order in council to be a place for the purposes of those sections.

## **CHAPTER 40—OBTAINING PROPERTY BY FALSE PRETENCES—CHEATING**

**Definition**

**426.(1)** Any representation made by words or otherwise of a matter of fact, either past or present, which representation is false in fact, and which the person making it knows to be false or does not believe to be true, is a false pretence.

**(2)** A promise made by words or otherwise to do or omit to do anything by a person who at the time of making the promise does not intend to perform it or does not believe the person will be able to perform it is a wilfully false promise.

**Obtaining goods or credit by false pretence or wilfully false promise**

**427.(1)** Any person who by any false pretence or wilfully false promise or partly by a false pretence and partly by a wilfully false promise and with intent to defraud obtains from any other person any chattel, money or valuable security or induces any other person to deliver to any person any

chattel, money or valuable security is guilty of a crime and is liable to imprisonment for 5 years.

(1A) It is immaterial that the thing is obtained or its delivery is induced through the medium of a contract induced by the false pretence or the wilfully false promise or partly by a false pretence and partly by a wilfully false promise as the case may be.

(2) Any person incurring any debt or liability who obtains credit by any false pretence or by any wilfully false promise or partly by a false pretence and partly by a wilfully false promise or by any other fraud is guilty of a misdemeanour and is liable to imprisonment for 1 year.

(3) The offender cannot be arrested without warrant for any offence against this section unless found committing the offence.

### **Obtaining property by passing valueless cheques**

**427A.(1)** Any person who—

- (a) obtains from any other person any chattel, money, valuable security, credit, benefit or advantage by passing a cheque that is not paid on presentation for payment; or
- (b) passes a cheque in the discharge or attempted discharge of any debt, liability or obligation, which cheque is not paid on presentation for payment;

is guilty of a misdemeanour and is liable to imprisonment for 2 years.

(2) It is a defence to a charge of an offence defined in this section to prove that the accused person—

- (a) had reasonable grounds for believing that the cheque would be paid in full on presentation for payment; and
- (b) had no intent to defraud.

(3) The fact that at the time when the cheque was passed there were some funds to the credit of the account on which the cheque was drawn is not of itself a defence to a charge of an offence defined in this section.

(4) A prosecution for an offence defined in this section shall not be commenced without the consent of a Crown Law Officer.

**Obtaining execution of valuable security by a false pretence or wilfully false promise**

**428.(1)** Any person who by any false pretence or wilfully false promise or partly by a false pretence and partly by a wilfully false promise, and with intent to defraud, induces any person to execute, make, accept, endorse, alter, or destroy, the whole or any part of any valuable security, or to write, impress, or affix, any name or seal upon or to any paper or parchment, in order that it may be afterwards made or converted into or used or dealt with as a valuable security, is guilty of a crime and is liable to imprisonment for 3 years.

(2) The offender cannot be arrested without warrant unless found committing the offence.

**Cheating**

**429.(1)** Any person who by means of any fraudulent trick or device obtains from any other person anything capable of being stolen, or induces any other person to deliver to any person anything capable of being stolen, or to pay or deliver to any person any money or goods, or any greater sum of money or greater quantity of goods than the person would have paid or delivered but for such trick or device, is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

(2) A person found committing the offence may be arrested without warrant.

**Conspiracy to defraud**

**430.(1)** Any person who conspires with another by deceit or any fraudulent means to affect the market price of anything publicly sold, or to defraud the public, or any person, whether a particular person or not, or to extort any property from any person, is guilty of a crime, and is liable to imprisonment for 7 years.

(2) A prosecution for an offence defined in this section shall not be instituted without the consent of the Attorney-General.

**Frauds on sale or mortgage of property**

**431.** Any person who, being a seller or mortgagor of any property, or being the solicitor or agent of any such seller or mortgagor, with intent to induce the purchaser or mortgagee to accept the title offered or produced to the purchaser or mortgagee, and with intent to defraud—

- (a) conceals from the purchaser or mortgagee any instrument material to the title, or any encumbrance; or
- (b) falsifies any pedigree on which the title depends or may depend;

is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

**Pretending to exercise witchcraft or tell fortunes**

**432.** Any person who pretends to exercise or use any kind of witchcraft, sorcery, enchantment, or conjuration, or undertakes to tell fortunes, or pretends from the person's skill or knowledge in any occult science to discover where or in what manner anything supposed to have been stolen or lost may be found, is guilty of a misdemeanour, and is liable to imprisonment for 1 year.

**CHAPTER 41—RECEIVING PROPERTY STOLEN OR FRAUDULENTLY OBTAINED AND LIKE OFFENCES****Receiving stolen property etc.**

**433.(1)** Any person who receives anything which has been obtained by means of any act constituting an indictable offence, or by means of any act done at a place not in Queensland which if it had been done in Queensland would have constituted an indictable offence and which is an offence under the laws in force in the place where it was done, knowing the same to have been so obtained, is guilty of a crime.

(2) Where the thing so obtained has been—

- (a) converted into other property in any manner whatsoever; or
- (b) mortgaged or pledged or exchanged for any other property;

any person who knowing—

- (c) that the said property is wholly or in part the property into which the thing so obtained has been converted or for which the same has been mortgaged or pledged or exchanged; and
- (d) that the thing so obtained was obtained under such circumstances as to constitute a crime under subsection (1);

receives the whole or any part of the property into which the thing so obtained has been converted or for which the same has been mortgaged or pledged or exchanged, is guilty of a crime within the meaning of subsection (1) and may be indicted and punished accordingly.

(3) If the offence by means of which the thing was obtained is a crime, the offender is liable to imprisonment for 14 years.

(4) In any other case the offender is liable to imprisonment for 7 years.

(5) For the purpose of proving the receiving of anything it is sufficient to show that the accused person has, either alone or jointly with some other person, had the thing in the accused person's possession, or has aided in concealing it or disposing of it.

### **Receiving after change of ownership**

**434.** When a thing has been obtained by means of any act constituting an indictable offence, or by means of an act done at a place not in Queensland which if it had been done in Queensland would have constituted an indictable offence, and which is an offence under the laws in force in the place where it was done, and another person has acquired a lawful title to it, or, in the event of the thing having been converted into other property whatsoever or mortgaged or pledged or exchanged for other property as referred to in section 433 another person has acquired a lawful title to such other property or the proceeds or part proceeds of such conversion, mortgage, pledge, or exchange, a subsequent receiving of the thing or, as the case may be, of such other property or proceeds or part proceeds, is not an offence although the receiver knows that the thing has previously been so obtained.

**Taking reward for recovery of property obtained by means of indictable offences**

**435.** Any person who corruptly receives or obtains, or corruptly agrees to receive or obtain, any property or benefit of any kind upon an agreement or understanding that the person will help any person to recover anything which has been obtained by means of any act constituting an indictable offence, or by means of any act done at a place not in Queensland which if it had been done in Queensland would have constituted an indictable offence, and which is an offence under the laws in force in the place where it was done, is, unless the person has used all due diligence to cause the offender to be brought to trial for the offence, guilty of a crime, and is liable to imprisonment for 7 years.

**CHAPTER 42—FRAUDS BY TRUSTEES AND OFFICERS OF COMPANIES AND CORPORATIONS—FALSE ACCOUNTING****Trustees fraudulently disposing of trust property**

**436.(1)** Any person who, being a trustee of any property, destroys the property with intent to defraud, or with intent to defraud converts the property to any use not authorised by the trust, is guilty of a crime, and is liable to imprisonment for 10 years.

(2) The offender cannot be arrested without warrant.

(3) If civil proceedings have been taken against a trustee in respect of any act done by the trustee which is an offence under the provisions of this section, the trustee cannot be afterwards prosecuted for the same cause, as for an offence, on the complaint of the person by whom the civil proceedings were taken, without the sanction of the court or Judge before whom the civil proceedings were had or are pending.

(3) For the purposes of this section—

“trustee” includes the following persons and no others, that is to say—

(a) a trustee within the meaning of the *Trust Accounts Act 1973*;

- (b) trustees upon express trust created by a deed, will, or instrument in writing, whether for a public or private or charitable purpose;
- (c) trustees appointed by or under the authority of a statute for any such purpose;
- (d) persons upon whom the duties of any such trust as aforesaid devolve;
- (e) executors and administrators;
- (f) liquidators, trustees, and other like officers, acting under any law relating to joint stock companies or to insolvent debtors, by whomsoever appointed or elected.

**Directors and officers of corporations or companies fraudulently appropriating property, or keeping fraudulent accounts, or falsifying books or accounts**

**437.(1)** Any 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 such an entry to be made therein; or
- (b) being a director, officer, or member, of a corporation or company, does any of the following acts with intent to defraud, that is to say—
  - (i) destroys, alters, mutilates, or falsifies, any book, document, valuable security, or account, which belongs to the corporation or company, or any entry in any such book, document, or account, or is privy to any such act;
  - (ii) makes or is privy to making any false entry in any such book, document, or account;
  - (iii) omits or is privy to omitting any material particular from any such book, document, or account;

is guilty of a crime, and is liable to imprisonment for 10 years.

(2) The offender cannot be arrested without warrant.

### **False statements by officials of companies**

**438.(1)** Any person who, being a promoter, director, officer, or auditor of a corporation or company, either existing or intended to be formed, makes, circulates, or publishes, or concurs in making, circulating, or publishing, any written statement or account which, in any material particular, is to the person's knowledge false, with intent thereby to effect any of the purposes following, that is to say—

- (a) to deceive or defraud any member, shareholder, or creditor, of the corporation or company, whether a particular person or not;
- (b) to induce any person, whether a particular person or not, to become a member of, or to entrust or advance any property to, the corporation or company, or to enter into any security for the benefit thereof;

is guilty of a crime, and is liable to imprisonment for 10 years.

(2) The offender cannot be arrested without warrant.

### **Defence**

**439.(1)** It is a defence to a charge of any of the offences defined in sections 436 to 438 to prove that the accused person, before being charged with the offence, and in consequence of the compulsory process of a court of justice in an action or proceeding instituted in good faith by a party aggrieved, or in a compulsory examination or deposition before a court of justice, disclosed on oath the act alleged to constitute the offence.

(2) A person is not entitled to refuse to answer any question or interrogatory in any civil proceeding in any court on the ground that the person's doing so might tend to show that the person had committed any such offence.

**Misappropriation by members of local governments**

**440.(1)** Any person who, being a member of a local government—

- (a) advisedly applies any money forming part of any fund under the control of the local government to any purpose to which, to the person's knowledge, it cannot lawfully be applied; or
- (b) advisedly concurs in any such application of any such money;

is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

**(2)** In this section—

**“local government”** includes any corporation or board constituted or appointed under the authority of a statute, and charged with the administration of moneys for any purposes of local concern.

**(3)** A prosecution for either of the offences defined in this section cannot be begun except by the direction of a Crown Law Officer.

**Fraudulent false accounting**

**441.** Any person who, being a clerk or servant, or being employed or acting in the capacity of a clerk or servant, does any of the acts following with intent to defraud, that is to say—

- (a) destroys, alters, mutilates, or falsifies, any book, document, valuable security, or account, which belongs to or is in the possession of the person's employer, or has been received by the person on account of the person's employer, or any entry in any such book, document, or account, or is privy to any such act;
- (b) makes or is privy to making any false entry in any such book, document, or account;
- (c) omits or is privy to omitting any material particular from any such book, document, or account;

is guilty of a crime, and is liable to imprisonment for 10 years.

**False accounting by public officer**

**442.** Any person who, being an officer charged with the receipt, custody, or management of any part of the public revenue or property, knowingly

furnishes any false statement or return of any money or property received by the person or entrusted to the person's care, or of any balance of money or property in the person's possession or under the person's control, is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

## CHAPTER 42A—SECRET COMMISSIONS

### Definitions

**442A.(1)** In this Chapter—

**“advice given”** or words to the like effect includes every report, certificate, statement, and suggestion intended to influence the person to whom the same is made or given, and every influence deliberately or expressly exercised by one person over another;

**“agent”** includes any corporation, firm, or person acting or having been acting, or desirous or intending to act, for or on behalf of any corporation, firm, or person, whether as agent, partner, co-owner, clerk, servant, employee, banker, broker, auctioneer, architect, clerk of works, charterer, master mariner, purser, or any member of the crew of a vessel, engineer, barrister, solicitor, legal practitioner, conveyancer, surveyor, buyer, salesperson, supervisor, trustee, official assignee, executor, administrator, liquidator, trustee in bankruptcy or of a deed of assignment, receiver, director, manager, or other officer or member of the committee or governing body of any corporation, club, partnership, or association, or in any other capacity, either alone or jointly with any other corporation, firm, or person, and whether in the person's own name or in the name of the person's principal or otherwise, and also includes a Minister of the Crown, and a person serving under the Crown or a Minister of the Crown, or corporation representing the Crown, and a person serving under any local government, harbour board, water authority, or any other local or public body constituted by or under any Act;

**“contract”** includes contract of sale or of employment, or any other contract whatever including an order for any commodity;

**“court”** means the Supreme Court or a Judge thereof, or Magistrate or justices having jurisdiction with respect to an offence against this Chapter;

**“local government”** means a local authority constituted under the *Local Government Act 1993*, and also includes the Brisbane City Council constituted under the *City of Brisbane Act 1924*;

**“in relation to his or her principal’s affairs or business”** implies the additional words ‘whether within the scope of his or her authority or course of his or her employment as agent or not’;

**“person having business relations with the principal”** includes the Crown, a Minister of the Crown, or corporation representing the Crown, or any local government, harbour board, water authority, or any other local or public body constituted by or under any Act; also every corporation, firm, or other person, whether as principal or agent, carrying on or having carried on or desirous or intending to carry on any negotiation or business with any principal, or engaged or interested or having been engaged or interested in the performance of any contract with or in the execution of any work or business for or in the supply of any goods or chattels to any principal; and also includes any agent or employee of the Crown, a Minister of the Crown, or corporation representing the Crown, or of any local government, harbour board, water authority, or any other local or public body constituted by or under any Act, or of any such corporation, firm, or other person;

**“principal”** includes a corporation, firm, or other person for or on behalf of whom the agent acts, has acted, or is desirous or intending to act; the term also includes the Crown, a Minister of the Crown, or corporation representing the Crown, or any local government, harbour board, water authority, or any other local or public body constituted by or under any Act for or on behalf of whom the agent acts, has acted, or is desirous or intending to act;

**“solicit any valuable consideration”** and **“valuable consideration solicited,”** and words to the like effect, shall be construed with the following directions, namely, that every agent who diverts, obstructs, gives untruthful reports, or interferes with the proper course of business or manufacture, or impedes or obstructs, or fails to use due diligence in the prosecution of any negotiation or business with the

intent to obtain the gift of any valuable consideration from any other person interested in the said negotiation or business, or with intent to injure any such person, shall be deemed to have solicited a valuable consideration from a person having business relations with the principal of such agent.

**“trustee”** includes the Public Trustee, an executor, administrator, liquidator, official assignee, or trustee in bankruptcy, receiver, committee of the estate of a patient (within the meaning of the *Mental Health Act 1974*), person having power to appoint a trustee, or person entitled to obtain probate of the will or letters of administration to the estate of a deceased person, or any other person occupying a fiduciary position;

**“valuable consideration”** includes any real or personal property; also money, loan, office, place, employment, agreement to give employment, benefit, or advantage whatsoever, and any commission or rebate, payment in excess of actual value of the goods or service, deduction or percentage, bonus or discount, or any forbearance to demand any moneys or moneys’ worth or valuable thing; also some detriment, loss or responsibility given, suffered, or taken, or the refraining from carrying out or doing something which lawfully should be done; and the acceptance of any of the said things shall be deemed the receipt of a valuable consideration.

The offer of any valuable consideration includes any offer of any agreement or promise to give, and every holding out of any expectation of valuable consideration.

The receipt of any valuable consideration includes any acceptance of any agreement, promise, or offer to give, or of any holding out of any expectation of valuable consideration.

### **Prohibition of indirect acts**

(2) Any act or thing prohibited by this Chapter is prohibited whether done directly or indirectly by the person mentioned or by or through any other person.

### **Receipt or solicitation of secret commission by an agent**

**442B.(1)** Any agent who corruptly receives or solicits from any person for himself or herself or for any other person any valuable consideration—

- (a) as an inducement or reward for or otherwise on account of doing or forbearing to do, or having done or forborne to do, any act in relation to his or her principal's affairs or business; or
- (b) the receipt or any expectation of which would in any way tend to influence the agent to show, or to forbear to show, favour or disfavour to any person in relation to his or her principal's affairs or business.

**Gift or offer of secret commission to an agent**

(2) Any person who corruptly gives or offers to any agent any valuable consideration—

- (a) as an inducement or reward for or otherwise on account of the agent doing or forbearing to do, or having done or forborne to do, any act in relation to his or her principal's affairs or business; or
- (b) the receipt or any expectation of which would in any way tend to influence the agent to show, or to forbear to show, favour or disfavour to any person in relation to his or her principal's affairs or business;

is guilty of an offence.

**Secret gifts received by parent, wife, child, partner etc. of agent**

**442C.(1)** Any valuable consideration received or solicited by any parent, husband, wife, or child of any agent, or by his or her partner, clerk, or employee, from any person having business relations with the principal of such agent, shall be deemed to have been received or solicited by the agent unless it be proved that the valuable consideration was so received or solicited without the consent, knowledge, or privity of the agent.

**Secret gifts to parent, wife, child, partner etc. of agent**

(2) Any valuable consideration—

- (a) given or offered to any parent, husband, wife, or child of any agent, or to his or her partner, clerk, or employee, and so given or offered with the consent, knowledge, or privity of the agent; or
- (b) given or offered, at the agent's request, to any person by any

person having business relations with the principal of such agent; shall be deemed to have been given or offered to the agent.

### **False or misleading receipt or account**

**442D.** Any person who with intent to deceive or defraud the principal gives to any agent, or any agent who receives or uses or gives to the principal any receipt, invoice, account, or document in respect of which or in relation to a dealing transaction or matter in which the principal is interested, and which—

- (a) contains any statement which is false or erroneous or defective in any important particular, or contains an overcharge or is in any way likely to mislead the principal; or
- (b) omits to state explicitly and fully the fact of any commission, percentage, bonus, discount, rebate, repayment, gratuity, or deduction having been made, given, or allowed, or agreed to be made, given, or allowed;

is guilty of an offence.

### **Secret commission for advice given**

**442E.(1)** Whenever any advice is given by one person to another, and such advice is in any way intended or likely to induce or influence the person advised—

- (a) to enter into a contract with any third person; or
- (b) to appoint or join with another in the appointment, or to vote for or to aid in obtaining the election or appointment, or to authorise or join with another in authorising the appointment of any third person as trustee, director, manager, or official;

and any valuable consideration is, without the assent of the person advised, given by such third person to the person giving the advice, the gift or receipt of the valuable consideration is an offence; but this subsection shall not apply when the person giving the advice was, to the knowledge of the person advised, the agent of such third person, or when the valuable consideration was not given in respect of such advice.

**Offer or solicitation of secret commission in return for advice given or to be given**

(2) Any offer or solicitation of a valuable consideration in respect of any advice given, or to be given, by one person to another with a view to induce or influence the person advised—

- (a) to enter into a contract with the person offering or solicited; or
- (b) to appoint or join with another in appointing, or to vote for or to aid in obtaining the election or appointment, or to authorise or join with another in authorising the appointment of the person offering or solicited as trustee, director, manager, or official;

and with the intent that the gift or receipt of such valuable consideration is not to be made known to the person advised, is an offence; but this subsection shall not apply when such first mentioned person is the agent of the person offering or solicited.

**Secret commission to trustee in return for substituted appointment**

**442F.** Any person who offers or gives any valuable consideration to a trustee, or any trustee who receives or solicits any valuable consideration for himself or herself or for any other person, without the assent of the persons beneficially entitled to the estate or of a Judge of the Supreme Court, as an inducement or reward for appointing or having appointed, or for joining or having joined with another in appointing, or for authorising or having authorised, or for joining or having joined with another in authorising, any person to be appointed in the person's stead or instead of the person and any other person as trustee, is guilty of an offence.

**Liability of director etc. acting without authority**

**442G.** Any director, manager, or officer of a company, or any officer or member of the crew of any vessel, or any person acting for another, who knowingly takes part in or is in any way privy to doing, or attempts to do, any act or thing without authority which, if authorised, would be in contravention of any of the provisions of this Chapter, is guilty of an offence.

**Offences**

**442H.(1)** All proceedings in respect of offences against this Chapter shall, subject as hereinafter provided, be heard and determined in a summary way by complaint under the *Justices Act 1886*.

**Trial by jury**

(2) However—

- (a) if the Magistrate or justices before whom any person is brought, charged with any of the offences hereinbefore in this Chapter defined, is or are of opinion that there ought to be a prosecution as for an indictable offence; or
- (b) if the person brought before such Magistrate or justices, charged with any of the offences hereinbefore in this Chapter defined, intimates to the Magistrate or justices that the person desires to be tried by a jury;

the Magistrate or justices shall abstain from dealing with the case summarily and shall commit the defendant to take his or her trial for the indictable offence; and the offence with which the person is so charged shall be and be deemed to be an indictable offence accordingly.

**Time for Prosecutions**

(3) In addition, any proceedings as aforesaid may be begun within 2 years after the offence is committed or within 1 year after the discovery of the offence, whichever is the later period.

**Penalty on conviction**

**442I.** Any person guilty (whether on indictment or on summary conviction) of an offence against this Chapter is—

- (a) liable, if a corporation, to a penalty of \$2 000, and if any other person to imprisonment for any period not exceeding 1 year, or to a penalty not exceeding \$1 000; and
- (b) in addition, liable to be ordered to pay to such person and in such manner as the court directs the amount or value, according to the estimation of the court, of any valuable consideration received or

given by the person, or any part thereof, and such order shall be enforceable in the same manner as an order of the court.

### **Court may order withdrawal of trifling or technical cases**

**442J.** If in any prosecution under this Chapter it appears to the court that the offence charged is, in the particular case, of a trifling or merely technical nature, or that in the particular circumstances it is inexpedient to proceed to a conviction, the court may in its discretion, and for reason stated on the application of the accused, dismiss the case; but the court may, if it thinks fit, make the order mentioned in section 442I.

### **Witness giving answers criminating himself or herself**

**442K.(1)** A person who is called as a witness in any proceeding under this Chapter shall not be excused from answering any question relating to any offence against this Chapter on the ground that the answer thereto may criminate or tend to criminate the person.

**(2)** An answer to a question in any such proceeding shall not, except in the said proceeding or in the case of any prosecution for perjury in respect of such answer, be in any proceeding, civil or criminal, admissible in evidence against the person so answering.

### **Certificate to witness**

**442L.(1)** A witness in any proceeding under this Chapter who, in the judgment of the court, answers truly all questions which the witness is required by the court to answer shall be entitled to receive a certificate from the court stating that such witness has so answered.

### **Stay of proceedings against such witness**

**(2)** When a person has received a certificate as aforesaid, and any criminal proceeding is at any time instituted against the person in respect of the offence which was in question in the proceeding in which the said person was called as a witness, the court having cognisance of the case shall, on proof of the certificate and of the identity of the offence in question in the 2 cases, stay the proceedings.

**Custom of itself no defence**

**442M.(1)** In any prosecution under this Chapter it does not amount to a defence to show that the receiving, soliciting, giving, or offering of any valuable consideration therein mentioned or referred to is customary in any trade, business, or calling.

**Burden of proof that gift not secret commission**

**(2)** If in any prosecution under this Chapter it is proved that any valuable consideration has been received or solicited by an agent from or given or offered to an agent by any person having business relations with the principal, without the assent of the principal, the burden of proving that such valuable consideration was not received, solicited, given, or offered in contravention of any of the provisions of this Chapter shall be on the accused.

**Consent to prosecution**

**(3)** No prosecution under this Chapter shall be commenced without the consent of a Crown Law Officer.

## **CHAPTER 43—SUMMARY CONVICTION FOR STEALING AND LIKE INDICTABLE OFFENCES**

**Indictable offences which may be dealt with summarily**

**443.(1)** When a person is charged before 2 justices with any of the indictable offences following, that is to say—

- (a) stealing anything of such a kind and under such circumstances that the greatest punishment to which an offender convicted of the offence is liable does not exceed imprisonment for 3 years;
- (b) killing, with intent to steal the skin or carcass or any part of the skin or carcass, any animal of such a kind that the greatest punishment to which an offender convicted of the offence of stealing the animal is liable does not exceed imprisonment for 3 years;

*Criminal Code Act 1899*

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- (c) stealing anything from the person of another;
- (ca) stealing by a person employed in the public service of anything that is the property of Her Majesty or that came into the person's possession by virtue of the person's employment;
- (d) stealing by a clerk or servant of anything which is the property of the person's employer, or which came into the person's possession on account of the person's employer;
- (e) making anything moveable with intent to steal it, without circumstances of aggravation;
- (ea) any offence defined in section 406;
- (eb) any offence defined in sections 419 to 422 where—
  - (i) the indictable offence intended or, as the case may be, committed is stealing;
  - (ii) the offender was not, at the time the offence was committed, armed with a dangerous weapon nor equipped with an instrument of safecracking nor in company with a person so armed or equipped;
  - (iii) the value of any property stolen does not exceed \$500;
- (ec) any offence defined in section 425;
- (f) obtaining or procuring the delivery of anything by a false pretence or wilfully false promise, or partly by a false pretence and partly by a wilfully false promise, with intent to defraud, or obtaining credit by any false pretence or any wilfully false promise, or partly by a false pretence and partly by a wilfully false promise, or by any other fraud;
- (fa) obtaining from any other person any chattel, money or valuable security by passing a cheque that is not paid on presentation for payment;
- (g) obtaining by means of a fraudulent trick or device anything capable of being stolen, or inducing, by means of any such trick or device, the delivery or payment of any money or goods or other thing capable of being stolen;
- (h) attempting to commit any of the offences aforesaid;

*Criminal Code Act 1899*

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- (i) receiving anything which has been obtained by means of a crime or misdemeanour of such a nature, or committed under such circumstances, that the offender who committed the crime or misdemeanour might be summarily convicted under the provisions of this section;
- (j) counselling or procuring the commission of any of the offences aforesaid;

then, if—

- (k) the value of the property in question does not exceed \$2 500; or
- (l) in a case of stealing—the thing stolen is any of the things following, that is to say, a horse, mare, gelding, ass, mule, camel, bull, cow, ox, ram, ewe, wether, boar, sow, barrow, deer, buffalo or goat, or the young of any such animal and the value thereof does not exceed \$5 000; or
- (m) in a case of killing, with intent to steal the skin or carcass or any part of the skin or carcass, any animal—the animal is any of the following, that is to say, a horse, mare, gelding, ass, mule, camel, bull, cow, ox, ram, ewe, wether, boar, sow, barrow, deer, buffalo or goat, or the young of any such animal, and the value thereof does not exceed \$5 000; or
- (n) the accused person admits that the person is guilty of the offence, and it appears to the justices that the nature of the offence is such, whatever may be the value of the property in question, that the offender may be adequately punished upon summary conviction;

the justices may deal with the charge summarily.

(2) However, the complaint may, with the consent of the accused person also be heard and determined at a place appointed for holding Magistrates Courts within the district in which the accused person was arrested or served with the summons as provided under the *Justices Act 1886*.

(3) In addition, where a court of summary jurisdiction deals summarily with any charge under this section, such court shall have jurisdiction to so deal summarily notwithstanding that more than 1 year has elapsed from the time when the matter of complaint in respect of the charge arose.

(4) In addition—

*Criminal Code Act 1899*

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- (a) in a case of stealing—where the thing stolen is any of the things referred to in subsection (1)(l);
- (ii) in a case of killing—with intent to steal the skin or carcass or any part of the skin or carcass, any animal, where the animal is any of those referred to in subsection (1)(m);

and the value thereof exceeds \$5 000, the justices shall not deal with the charge summarily notwithstanding the provisions of subsection (1)(n).

(5) Subject to subsections (6) to (9), the offender is liable on such summary conviction to imprisonment for 2 years or to a fine of 100 penalty units.

(6) The offender is liable on such summary conviction in a case referred to in subsection (1)(l) to—

- (a) imprisonment for 2 years; or
- (b) a fine of not less than \$200 or, where in respect of the animal in question the value is determined in accordance with the provisions of the regulations made pursuant to section 450F, of not less than that value, whichever is the higher amount, for every animal stolen.

(7) However, the fine imposed on such summary conviction shall not exceed \$5 000.

(8) The offender is liable on such summary conviction in a case referred to in subsection (1)(m) to—

- (a) imprisonment for 2 years; or
- (b) a fine of not less than \$200 or, where in respect of the animal in question the value is determined in accordance with the provisions of the regulations made pursuant to section 450F, of not less than that value, whichever is the higher amount, for every animal killed.

(9) However, the fine imposed on such summary conviction shall not exceed \$5 000.

**Procedure**

**444.(1)** Before the accused person is asked to show cause why the

person should not be convicted, the justices are required to explain to the person that the person is entitled to be tried by a jury, and is not obliged to make any defence before them, and to ask the person whether the person objects to the charge being dealt with summarily.

(2) If the accused person does not object to the justices dealing with the charge summarily, the justices are required to reduce the charge to writing and to read it to the accused person, and then to ask the person whether the person is guilty or not guilty of the offence; and if the person says that the person is guilty they are to convict the person of the offence, but if the person says that the person is not guilty they are required to hear the person's defence, and then deal with the charge summarily.

(3) If the justices find that the charge is proved, they may, whether they impose any punishment or not, order the offender to make restitution of the property (if any) in respect of which the offence was committed, to the owner thereof; and if the property is not at once restored, they may order the offender to pay the amount of its value, to be assessed by them, to the owner, either in 1 sum or by such instalments, and at such times, as they think fit.

(4) If for any reason the justices are of opinion that the charge is a fit subject for prosecution by indictment, they shall abstain from dealing with the case summarily.

## **CHAPTER 44—OFFENCES ANALOGOUS TO STEALING RELATING TO ANIMALS**

### *Chapter Division 1—Indictable offences*

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

**444A.(1)** Any person who kills any animal capable of being stolen with intent to steal the skin or carcass, or any part of the skin or carcass, is guilty of a crime, and is liable to the same punishment as if the person had stolen the animal.

(2) If the offender is sentenced to pay a fine in addition to, or instead of, imprisonment, the fine shall be not less than \$200 or, where in respect of the animal in question a value is determined in accordance with the provisions of the regulations made pursuant to section 450F, not less than that value, whichever is the higher amount, for every animal killed.

(3) However, the fine imposed in respect of the offence shall not exceed \$25 000.

### **Using registered brands with criminal intention**

**444B.(1)** Any person who, with intent to facilitate the commission of a crime, brands or marks any animal with a registered brand or registered mark without the permission of the owner of the brand or mark is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

(2) If the offender is sentenced to pay a fine in addition to, or instead of, imprisonment, the fine shall be not less than \$200 or, where in respect of the animal in question a value is determined in accordance with the provisions of the regulations made pursuant to section 450F, not less than that value, whichever is the higher amount, for every animal branded or marked.

(3) However, the fine imposed in respect of the offence shall not exceed \$25 000.

### ***Chapter Division 2—Offences relating to animals punishable on summary conviction***

#### **Unlawfully using cattle**

**445.(1)** Any person who unlawfully uses a horse, mare, gelding, ass, mule, camel, bull, cow, ox, ram, ewe, wether, boar, sow, barrow, deer, buffalo or goat or the young of any such animal, without the consent of the person in lawful possession thereof, is guilty of an offence, and is liable on summary conviction to imprisonment for 1 year, or to a fine of not less than \$200 or, where in respect of the animal in question a value is determined in accordance with the provisions of the regulations made pursuant to section 450F, of not less than that value, whichever is the higher amount, for every animal so used.

(2) However, the fine imposed in respect of the offence shall not exceed \$5 000.

(3) Without in any wise limiting the meaning of the term “**unlawfully uses**”, such term shall, for the purposes of this section, also mean and include the unlawful possession, by any person, of any horse, mare, gelding, ass, mule, camel, bull, cow, ox, ram, ewe, wether, boar, sow, barrow, deer, buffalo or goat, or the young of any such animal, without the consent of the person in lawful possession thereof, and with intent to deprive the owner or person in lawful possession thereof of the use and/or possession of such horse, mare, gelding, ass, mule, camel, bull, cow, ox, ram, ewe, wether, boar, sow, barrow, deer, buffalo or goat, or the young of any such animal, either temporarily or permanently.

(4) It is a defence to a charge of an offence defined in this section to prove that the accused person had the lawful consent of the owner to the use or possession by the person of the animal in question.

### **Suspicion of stealing cattle**

**446.(1)** When any horse, mare, gelding, ass, mule, camel, bull, cow, ox, ram, ewe, wether, boar, sow, barrow, deer, buffalo or goat, or the young of any such animal, is suspected, on reasonable grounds, to have been stolen, any person in whose possession or custody the animal or the skin or carcass, or any part of the skin or carcass, of the animal so suspected to have been stolen, is found, is guilty of an offence, unless the person proves that the person came lawfully by the thing in question; and the person is liable on summary conviction to a fine of not less than \$200 or, where in respect of the animal in question a value is determined in accordance with the provisions of the regulations made pursuant to section 450F, of not less than that value, whichever is the higher amount, for every animal or skin or carcass or part of skin or carcass so found, or to imprisonment for 1 year.

(2) However, the fine imposed in respect of the offence shall not exceed \$5 000.

(3) It is a defence to a charge of the offence defined in this section to prove that the accused person came lawfully by the thing in question.

**Illegal branding**

**447.(1)** Any person who, knowing that the person is not the owner of an animal, brands or marks it, or knowingly permits it to be branded or marked, with the person's registered brand or the person's registered mark, is guilty of an offence, and is liable on summary conviction to a fine of not less than \$200 or, where in respect of the animal in question a value is determined in accordance with the provisions of the regulations made pursuant to section 450F, of not less than that value, whichever is the higher amount, for every animal so branded or marked, or to imprisonment for 1 year.

(2) However, the fine imposed in respect of the offence shall not exceed \$5 000.

**Defacing brands**

**448.(1)** Any person who—

- (a) alters, defaces, or otherwise renders undistinguishable, any registered brand or registered mark upon an animal; or
- (b) knowingly permits any such act to be done by any person over whom the person has control;

is guilty of an offence, and is liable on summary conviction to a fine of not less than \$200 or, where in respect of the animal in question a value is determined in accordance with the provisions of the regulations made pursuant to section 450F, of not less than that value, whichever is the higher amount, for every animal with respect to which the act is done or to imprisonment for 1 year.

(2) However, the fine imposed in respect of the offence shall not exceed \$5 000.

**Having in possession an animal with defaced brand**

**448A.(1)** Any person in whose possession or custody any animal upon which any registered brand or registered mark has been altered, defaced, or otherwise rendered indistinguishable, or reasonably suspected to have been altered, defaced, or otherwise rendered indistinguishable, is found, is guilty of an offence, unless the person proves that the person came lawfully by the

animal in question; and the person is liable on summary conviction to a fine of not less than \$200 or, where in respect of the animal in question a value is determined in accordance with the provisions of the regulations made pursuant to section 450F, of not less than that value, whichever is the higher amount, for every animal so found or to imprisonment for 1 year.

(2) However, the fine imposed in respect of the offence shall not exceed \$5 000.

(3) It is a defence to a charge of the offence defined in this section to prove that the accused person came lawfully by the animal in question.

### *Chapter Division 3—Procedural and auxiliary provisions*

#### **Time for prosecution**

**449.** A prosecution for any of the offences defined in sections 445, 447, and 448, may be begun within 1 year after the offence is committed, or within 6 months after the discovery of the offence, whichever is the later period.

#### **Committal for trial**

**450.** If the justices before whom any person is brought, charged with any of the offences defined in Chapter Division 2, are of opinion that there ought to be a prosecution for an indictable offence, they may abstain from dealing with the case summarily, and commit the defendant to take his or her trial for the indictable offence.

#### **Arrest without warrant**

**450A.** A person found committing any of the offences defined in Chapter Division 2 may be arrested without warrant by a police officer or by the owner of the property in question or the owner's servant or by any person authorised by such owner or servant.

**Warrant in first instance**

**450B.** A justice may issue a warrant in the first instance for the arrest of any person charged with any of the offences defined in Chapter Division 2.

**Effect of civil proceedings**

**450C.** If civil proceedings have been taken against any person in respect of any act done by the person which is an offence under any of the provisions of Chapter Division 2, the person cannot be prosecuted afterwards for the same cause, as for an offence, on the complaint of the person by whom the civil proceedings were taken.

## **CHAPTER 44A—SPECIAL PROVISIONS IN RESPECT OF OFFENCES RELATING TO ANIMALS**

**Meaning of term “animal”**

**450D.** In this Chapter—

“**animal**” means horse, mare, gelding, ass, mule, camel, bull, cow, ox, ram, ewe, wether, boar, sow, barrow, deer, buffalo or goat, or the young of any such animal.

**Animals not tendered in certain cases**

**450E.(1)** Subject to subsection (6), where—

- (a) an animal connected with a charge is in the possession or under the control of a police officer; and
- (b) the person charged does not claim ownership of the animal; and
- (c) the owner of the animal is desirous of slaughtering the animal or selling or consigning it for slaughter at a time prior to the tendering of it as an exhibit in connection with the charge; and
- (d) photographs or tapes, films or any other means of visual reproduction of the animal and of any brand or other mark of

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identification are available for tendering as exhibits in connection with the charge and arrangements are made, between the police officer investigating the charge and the owner, for the hide or skin or any marked ear or any other part of the animal to be available for tendering as an exhibit in connection with the charge;

it is not necessary for the animal to be further kept in the possession or under the control of a police officer to be tendered as an exhibit in connection with the charge and, with the prior consent of a Crown Law Officer, it may be returned to the owner.

(2) The arrangements referred to in subsection (1)(d) shall include an undertaking from the owner that—

- (a) in a case of slaughter of the animal by the owner—the owner shall—
  - (i) slaughter the animal within 14 days of it being returned to the owner; and
  - (ii) within 14 days of slaughter, make available to the police officer investigating the charge the hide or skin or any marked ear or any other part of the animal that is to be available for tendering as an exhibit in connection with the charge and in the meantime comply with any requirement of the police officer in relation to the security or preservation thereof;
- (b) in a case of sale or consignment by the owner of the animal for slaughter—the owner shall require of the purchaser as a condition of sale or of the consignee, as the case may be, that—
  - (i) the animal shall be slaughtered within 14 days of it being sold or received by the consignee; and
  - (ii) within 14 days of slaughter, the hide or skin or any marked ear or any other part of the animal that is to be available for tendering as an exhibit in connection with the charge shall be made available to the police officer investigating the charge and that in the meantime any requirement of the police officer in relation to the security or preservation thereof shall be complied with.

(3) Subject to subsection (6), where—

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- (a) an animal connected with a charge is in the possession or under the control of a police officer; and
- (b) the ownership of the animal is disputed by 2 or more persons 1 of whom may be, but need not be, the person charged; and
- (c) the persons claiming ownership together with all persons claiming any interest in the animal of whom the police officer investigating the charge is aware agree in writing to the animal being slaughtered on their behalf or sold or consigned on their behalf for slaughter at a time prior to the tendering of it as an exhibit in connection with the charge; and
- (d) photographs or tapes, films or any other means of visual reproduction of the animal and of any brand or other mark of identification are available for tendering as exhibits in connection with the charge and arrangements are made, between the police officer investigating the charge and the persons referred to in paragraph (c) as claiming ownership or an interest, for the hide or skin or any marked ear or any other part of the animal to be available for tendering as an exhibit in connection with the charge;

it is not necessary for the animal to be further kept in the possession or under the control of a police officer to be tendered as an exhibit in connection with the charge and, with the prior consent of a Crown Law Officer, it may be handed over to a person nominated in the writing referred to in paragraph (c).

(4) The arrangements referred to in subsection (3)(d) shall include an undertaking from the persons referred to in subsection (3)(c) as claiming ownership of or an interest in the animal (“**the said persons**”) that—

- (a) in a case of the animal being slaughtered on behalf of the said persons—the said persons shall—
  - (i) cause the animal to be slaughtered within 14 days of it being handed over to the person nominated as referred to in subsection (3); and
  - (ii) within 14 days of slaughter, cause to be made available to the police officer investigating the charge the hide or skin or any marked ear or any other part of the animal that is to be available for tendering as an exhibit in connection with the

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charge and in the meantime cause any requirement of the police officer in relation to the security or preservation thereof to be complied with;

- (b) in a case of the animal being sold or consigned on behalf of the said persons for slaughter—the said persons shall require of the purchaser as a condition of sale or of the consignee, as the case may be, that—
  - (i) the animal shall be slaughtered within 14 days of it being sold or received by the consignee; and
  - (ii) within 14 days of slaughter, the hide or skin or any marked ear or any other part of the animal that is to be available for tendering as an exhibit in connection with the charge shall be made available to the police officer investigating the charge and that in the meantime any requirement of the police officer in relation to the security or preservation thereof shall be complied with.

(5) Where in the circumstances referred to in subsection (1) or (3) the animal in question is not tendered as an exhibit in proceedings in connection with the charge and—

- (a) photographs or tapes, films or any other means of visual reproduction as aforesaid and any hide, skin, ear or any other part of the animal as aforesaid are tendered in such proceedings; or
- (b) photographs or tapes, films or any other means of visual reproduction as aforesaid are tendered in such proceedings and evidence is given therein showing that although arrangements were made as aforesaid for the tendering as an exhibit of the hide or skin or ear or any other part of the animal, the hide or skin or ear or other part is nevertheless no longer available for so tendering;

objection shall not be taken (or if taken shall not be allowed) to the receipt in evidence of any of them the photographs or tapes, films or any other means of visual reproduction, hide, skin, ear or other part of the animal as evidence of—

- (c) the existence at the material time of the animal;
- (d) in the case of photographs or tapes, films or any other means of

visual reproduction—the condition at the material time of the animal;

- (e) any brand or other mark or feature of identification at the material time on or with respect to the animal.

(6) An animal shall not be returned or handed over under this section in any case where a Crown Law Officer is of the opinion that its production for tender as an exhibit is or is likely to be necessary or that in the circumstances of the case it is desirable that it be produced for tender as an exhibit.

### **Animal valuers and valuations**

**450F.(1)** This section is applicable in every case in which a provision of this Code relates the amount of a fine to the value of an animal determined in accordance with the provisions of the regulations made pursuant to this section.

(2) The Governor in Council may by order in council appoint animal valuers.

(3) The Governor in Council may make regulations, not inconsistent with the provisions of this Code, for or with respect to—

- (a) terms and conditions of appointment of animal valuers;
- (b) qualifications, eligibility and experience of persons to be animal valuers;
- (c) fees and allowances payable to animal valuers;
- (d) appointment of animal valuers according to districts;
- (e) constitution of districts in relation to the appointment of animal valuers;
- (f) valuation of animals by animal valuers in districts for which they are appointed and in other districts, and circumstances in which valuations in other districts shall or may be made;
- (g) the selection, constitution and operation of panels of animal valuers, including method of selection of panels in districts and by whom animal valuers to constitute panels selected;
- (h) the selection of tribunals of animal valuers from panels to make

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- valuations of animals, including method of selection and by whom animal valuers to constitute tribunals selected;
- (i) the constitution and operation of tribunals, including the number of animal valuers constituting a tribunal;
  - (j) functions and duties of animal valuers;
  - (k) the keeping of a register of animal valuers;
  - (l) method of determination of valuation of animals in cases where animals available for inspection and in cases where animals not available for inspection and, in the latter case, use of hides, skins, ears, photographs or tapes, films or any other means of visual reproduction, books, records and comparable prices for comparable animals;
  - (m) method of determination of valuation of animals where animal valuers constituting tribunal are not in agreement as to value;
  - (n) procedures in relation to meetings of tribunals and making of valuations of animals in conjunction with court proceedings and adjournments of proceedings;
  - (o) identification of animals by tribunals;
  - (p) issue and use of valuation certificates with respect to valuation of animals;
  - (q) form of valuation certificates;
  - (r) regulating matters and procedures relating to the initiation of the making of valuations of animals, times within which valuations are to be made in relation to any proceedings, adjournments of proceedings in connection with the making of animal valuations, use of valuation certificates in proceedings and receipt of valuation certificates as evidence in proceedings;
  - (s) sufficiency of evidence of value of animals by tender of valuation certificates in proceedings until contrary value is proved, determination of value where contrary value is so proved, and application of such determined value;
  - (t) facilitation of proof of—
    - (i) appointments of animal valuers; and

- (ii) districts to which animal valuers are appointed or in which they may make animal valuations; and
- (iii) selection of animal valuers to panels and tribunals; and
- (iv) signatures of animal valuers;
- (u) such other matters as may be convenient for the operation of this section and its application in accordance with subsection (1) or that may be necessary or expedient to achieve the objects and purposes with respect to such operation and application.

**Identification of animals and return to owners prior to tender in certain cases**

**450G.** Where—

- (a) an animal connected with a charge is in the possession or under the control of a police officer; and
- (b) the ownership of the animal is not in dispute; and
- (c) the owner of the animal is desirous of the animal being returned to the owner at a time prior to the tendering of it as an exhibit in connection with the charge; and
- (d) the owner gives an undertaking in writing to produce the animal for the purpose of its tender as an exhibit in connection with the charge when required to so produce it; and
- (e) a Crown Law Officer is of the opinion that in the circumstances of the case the animal may be returned to the owner prior to the tendering of it as an exhibit;

the animal may be so returned to the owner provided it is first inspected by a tribunal of animal valuers and, in the presence of the tribunal and as an aid to identification—

- (f) there is branded or marked on the animal by the police officer in whose possession or under whose control it is or by some other person acting under the officer's instructions a brand or mark identifying it as an animal held as an exhibit; and
- (g) photographs or tapes, films or any other means of visual reproduction of the animal are taken or made.

**Licence disqualification where commission of offence facilitated by licence or use of vehicle**

**450H.(1)** Where a person is convicted of an offence under section 398 (where the offence relates to the stealing of an animal), 444A, 444B, 445, 446, 447, 448, 448A or 468 and the court or Stipendiary Magistrate is satisfied that the commission of the offence by that person was facilitated by the holding by the person of a driver's licence or by the use by the person of a motor vehicle, the court or Stipendiary Magistrate may order and direct in addition to any sentence that may be passed or penalty that may be imposed that the offender shall, from the date of conviction, be disqualified absolutely from holding or obtaining a driver's licence to operate a motor vehicle or be so disqualified for such period as the court or Stipendiary Magistrate shall specify in the order.

(2) A copy of the order shall be transmitted to the Commissioner for Transport by the officer or clerk having custody of the records of the court wherein the conviction was recorded.

(3) In this section—

**“driver's licence”** includes any driving licence or driving permit deemed to be equivalent in Queensland to and accepted in lieu of a driver's licence for the purpose of authorising the holder thereof to drive in Queensland any vehicle of the type or class to the driving of which the driving licence or driving permit is applicable.

(4) Nothing contained in this section limits the operation of any other provision of any Act under which the court or Stipendiary Magistrate is empowered to do any act or thing in respect of the driving, or the driver's licence, of any offender.

**Forfeiture in cases of conviction for offences under specified sections**

**450I.(1)** Where a person is convicted of an offence under section 398 (where the offence relates to the stealing of an animal), 444A, 444B, 445, 446, 447, 448, 448A or 468, the court or Stipendiary Magistrate may order to be forfeited to Her Majesty any vehicle, vessel, animal, equipment or other property or thing used in connection with or to facilitate the commission of the offence of which the person has been convicted.

(2) Anything forfeited to Her Majesty pursuant to this section shall be dealt with or disposed of in such manner as the Attorney-General directs.

## **CHAPTER 44B—OTHER OFFENCES ANALOGOUS TO STEALING PUNISHABLE ON SUMMARY CONVICTION**

### **Unlawful possession of shipwrecked goods**

**451.(1)** Any person in whose possession or on whose premises anything which belongs to a vessel in distress, or wrecked, or stranded, is found, and which is suspected, on reasonable grounds, to have been unlawfully taken from the vessel, is guilty of an offence unless the person proves that the person came lawfully by the thing in question; and the person is liable on summary conviction to imprisonment for 6 months, or to a fine of an amount equal to the value of the thing so found, and \$40 in addition.

(2) The justices are required to order the thing in question to be delivered up to the rightful owner.

(3) It is a defence to a charge of the offence defined in this section to prove that the accused person came lawfully by the thing in question.

### **Offering shipwrecked goods for sale**

**452.(1)** Any person who offers or exposes for sale anything which is suspected, on reasonable grounds, to have been unlawfully taken from a vessel in distress, or wrecked, or stranded, is guilty of an offence unless the person proves that the person came lawfully by the thing in question; and the person is liable on summary conviction to imprisonment for 6 months, or to a fine of an amount equal to the value of the thing in question, and \$40 in addition.

(2) Any person employed in the public service may seize any such thing so offered for sale.

(3) If the accused person is convicted, the justices before whom the charge is tried are required to order the thing in question to be delivered up

to the rightful owner thereof upon payment of a reasonable reward, to be ascertained by the justices, to the person who seized the same.

(4) It is a defence to a charge of either of the offences defined in this section to prove that the accused person came lawfully by the thing in question.

### **Arrest without warrant**

**455.** A person found committing any of the offences defined in this Chapter may be arrested without warrant by a police officer, or by the owner of the property in question or the owner's servant, or by any person authorised by such owner or servant.

### **Warrant in first instance**

**456.** A justice may issue a warrant in the first instance for the arrest of any person charged with any of the offences defined in this Chapter.

### **Effect of summary conviction and of civil proceedings**

**457.(1)** A person who has been summarily convicted of any of the offences defined in this Chapter and who has paid the fine or sum adjudged to be paid under the conviction, together with the costs (if any) or has suffered the imprisonment adjudged for non-payment thereof, or has suffered the imprisonment adjudged in the first instance, or has received the Royal mercy, or has been discharged without punishment upon making satisfaction to the person aggrieved, or whose sentence has been conditionally suspended, is not liable to any civil proceedings for the same cause at the suit of the person on whose complaint the person was convicted.

(2) If civil proceedings have been taken against any person in respect of any act done by the person which is an offence under any of the provisions of this Chapter, the person cannot be afterwards prosecuted for the same cause, as for an offence, on the complaint of the person by whom the civil proceedings were taken.

***DIVISION 2—INJURIES TO PROPERTY*****CHAPTER 45—DEFINITIONS****Unlawful acts**

**458.(1)** An act which causes injury to the property of another, and which is done without the owner's consent, is unlawful unless it is authorised or justified or excused by law.

(2) It is immaterial that the person who does the injury is in possession of the property injured, or has a partial interest in it.

(3) A person is not criminally responsible for an injury caused to property by the use of such force as is reasonably necessary for the purpose of defending or protecting himself, herself, or any other person, or any property, from injury which the person believes, on reasonable grounds, to be imminent.

**Acts done with intent to defraud**

**459.(1)** When an act which causes injury to property, and which would be otherwise lawful, is done with intent to defraud any person, it is unlawful.

(2) When an act which causes injury to property is done with intent to defraud any person, it is immaterial that the property in question is the property of the offender.

**Damage**

**460.** The term "**damage**" used in relation to a document, or to a writing or inscription, includes obliterating and rendering illegible, either in whole or in part.

## CHAPTER 46—OFFENCES

### Arson

**461.** Any person who wilfully and unlawfully sets fire to any of the things following, that is to say—

- (a) any building or structure whatever, whether completed or not;
- (b) any vessel, whether completed or not;
- (c) any stack of cultivated vegetable produce, or of mineral or vegetable fuel;
- (d) a mine, or the workings, fittings, or appliances of a mine;
- (e) any aircraft or motor vehicle;

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

### Attempts to commit arson

**462.** Any person who—

- (a) attempts unlawfully to set fire to any such thing as is mentioned in section 461; or
- (b) wilfully and unlawfully sets fire to anything which is so situated that any such thing as is mentioned in section 461 is likely to catch fire from it;

is guilty of a crime, and is liable to imprisonment for 14 years.

### Setting fire to crops and growing plants

**463.** Any person who wilfully and unlawfully sets fire to any of the things following, that is to say—

- (a) a crop of cultivated vegetable produce, whether standing or cut;
- (b) a crop of hay or grass, whether the natural or indigenous product of the soil or not, and whether under cultivation or not, and whether standing or cut;
- (c) any standing trees, saplings, or shrubs, whether indigenous or

cultivated;

- (d) any heath, gorse, furze, or fern;

is guilty of a crime, and is liable to imprisonment for 14 years.

### **Attempting to set fire to crops etc.**

**464.** Any person who attempts unlawfully to set fire to any such thing as is mentioned in section 463 is guilty of a crime, and is liable to imprisonment for 7 years.

### **Casting away ships**

**465.** Any person who—

- (a) wilfully and unlawfully casts away or destroys any vessel, whether complete or not; or
- (b) wilfully and unlawfully does any act which tends to the immediate loss or destruction of a vessel in distress; or
- (c) with intent to bring a vessel into danger interferes with any light, beacon, mark, or signal, used for purposes of navigation, or for the guidance of sailors, or exhibits any false light or signal;

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

### **Attempts to cast away ships**

**466.** Any person who attempts unlawfully to cast away or destroy a vessel, whether completed or not, or attempts unlawfully to do any act tending to the immediate loss or destruction of a vessel in distress, is guilty of a crime, and is liable to imprisonment for 14 years.

### **Obstructing and injuring railways**

**467.** Any person who unlawfully, and with intent to obstruct the use of a railway or to injure any property upon a railway—

- (a) deals with the railway, or with anything whatever upon or near the railway in such a manner as to affect or endanger the free and

safe use of the railway; or

- (b) shows any light or signal, or in any way deals with any existing light or signal, upon or near the railway; or
- (c) by any omission to do any act which it is the person's duty to do causes the free and safe use of the railway to be endangered;

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

### **Endangering the safe use of an aircraft**

**467A.(1)** Any person who with intent to prejudice the safe use of an aircraft or to injure any property upon an aircraft—

- (a) deals with the aircraft or with anything whatever upon or near the aircraft or with anything whatever either directly or indirectly connected with the guidance control or operation of the aircraft in such a manner as to affect or endanger the free and safe use of the aircraft; or
- (b) by any omission to do any act which it is the person's duty to do causes the free and safe use of the aircraft to be endangered;

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

**(2)** Any person who while on board an aircraft wilfully does any act or makes any omission or is privy to any act or omission whereby to the person's knowledge the safety of the aircraft is or is likely to be endangered is guilty of a crime and is liable to imprisonment for 7 years.

### **Injuring animals**

**468.(1)** Any person who wilfully and unlawfully kills, maims, or wounds, any animal capable of being stolen is guilty of an indictable offence.

**(2)** If the animal in question is a horse, mare, gelding, ass, mule, camel, bull, cow, ox, ram, ewe, wether, boar, sow, barrow, deer, buffalo or goat, or the young of any such animal, the offender is guilty of a crime, and is liable to imprisonment for 7 years.

**(3)** In any other case the offender is guilty of a misdemeanour, and is liable to imprisonment for 2 years, or, if the offence is committed by night,

to imprisonment for 3 years.

(4) If the offender (whether guilty of a crime or a misdemeanour) kills or maims the animal and is sentenced to pay a fine in addition to, or instead of imprisonment, the fine shall be not less than 4 penalty units or, where in respect of the animal in question a value is determined in accordance with the provisions of the regulations made pursuant to section 450F, not less than that value, whichever is the higher amount, for every animal killed or maimed.

(5) However, the fine imposed in respect of the offence shall not exceed 500 penalty units.

### **Malicious injuries in general**

**469.** Any person who wilfully and unlawfully destroys or damages any property is guilty of an offence which, unless otherwise stated, is a misdemeanour, and the person is liable, if no other punishment is provided, to imprisonment for 2 years, or, if the offence is committed by night, to imprisonment for 3 years.

### **Punishment in special cases**

#### **Destroying or damaging an inhabited house or a vessel or an aircraft with explosives**

**1.** If the property in question is a dwelling house or a vessel or an aircraft, 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 aircraft; or
- (b) the destruction or damage actually endangers the life of any person;

the offender is guilty of a crime, and is liable to imprisonment for life.

#### **Sea bank, or sea wall, navigation works, or bridges**

**2.** If—

- (a) the property in question is a bank or wall of the sea or of a river,

canal, aqueduct, reservoir, or inland water, or a work which appertains to a port, harbour, dock, reservoir, or inland water, and the injury causes actual danger of inundation or damage to any land or building; or

- (b) the property in question is a railway, or is a bridge, viaduct, or aqueduct, which is constructed over a highway, railway, or canal, or over which a highway, railway, or canal, passes, and the property is destroyed; or
- (c) the property in question, being a railway or being any such bridge, viaduct, or aqueduct, is damaged, and the damage is done with intent to render the railway, bridge, viaduct, or aqueduct, or the highway, railway, or canal, passing over or under the same, or any part thereof, dangerous or impassable, and the same or any part thereof is thereby rendered dangerous or impassable;

the offender is guilty of a crime, and is liable to imprisonment for life.

### **Wills and registers**

3. If the property in question is a testamentary instrument, whether the testator is living or dead, or a register which is authorised or required by law to be kept for authenticating or recording the title to any property, or for recording births, baptisms, marriages, deaths, or burials, or a copy of any part of any such register which is required by law to be sent to any public officer, the offender is guilty of a crime, and is liable to imprisonment for 14 years.

### **Wrecks**

4. If the property in question is a vessel in distress, or wrecked, or stranded, or anything which belongs to such a vessel, the offender is guilty of a crime, and is liable to imprisonment for 7 years.

### **Railways**

5. If the property in question is any part of a railway, or any work connected with a railway, the offender is guilty of a crime, and is liable to imprisonment for 14 years.

**Aircraft**

6. If the property in question is an aircraft or anything whatever either directly or indirectly connected with the guidance control or operation of an aircraft, the offender is guilty of a crime, and is liable to imprisonment for 14 years.

**Other things of special value**

7. If—

- (a) the property in question, being a vessel, whether complete or not, is destroyed; or
- (b) the property in question, being a vessel, whether complete or not, is damaged, and the damage is done with intent to destroy it or render it useless; or
- (c) the property in question is a light, beacon, buoy, mark, or signal, used for purposes of navigation, or for the guidance of sailors; or
- (d) the property in question is a bank or wall of the sea, or of a river, canal, aqueduct, reservoir, or inland water, or a work which appertains to a port, harbour, dock, canal, aqueduct, reservoir, or inland water, or which is used for the purpose of lading or unloading goods; or
- (e) the property in question, being a railway, or being a bridge, viaduct, or aqueduct, which is constructed over a highway, railway, or canal, or over which a highway, railway, or canal passes, is damaged, and the damage is done with intent to render the railway, bridge, viaduct, or aqueduct, or the highway, railway, or canal, passing over or under the same, or any part thereof, dangerous or impassable; or
- (f) the property in question, being anything in process of manufacture, or an agricultural or manufacturing machine, or a manufacturing implement, or a machine or appliance used or intended to be used for performing any process connected with the preparation of any agricultural or pastoral produce, is destroyed; or
- (g) the property in question, being any such thing, machine,

implement, or appliance, as last aforesaid, is damaged, and the damage is done with intent to destroy the thing in question or to render it useless; or

- (h) the property in question is a shaft or passage of a mine, and the injury is done with intent to damage the mine or to obstruct its working; or
- (i) the property in question is a machine, appliance, apparatus, building, erection, bridge, or road, appertaining to or used with a mine, whether the thing in question is completed or not; or
- (j) the property in question, being a rope, chain, or tackle, of whatever material, which is used in a mine, or upon any way or work appertaining to or used with a mine, is destroyed; or
- (k) the property in question, being any such rope, chain, or tackle, as last aforesaid, is damaged, and the damage is done with intent to destroy the thing in question or to render it useless; or
- (l) the property in question is a well, or bore for water, or the dam, bank, wall, or floodgate of a millpond or pool;

the offender is guilty of a crime, and is liable to imprisonment for 7 years.

### **Deeds and records**

**8.** If the property in question is a document which is deposited or kept in a public office, or which is evidence of title to any land or estate in land, the offender is guilty of a crime, and is liable to imprisonment for 7 years.

### **Attempts to destroy property by explosives**

**470.** Any person who, unlawfully, and with intent to destroy or damage any property, puts any explosive substance in any place whatever, is guilty of a crime, and is liable to imprisonment for 14 years.

### **Unlawful deposition of explosives**

**470A.(1)** Any person who wilfully and without reasonable cause or excuse throws, leaves down, or otherwise deposits any explosive substance in any place whatsoever under such circumstances that it may cause injury

to any person or damage to the property of any person, is guilty of a misdemeanour and is liable to imprisonment for 2 years.

(2) The offender may be arrested without warrant.

### **Attempts to injure mines**

**471.** Any person who, with intent to injure a mine or to obstruct the working of a mine—

- (a) unlawfully, and otherwise than by an act done underground in the course of working an adjoining mine—
  - (i) causes water to run into the mine or into any subterranean passage communicating with the mine; or
  - (ii) obstructs any shaft or passage of the mine; or
- (b) unlawfully obstructs the working of any machine, appliance, or apparatus, appertaining to or used with the mine, whether the thing in question is completed or not; or
- (c) unlawfully, and with intent to render it useless, injures or unfastens a rope, chain, or tackle, of whatever material, which is used in the mine or upon any way or work appertaining to or used with the mine;

is guilty of a crime, and is liable to imprisonment for 7 years.

### **Interfering with marine signals**

**472.** Any person who wilfully and unlawfully removes, defaces, or renders invisible, any light, beacon, buoy, mark, or signal, used for purposes of navigation, or for the guidance of sailors, or unlawfully attempts to remove, deface, or render invisible, any such thing, is guilty of a crime, and is liable to imprisonment for 7 years.

### **Interfering with navigation works**

**473.** Any person who—

- (a) wilfully and unlawfully removes or disturbs any fixed object or materials used for securing a bank or wall of the sea, or of a river,

canal, aqueduct, reservoir, or inland water, or for securing any work which appertains to a port, harbour, dock, canal, aqueduct, reservoir, or inland water, or which is used for purposes of navigation or lading or unloading goods; or

- (b) unlawfully does any act with intent to obstruct the carrying on, completion, or maintenance, of the navigation of a navigable river or canal, and thereby obstructs such carrying on, completion, or maintenance;

is guilty of a crime, and is liable to imprisonment for 7 years.

### **Communicating infectious diseases to animals**

**474.** Any person who wilfully and unlawfully causes, or is concerned in causing, or attempts to cause, any infectious or contagious disease to be communicated to or among any animal or animals capable of being stolen, is guilty of a crime, and is liable to imprisonment for life.

### **Travelling with infected animals**

**475.** Any person who causes any animal which is infected with an infectious or contagious disease to travel, or, being the owner or 1 of 2 or more joint owners of any animal which is infected with an infectious or contagious disease, permits or connives at the travelling of any such animal, contrary to the provisions of any statute relating to infected animals of that kind, is guilty of a crime, and is liable to imprisonment for 7 years.

### **Removing boundary marks**

**476.** Any person who wilfully and unlawfully, and with intent to defraud, removes or defaces any object or mark which has been lawfully erected or made as an indication of the boundary of any land is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

### **Obstructing railways**

**477.** Any person who, by any unlawful act, or by any intentional omission to do any act which it is the person's duty to do, causes any

engine or vehicle in use upon a railway to be obstructed in its passage on the railway, is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

### **Sending letters threatening to burn or destroy**

**478.** Any person who, knowing the contents of the writing, causes any person to receive any writing threatening that any building or vessel, whether complete or not, or any stack of cultivated vegetable produce, or any such produce that is in or under a building, shall be burnt or destroyed, is guilty of a crime, and is liable to imprisonment for 7 years.

### **Arrest without warrant**

**479.(1)** Any person suspected of committing any of the misdemeanours defined in this Chapter may be arrested without warrant by a police officer.

**(2)** Moreover any person found committing any of the misdemeanours so defined may be arrested without warrant by the owner of the property injured or the owner's servant, or by any person authorised by such owner or servant.

## **CHAPTER 47—SUMMARY CONVICTION FOR CERTAIN OFFENCES**

### **Offences which may be dealt with summarily**

**480.(1)** When a person is charged before 2 justices with any of the indictable offences following, that is to say—

- (a) wilfully and unlawfully destroying or damaging any property, under such circumstances that the greatest punishment to which an offender convicted of the offence is liable, does not exceed imprisonment for 3 years;
- (b) wilfully and unlawfully killing, maiming, or wounding, any animal capable of being stolen;

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then, if—

- (c) the amount of the injury done does not exceed \$2 500; or
- (d) in the case of an offence of wilfully and unlawfully killing or maiming a horse, mare, gelding, ass, mule, camel, bull, cow, ox, ram, ewe, wether, boar, sow, barrow, deer, buffalo or goat, or the young of any such animal—the value of the animal does not exceed \$5 000; or
- (e) the accused person admits that the accused person is guilty of the offence, and it appears to the justices that the nature of the offence is such, whatever may be the amount of the injury done, that the offender may be adequately punished upon summary conviction;

the justices may, except as hereinafter stated, deal with the charge summarily.

(2) However, the complaint may, with the consent of the accused person also be heard and determined at a place appointed for holding Magistrates Courts within the district in which the accused person was arrested or served with the summons as provided under the *Justices Act 1886*.

(3) In addition, where a court of summary jurisdiction deals summarily with any charge under this section, such court shall have jurisdiction to so deal summarily notwithstanding that more than 1 year has elapsed from the time when the matter of complaint in respect of the charge arose.

(4) Notwithstanding the provisions of subsection (1)(e)—

- (a) if it appears that the injury complained of was done in the course of hunting or fishing, or in the pursuit of game, and was not done with an intention to destroy or damage the property injured; or
- (b) if, in a case of wilfully and unlawfully killing or maiming an animal referred to in subsection (1)(d), the value of the animal exceeds \$5 000;

the justices shall not deal with the charge summarily.

(5) The offender is liable upon such summary conviction to imprisonment for 2 years or to a fine of 100 penalty units.

(6) If the offender is convicted of wilfully and unlawfully killing or maiming an animal referred to in subsection (1)(d) and is sentenced to pay a fine in addition to, or instead of, imprisonment, the fine shall be not less

than 4 penalty units or, where in respect of the animal a value is determined in accordance with the provisions of the regulations made pursuant to section 450F, not less than that value, whichever is the higher amount, for every animal killed or maimed.

(7) However, the fine imposed in respect of the offence shall not exceed 100 penalty units.

### **Procedure**

**481.** Such summary jurisdiction is to be exercised in the manner and subject to the conditions prescribed in Chapter 43 with respect to the summary trial and punishment of offenders who may be summarily convicted of indictable offences under the provisions of that Chapter.

### **Trivial charges**

**482.** If on the trial of any person under the provisions of this Chapter the justices are of opinion that the injury is of so trivial a nature as not to deserve any punishment, they may convict the defendant and discharge the defendant without inflicting any punishment.

### **Effect of summary conviction and of civil proceedings**

**483.(1)** A person who has been summarily convicted of any offence under the provisions of this Chapter, and who has paid the fine or sum adjudged to be paid under the conviction (if any) together with the costs (if any) or has suffered the imprisonment adjudged for non-payment thereof, or has suffered the imprisonment adjudged in the first instance, or has received the Royal mercy, or has been discharged without punishment, or whose sentence has been conditionally suspended, is not liable to any civil proceedings for the same cause at the suit of the person on whose complaint the person was convicted.

(2) If civil proceedings have been taken against any person in respect of any act done by the person which is an offence of which the person might have been convicted under the provisions of this Chapter, the person cannot be afterwards prosecuted for the same cause, as for an offence, on the complaint of the person by whom the civil proceedings were taken.

***DIVISION 3—FORGERY AND LIKE  
OFFENCES—PERSONATION***

**CHAPTER 48—FORGERY IN  
GENERAL—DEFINITIONS**

**Definitions**

**484.** In this Division—

**“bank note”** includes any negotiable instrument issued by or on behalf of any person or corporation in any part of the world, or issued by the authority of any state, prince, or government, and intended to be used as equivalent to money, either immediately on issue or at any time afterwards, and also includes a bank bill or bank post bill;

**“document”** includes a register or register-book or part of either, and any other book, and any paper, parchment, or other material whatever, used for writing or printing, which is marked with any letters or marks denoting words, or with any other signs capable of conveying a definite meaning to persons conversant with them, but does not include trademarks on articles of commerce;

**“seal”** includes any stamp, die, or other thing, of whatever material, from which an impression can be taken by means of pressure or of ink, or by any other means;

**“writing”** includes an inscription on wood, stone, metal, or other material, and also includes a mere signature and a mark of any kind.

**Further definitions**

**485.(1)** A document or writing is said to be false—

- (a) in the case of a document which is a register or record kept by lawful authority, or an entry in any such register, or which purports to be issued by lawful authority as testifying to the contents of any register or record kept by lawful authority, or as testifying to any fact or event—if any material particular stated in the document is untrue;

- (b) if the whole or some material part of the document or writing purports to be made by or on behalf of some person who did not make it or authorise it to be made, or if, in a case when the time or place of making is material, although the document or writing is made by or by the authority of the person by whom it purports to be made, it is with a fraudulent intent falsely dated as to the time or place of making;
- (c) if the whole or some material part of the document or writing purports to be made by or on behalf of some person who does not, in fact, exist; or
- (d) if the document or writing is made in the name of an existing person, either by that person or by that person's authority, with the fraudulent intention that it should pass as being made by some person, real or fictitious, other than the person who makes it or authorises it to be made.

(2) A seal or mark is said to be counterfeit if it is made without lawful authority, and is in such a form as to resemble a genuine seal or mark, or, in the case of a seal, in such a form as to be capable of producing impressions resembling those produced by a genuine seal.

(3) A representation of the impression of a seal is said to be counterfeit if it is not in fact made by the seal.

(4) In this section—

“**resemble**”, applied to anything, includes the case where the thing is made to resemble, or is apparently intended to resemble, the object spoken of.

### **Definition of forgery**

**486.(1)** A person who makes a false document or writing, knowing it to be false, and with intent that it may in any way be used or acted upon as genuine, whether in Queensland or elsewhere, to the prejudice of any person, or with intent that any person may, in the belief that it is genuine, be induced to do or refrain from doing any act, whether in Queensland or elsewhere, is said to forge the document or writing.

(2) A person who makes a counterfeit seal or mark, or makes an impression of a counterfeit seal knowing the seal to be counterfeit, or makes

a counterfeit representation of the impression of a genuine seal, or makes without lawful authority an impression of a genuine seal, with intent in either case that the thing so made may in any way be used or acted upon as genuine, whether in Queensland or elsewhere, to the prejudice of any person, or with intent that any person may, in the belief that it is genuine, be induced to do or refrain from doing any act, whether in Queensland or elsewhere, is said to forge the seal or mark.

(3) In this section—

**“make a false document or writing”** includes altering a genuine document or writing in any material part, either by erasure, obliteration, removal, or otherwise; and making any material addition to the body of a genuine document or writing; and adding to a genuine document or writing any false date, attestation, seal, or other material matter.

(4) It is immaterial in what language a forged document or writing is expressed.

(5) It is immaterial that the forger of anything forged may not have intended that any particular person should use or act upon it, or that any particular person should be prejudiced by it, or be induced to do or refrain from doing any act.

(6) It is immaterial that the thing forged is incomplete, or does not purport to be a document, writing, or seal, which would be binding in law for any particular purpose, if it is so made, and is of such a kind, as to indicate that it was intended to be used or acted upon.

### **Certain matters immaterial**

**487.** In the case of an offence which involves the forging or uttering of a document or writing relating to the payment of money, or to the delivery or transfer of any property, or to the creation or performance of any obligation, it is immaterial in what country the money or property is, or purports to be, payable, deliverable, or transferable, or the obligation is, or purports to be, performed; and, if the money or the property purports to be payable, deliverable, or transferable, or the obligation purports to be an obligation to be performed, in some country out of Queensland, it is immaterial whether the document or writing is under seal or not.

## **CHAPTER 49—PUNISHMENT OF FORGERY AND LIKE OFFENCES**

### **Punishment of forgery in general**

**488.** Any person who forges any document, writing, or seal is guilty of an offence which, unless otherwise stated, is a crime, and the person is liable, if no other punishment is provided, to imprisonment for 3 years.

### **Punishment in special cases**

#### **Public seals etc.**

**1.** If the thing forged—

- (a) purports to be, or is intended by the offender to be understood to be or to be used as, the great seal of the United Kingdom or of Queensland, or Her Majesty's privy seal, or any privy signet of Her Majesty, or Her Majesty's royal sign manual, or the seal of the Governor, or any public seal lawfully appointed to be used for authenticating an act of state in any part of Her Majesty's dominions; or
- (b) is a document having on it or affixed to it any such seal, signet, or sign manual, or anything which purports to be, or is intended by the offender to be understood to be, any such seal, signet, or sign manual;

the offender is liable to imprisonment for life.

#### **Securities, titles, registers etc.**

**2.** If the thing forged purports to be, or is intended by the offender to be understood to be or to be used as, any of the things following, that is to say—

- (a) a document which is evidence of title to any portion of the public debt of any of Her Majesty's dominions or of any foreign state, or to any dividend or interest payable in respect of any such debt, or a transfer or assignment of any such document, or a receipt or certificate for any interest or money payable or accruing on or in

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respect of any such public debt;

- (b) a transfer or assignment of a share in any corporation, company, or society, whether domestic or foreign, or of any share or interest in the capital stock of any such corporation, company, or society, or in the debt of any such corporation, company, or society, or a receipt or certificate for any interest or money payable or accruing on or in respect of any such share, interest, or debt;
- (c) a document acknowledging or being evidence of the indebtedness of the Government of Queensland or of the government of any of Her Majesty's dominions, or of any foreign prince or state, to any person;
- (d) a document which by the law of Queensland or any other country is evidence of the title to any land or estate in land in Queensland or that other country, or an entry in any register or book which is such evidence;
- (e) a document which by law is required for procuring the registration of any title to any land or estate in land;
- (f) a testamentary instrument, whether the testator is living or dead, or a probate or letters of administration, whether with or without a will annexed;
- (g) a bank note, bill of exchange, or promissory note, or an acceptance, indorsement, or assignment of either;
- (h) a deed, bond, or writing obligatory, or a warrant, order, or other security for the payment of money, or for the delivery or transfer of a valuable security, or for procuring or giving credit, whether negotiable or not, or an endorsement or assignment of any such document;
- (i) an accountable receipt, or an acknowledgment of the deposit, receipt, payment, or delivery, of money or goods, or of any valuable security, or an endorsement or assignment of any such document;
- (j) a bill of lading, dock warrant, warehouse-keeper's certificate, warrant or order for the delivery of goods, or any other document used in the ordinary course of business as proof of the possession

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or control of goods, or as authorising, or purporting to authorise, either by endorsement or by delivery, the possessor of the document to transfer or receive the goods represented by the document, or an endorsement or assignment of any such document;

- (k) a charter party, or a shipping document accompanying a bill of lading, or an endorsement or assignment of either;
- (l) a policy of insurance of any kind;
- (m) a power of attorney or other authority to execute any such document as is hereinbefore in this section mentioned;
- (n) the signature of a witness to any of the documents hereinbefore in this section mentioned to which attestation is by law required;
- (o) a register of births, baptisms, marriages, deaths, or burials authorised or required by law to be kept, or any entry in any such register;
- (p) a copy of any such register or entry mentioned in paragraph (o), which is authorised or required by law to be given or sent to or by any person;
- (q) a seal used by a registrar appointed to keep any such register mentioned in paragraph (o), or the impression of any such seal, or the signature of any such registrar;

the offender is liable to imprisonment for 14 years.

**Documents relating to revenue and acts of state etc.**

**3.** If the thing forged purports to be, or is intended by the offender to be understood to be or to be used as, any of the things following, that is to say—

- (a) the signature of the Governor, or of a member of the Executive Council, or of a chief executive of a department of government of the State, upon any grant, commission, warrant, or order;
- (b) a seal or stamp used for the purposes of the public revenue in Queensland or of any other part of Her Majesty's dominions or in any foreign state;

- (c) a document relating to the obtaining or receiving of any money payable on account of the public service of Queensland or any other part of Her Majesty's dominions, or any other property of Her Majesty in any part of Her dominions, or a power of attorney or other authority to execute any such document;

the offender is liable to imprisonment for 14 years.

### **Court seals, records, process, evidence etc.**

**4.** If the thing forged purports to be, or is intended by the offender to be understood to be or to be used as, any of the things following, that is to say—

- (a) the seal of a court of record in any part of Her Majesty's dominions, or a seal used at the chambers of a Judge of the Supreme Court for stamping or sealing summonses or orders;
- (b) a seal or signature by virtue whereof any document can by law be used as evidence;
- (c) any process of any court of justice in any part of Her Majesty's dominions;
- (d) a document issued or made by or out of or by the authority of any such court mentioned in paragraph (c);
- (e) a document or copy of a document of any kind, which document or copy is intended by the offender to be used as evidence in any such court mentioned in paragraph (c);
- (f) a record or other document of or belonging to a court of record in any part of Her Majesty's dominions;
- (g) a copy or certificate of any record of any court mentioned in paragraph (f);
- (h) an instrument, whether written or printed, or partly written and partly printed, which is made evidence by any statute in force in Queensland;
- (i) a document which a justice is required or authorised by law to make, attest, or issue, and purporting to be made, attested, or issued, by a justice;

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- (j) a stamp used for denoting the payment of fees or percentages in any court of justice;
- (k) a licence or certificate required or authorised by law to be given for the celebration of a marriage;
- (l) a consent to the marriage of a minor given by a person authorised by law to give it;
- (m) a certificate of marriage given under the provisions of the laws relating to the solemnisation of marriage;
- (n) a copy of the registry of a marriage;
- (o) a stamp issued or made under the laws relating to the post office;
- (p) a power of attorney or letter of attorney;
- (q) the signature of a witness to a power of attorney or letter of attorney;
- (r) a contract, or a writing which with other writings constitutes a contract or is evidence of a contract;
- (s) an authority or request for the payment of money or for the delivery of property;
- (t) an acquittance or discharge, or a voucher of having received any property, or any document which is evidence of the receipt of any property;
- (u) any mark which under the authority of any statute is impressed upon or otherwise attached to or connected with any article for the purpose of denoting the quality of the article or the fact that it has been examined or approved by or under the authority of some public body or public officer;
- (v) a certificate given under the provisions of the laws relating to quarantine;

the offender is liable to imprisonment for 7 years.

**Telegrams**

5. If the thing forged purports to be, or is intended by the offender to be understood to be or to be used as, a message to be sent by telegraph, or a

message received by telegraph, the offender is liable to the same punishment as if the offender had forged a document to the same effect as the message.

### **Uttering false documents and counterfeit seals**

**489.(1)** Any person who knowingly and fraudulently utters a false document or writing, or a counterfeit seal, is guilty of an offence of the same kind and is liable to the same punishment as if the person had forged the thing in question.

(2) It is immaterial whether the false document or writing, or counterfeit seal, was made in Queensland or elsewhere.

(3) In this section—

**“fraudulently”** means an intention that the thing in question shall be used or acted upon as genuine, whether in Queensland or elsewhere, to the prejudice of some person, whether a particular person or not, or that some person, whether a particular person or not, shall, in the belief that the thing in question is genuine, be induced to do or refrain from doing some act, whether in Queensland or elsewhere.

### **Uttering cancelled or exhausted documents**

**490.** Any person who knowingly utters as and for a subsisting and effectual document any document which has by any lawful authority been ordered to be revoked, cancelled, or suspended, or the operation of which has ceased by effluxion of time, or by death, or by the happening of any other event, is guilty of an offence of the same kind and is liable to the same punishment as if the person had forged the document.

### **Uttering cancelled stamps**

**491.** Any person who knowingly utters as and for a valid and uncanceled stamp a stamp, or an impression of a seal used for any purpose connected with the public revenue of Queensland or of any other part of Her Majesty's dominions, which has been already used, or which has been cancelled, is guilty of an offence of the same kind and is liable to the same punishment as if the person had forged the stamp or seal.

**Procuring execution of documents by false pretences**

**492.** Any person who, by means of any false and fraudulent representation as to the nature, contents, or operation, of a document, procures another to sign or execute the document, is guilty of an offence of the same kind and is liable to the same punishment as if the person had forged the document.

**Obliterating crossings on cheques**

**493.** Any person who, with intent to defraud—

- (a) obliterates, adds to, or alters, the crossing on a cheque; or
- (b) knowingly utters a crossed cheque, the crossing on which has been obliterated, added to, or altered;

is guilty of a crime, and is liable to imprisonment for 7 years.

**Making documents without authority**

**494.** Any person who, with intent to defraud—

- (a) without lawful authority or excuse, makes, signs, or executes, for or in the name or on account of another person, whether by procuration or otherwise, any document or writing; or
- (b) knowingly utters any document or writing so made, signed, or executed, by another person;

is guilty of a crime, and is liable to imprisonment for 7 years.

**Demanding property upon forged testamentary instruments**

**495.** Any person who procures the delivery or payment to himself, herself or any other person of any property or money by virtue of any probate or letters of administration granted upon a forged testamentary instrument, knowing the testamentary instrument to have been forged, or upon or by virtue of any probate or letters of administration obtained by false evidence, knowing the grant to have been so obtained, is guilty of an offence of the same kind and is liable to the same punishment as if the

person had forged the document or thing by virtue whereof the person procures the delivery or payment.

### **Purchasing forged bank notes**

**496.** Any person who, without lawful authority or excuse, the proof of which lies on the person, purchases or receives from any person, or has in the person's possession, a forged bank note, whether filled up or in blank, knowing it to be forged, is guilty of a crime, and is liable to imprisonment for 7 years.

### **False certificate of message received by telegraph**

**497.** Any person who knowingly signs upon a document, which purports to be a copy of a document the contents whereof have been received by telegraph under the provisions of the laws authorising the transmission by telegraph of the contents of documents requiring signature or seal, a false certificate that it has been duly received under the provisions of those laws is guilty of an offence of the same kind, and is liable to the same punishment as if the person had forged the document of which it purports to be a copy.

### **Falsifying warrants for money payable under public authority**

**498.** Any person, who, being employed in the public service, knowingly and with intent to defraud makes out or delivers to any person a warrant for the payment of any money payable by public authority for a greater or less amount than that to which the person on whose behalf the warrant is made out is entitled is guilty of a crime, and is liable to imprisonment for 7 years.

### **Falsification of registers**

**499.(1)** Any person who, having the actual custody of any register or record kept by lawful authority, knowingly permits any entry which, in any material particular, is to the person's knowledge false, to be made in the register or record is guilty of a crime, and is liable to imprisonment for 7 years.

**(2)** The offender cannot be arrested without warrant.

**Sending false certificate of marriage to registrar**

**500.** Any person who signs or transmits to a person authorised by law to register marriages a certificate of marriage, or any document purporting to be a certificate of marriage, which, in any material particular, is to the person's knowledge false, is guilty of a crime, and is liable to imprisonment for 7 years.

**False statements for the purpose of registers of births, deaths, and marriages**

**501.** Any person who knowingly, and with intent to procure the same to be inserted in a register of births, deaths, or marriages, makes any false statement touching any matter required by law to be registered in any such register, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

**Attempts to procure unauthorised status**

**502.** Any person who—

- (a) by any false representation procures any authority authorised by any statute to issue certificates testifying that the holders thereof are entitled to any right or privilege, or to enjoy any rank or status, to issue to himself, herself or any other person any such certificate; or
- (b) falsely represents to any person that the person has obtained any certificate issued by any such authority; or
- (c) by any false representation procures himself, herself or any other person to be registered on any register kept by lawful authority as a person entitled to such a certificate, or as a person entitled to any right or privilege, or to enjoy any rank or status;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

**Counterfeiting trademarks**

**503.(1)** Any person who, with intent to defraud or to enable another person to defraud—

- (a) makes a counterfeit trademark; or
- (b) knowingly uses a trademark, whether genuine or counterfeit, on any article, or on anything containing or connected with any article, in such a manner that the trademark so used signifies or implies, or may reasonably induce any person to believe, contrary to the fact, that the article is such as is designated by the trademark;

is guilty of a misdemeanour, and is liable to imprisonment for 2 years, and to be fined at the discretion of the court.

(2) And every thing which the person has in the person's possession to which the trademark or counterfeit trademark has been so applied, and every instrument which the person has in the person's possession by means of which any such mark has been so applied, or which is intended for applying any such mark, is forfeited to Her Majesty.

(3) In this section—

“**counterfeit**” includes any imitation of a genuine mark which is not genuine and which resembles the genuine mark;

“**trademark**” includes any word or mark of any kind whatever, which is lawfully used by any person to denote that any article is of the person's manufacture, labour and skill, production, or merchandise, or is a thing of a peculiar or particular description made or sold by the person.

### **Circulating false copies of rules or lists of members of societies or companies**

**504.** Any person who knowingly, and with intent to deceive or defraud, or to enable another person to deceive or defraud, utters to any person a document which purports to be a copy of the memorandum or articles of association or other constitution of a corporation or joint stock company, or of the rules or by-laws of any corporation or society, constituted under the authority of any statute, but is not a true copy thereof, or a document which purports to be a list of the members of any such corporation, company, or society, but is not a true list of such members, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

## **CHAPTER 50—FORGERY AND LIKE OFFENCES PUNISHABLE ON SUMMARY CONVICTION**

### **Sending false telegrams**

**505.** Any person who—

- (a) knowingly and without the authority of the pretended sender, sends or delivers, or causes to be sent or delivered, to any person employed by or under the Post and Telegraph Department, for the purpose of being transmitted as a telegram, a message or writing purporting to be sent by another person; or
- (b) signs a telegram in the name of another person without that person's authority, or in the name of a fictitious person; or
- (c) wilfully alters a telegram without the authority of the sender; or
- (d) writes, issues, or delivers, as and for a telegram received through a telegraph office, a writing purporting to be a telegram so received, and which is not a telegram so received;

is guilty of an offence, and is liable on summary conviction to imprisonment for 12 months, and to a fine of \$200.

### **Forgery of sailors' tickets or documents under Factories and Shops Act**

**506.** Any person who—

- (a) forges any document purporting to be, or intended by the offender to be understood to be or to be used as, a document required to be obtained or used under the provisions of the laws relating to the engagement or discharge of sailors, or the laws relating to the regulation of factories and shops; or
- (b) utters any document which is required to be obtained or used under the provisions of these laws, and which has been issued to another person, and falsely represents himself or herself to be the person named in the document;

is guilty of an offence, and is liable on summary conviction to imprisonment for 1 year, or to a fine of \$100.

**Fraudulent use of adhesive stamps**

**507.** Any person who—

- (a) fraudulently, and with intent that the stamp may be used again, removes an adhesive stamp, or causes an adhesive stamp to be removed, from any document; or
- (b) fraudulently, and with intent that the stamp may be used again, affixes an adhesive stamp which has been removed from any document to another document; or
- (c) knowingly utters an adhesive stamp which has been fraudulently, and with intent that it may be used again, removed from any document; or
- (d) knowingly utters any document which has on it an adhesive stamp that has been fraudulently, and with intent that it may be used again, removed from another document;

is guilty of an offence, and is liable on summary conviction to a fine of \$100.

**False warranties or labels relating to the sale of food**

**508.** Any person who—

- (a) knowingly gives to a purchaser a false warranty in writing with respect to an article of food or a drug sold by the person, whether as principal or agent; or
- (b) knowingly gives with any article of food or drug sold by the person a label which falsely described the article or drug sold; or
- (c) in any proceedings under the laws relating to the sale of food and drugs knowingly applies to an article of food or a drug a certificate or warranty given with respect to another article or drug;

is guilty of an offence, and is liable on summary conviction to a fine of \$40.

**Provisions of this Chapter alternative**

**509.** The provisions of this Chapter are alternative and without prejudice

to any other provisions of this Code relating to the same matters, but so that an offender cannot be twice convicted for the same act.

## CHAPTER 51—PREPARATION FOR FORGERY

### Instruments and materials for forgery

**510.** Any person who without lawful authority or excuse, the proof of which lies on the person—

- (a) makes, or begins or prepares to make, or uses, or knowingly has in the person's possession or disposes of, any paper resembling any paper such as is specially provided by the proper authority for the purpose of being used for making any of the things following, that is to say—
  - (i) any document acknowledging or being evidence of the indebtedness of the Government of Queensland, or of the government of any of Her Majesty's dominions, or of any foreign prince or state, or of any person carrying on the business of banking, to any person; or
  - (ii) any stamp, license, permit, or other document used for the purposes of the public revenue of Queensland, or of any other part of Her Majesty's dominions; or
  - (iii) any bank note;or any machinery or instrument or material for making any such paper, 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 for any such purpose; or
- (b) impresses or makes upon any plate or material any words, figures, letters, marks, or lines, the print whereof resembles, in whole or part, the words, figures, letters, marks, or lines, used in any document mentioned in paragraph (a); or
- (c) uses, or knowingly has in the person's possession, or disposes of

any plate or material upon which any such words, figures, letters, marks, or lines, are impressed or made; or

- (d) uses, or knowingly has in the person's possession or disposes of, any paper on which is written or printed the whole or any part of the usual contents of any document mentioned in paragraph (a);

is guilty of a crime, and is liable to imprisonment for 14 years.

### **Counterfeit stamps**

**511.** Any person who, without lawful authority or excuse, the proof of which lies on the person—

- (a) makes or mends, or begins or prepares to make or mend, or uses, or knowingly has in the person's possession or disposes of, any die, plate, or instrument, capable of making an impression resembling that made by any die, plate, or instrument, used for the purpose of making any stamp, whether impressed or adhesive, which is used for the purposes of the public revenue or of the Post Office in Queensland or any other part of Her Majesty's dominions or in any foreign state, or capable of producing in or on paper any words, figures, letters, marks, or lines, resembling any words, figures, letters, marks, or lines, used in or on any paper specially provided by the proper authority for any such purpose; or
- (b) knowingly has in the person's possession or disposes of any paper or other material which has on it the impression of any such die, plate, or instrument, or any paper which has on it or in it any such words, figures, letters, marks, or lines, mentioned in paragraph (a); or
- (c) fraudulently, and with intent that use may be made of any such stamp as aforesaid, or of any part of it, removes the stamp from any material in any way whatever; or
- (d) fraudulently, and with intent that use may be made of any part of any such stamp, mutilates the stamp; or
- (e) fraudulently fixes or places upon any material, or upon any such stamp, any stamp or part of a stamp which has been in any way removed from any other material, or out of or from any other

stamp; or

- (f) fraudulently, and with intent that use may be made of any such stamp which has been already impressed upon or attached to any material, erases or otherwise removes, either really or apparently, from such material anything whatever written on it; or
- (g) knowingly has in the person's possession or disposes of anything obtained or prepared by any such unlawful act mentioned in this section;

is guilty of a crime, and is liable to imprisonment for 14 years.

### **Paper for postal purposes**

**512.** Any person who, without lawful authority or excuse, the proof of which lies on the person, knowingly has in the person's possession or disposes of any paper which has been specially provided by the proper authority for the purpose of being used for postage stamps, money orders, or postal notes, before such paper has been lawfully issued for public use, is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

### **Paper and dies for postage stamps**

**513.(1)** Any person who, without lawful authority or excuse, the proof of which lies on the person—

- (a) makes, or begins or prepares to make, or uses for any postal purpose, or has in the person's 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 Queensland or of any other part of Her Majesty's dominions or of any foreign country; or
- (b) makes or mends, or begins or prepares to make or mend, or uses, or has in the person's possession or disposes of, any die, plate, instrument, or material, for making any such imitation or representation;

is guilty of an offence, and is liable on summary conviction to imprisonment for 1 year, or to a fine of \$100, and any stamps, and any other such things as aforesaid, which are found in the person's possession

are forfeited to Her Majesty.

(2) For the purposes of this section a stamp purporting to denote a rate of postage of any country is to be taken to be a stamp used for postal purposes in that country until the contrary is shown.

## CHAPTER 52—PERSONATION

### Personation in general

**514.(1)** Any person who, with intent to defraud any person, falsely represents himself or herself to be some other person, living or dead, is guilty of an offence which, unless otherwise stated, is a misdemeanour, and the person is liable to imprisonment for 3 years.

(2) If the representation is that the offender is a person entitled by will or operation of law to any specific property, and the person commits the offence with intent to obtain such property or possession thereof, the person is guilty of a crime, and is liable to imprisonment for 14 years.

### Falsely acknowledging deeds, recognisances etc.

**515.** Any person who, without lawful authority or excuse, the proof of which lies on the person, makes, in the name of any other person, before any court or person lawfully authorised to take such an acknowledgment, and acknowledgment of liability of any kind, or an acknowledgment of a deed or other instrument, is guilty of a crime, and is liable to imprisonment for 7 years.

### Personation of a person named in a certificate

**516.** Any person who utters any document which has been issued by lawful authority to another person, and whereby that other person is certified to be a person possessed of any qualification recognised by law for any purpose, or to be the holder of any office, or to be entitled to exercise any profession, trade, or business, or to be entitled to any right or privilege, or to enjoy any rank or status, and falsely represents himself or herself to be

the person named in the document, is guilty of an offence of the same kind, and is liable to the same punishment as if the person had forged the document.

### **Lending certificates for personation**

**517.** Any person who, being a person to whom any document has been issued by lawful authority, whereby the 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, lends the document to another person with intent that that other may represent himself or herself to be the person named therein, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

## ***DIVISION 4—OFFENCES CONNECTED WITH TRADE AND BREACH OF CONTRACT***

### **CHAPTER 53—FRAUDULENT DEBTORS**

#### **Definition**

**518.(1)** In this Chapter—

“**an insolvent**” means a person with respect to whom any proceedings have been taken under the provisions of the laws relating to insolvent debtors which result in the person’s affairs being administered under the provisions of those laws for the benefit of the person’s creditors.

(2) Such a person is deemed to have been an insolvent from the time when the proceedings were taken, whether that result had or had not happened when the unlawful act in question was done.

#### **Absconding with property in contemplation of or immediately after insolvency**

**519.(1)** Any person who—

- (a) being an insolvent, departs from Queensland and takes with the person, or attempts or prepares to depart from Queensland and to take with the person, any part of the person's property to the amount of \$40, which ought by law to be divided amongst the person's creditors; or
- (b) departs from Queensland and takes with the person, or attempts or prepares to depart from Queensland and to take with the person, any part of the person's property to the amount of \$40, which ought by law, in the event of the person becoming insolvent, to be divided among the person's creditors, and within 4 months afterwards becomes an insolvent;

is guilty of a crime, and is liable to imprisonment for 3 years.

(2) It is a defence to a charge of any of the offences defined in this section to prove that the accused person had no intent to defraud.

### **Frauds by insolvents**

**520.** Any person who—

- (a) being an insolvent—
  - (i) fraudulently removes any part of the person's property to the value of \$20 or upwards; or
  - (ii) fraudulently parts with, alters, or makes any omission in, or is privy to fraudulently parting with, altering, or making any omission in, any document affecting or relating to the person's property or affairs; or
- (b) does any act mentioned in paragraph (a), and within 4 months afterwards becomes an insolvent; or
- (c) being an insolvent, attempts to account for any part of the person's property by alleging fictitious losses or expenses; or
- (d) attempts at a meeting of the person's creditors to account for any part of the person's property by fictitious losses or expenses, and within 4 months afterwards becomes an insolvent; or
- (e) by any false representation or other fraud obtains any property on credit and does not pay for the same, and within 4 months

afterwards becomes an insolvent;  
is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

### **Other frauds by insolvents**

**521.(1)** Any person who—

- (a) being an insolvent—
  - (i) conceals any part of the person's property to the amount of \$20; or
  - (ii) conceals any debt due to or from the person; or
- (b) does any of the following acts, that is to say—
  - (i) conceals any part of the person's property to the amount of \$20;
  - (ii) conceals any debt due to or from the person;
  - (iii) obtains any property on credit under the false pretence of carrying on business and dealing in the ordinary way of trade, and does not pay for the same;
  - (iv) pawns, pledges, or disposes of otherwise than in the ordinary way of trade, any property which the person has obtained on credit and has not paid for;

and within 4 months afterwards becomes an insolvent;  
is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

**(2)** It is a defence to a charge of any of the offences defined in this section to prove that the accused person had no intent to defraud.

### **Falsification of books by insolvents**

**522.(1)** Any person who—

- (a) being an insolvent—
  - (i) conceals, destroys, alters, mutilates, or falsifies, any book, document, valuable security, or account, relating to the person's property or affairs, or any entry in any such book, document, or account, or is privy to any such act; or

- (ii) makes or is privy to making any false entry in any such book, document, or account; or
- (b) does or is privy to any such act as aforesaid, and within 4 months afterwards becomes an insolvent;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

(2) It is a defence to a charge of any of the offences defined in this section to prove that the accused person had no intent to conceal the state of the person's affairs or to defraud.

### **Frauds by insolvents in course of insolvency proceedings**

**523.** Any person whose affairs are in course of administration under the provisions of the laws relating to insolvent debtors who—

- (a) knowing or believing that a false debt has been proved by any person in the course of such administration, fails for the period of a month to give information thereof to the trustee of the person's property; or
- (b) makes any false representation or commits any other fraud for the purpose of obtaining the consent of the person's creditors or any of them to any agreement with reference to the person's affairs or to any proceedings taken under or by virtue of such administration;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

### **Failure by insolvents to discover property**

**524.(1)** Any person whose affairs are in course of administration under the provisions of the laws relating to insolvent debtors who—

- (a) fails to fully and truly discover to the trustee of the person's property, to the best of the person's knowledge and belief, all the person's property, real and personal, and how, and to whom, and for what consideration, and when, the person disposed of every part thereof, except such part as has been disposed of in the ordinary way of the person's trade (if any) or laid out in the ordinary expense of the person's family; or

- (b) fails to deliver to the trustee, or as the trustee directs, any part of the person's real and personal property which is in the person's custody or under the person's control, and which the person is required by law to deliver; or
- (c) fails to deliver to the trustee, or as the trustee directs, any book, document, paper, or writing, which is in the person's custody or under the person's control, and which relates to the person's property or affairs; or
- (d) omits or is privy to omitting any material particular from any statement relating to the person's affairs;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

(2) It is a defence to a charge of any of the offences defined in this section to prove that the accused person had no intent to conceal the state of the person's affairs or to defraud.

### **Failure to keep proper books**

**525.(1)** Any person who omits to keep proper books of account showing the true state of the person's affairs, and who within 3 years afterwards becomes an insolvent, is guilty of a misdemeanour and is liable to imprisonment for 3 years.

(2) It is a defence to a charge of the offence defined in this section to prove that the accused person had no intention to conceal the state of the person's affairs or to defraud.

### **Concealing documents**

**526.(1)** Any person who, being an insolvent, prevents the production of any book, document, paper, or writing, affecting or relating to the person's property or affairs, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

(2) It is a defence to a charge of the offence defined in this section to prove that the accused person had no intent to conceal the state of the person's affairs or to defraud.

**Receiving insolvent's property with intent to defraud**

**527.** Any person who, with intent to defraud the creditors of an insolvent, receives any property from the insolvent, or fails to deliver to the trustee of the property of the insolvent any property which forms part of the estate of the insolvent, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

**Making false claim in insolvency**

**528.** Any person who—

- (a) being a creditor of an insolvent, or being a creditor of a debtor who has taken proceedings for a composition with the person's creditors under the provisions of the laws relating to insolvent debtors, makes in the insolvency, or in the proceedings for a composition, with intent to defraud, a proof or declaration of debt or statement of account, which, in any material particular, is to the person's knowledge false; or
- (b) not being a creditor of an insolvent, or of a person who has taken any such proceedings, makes in the insolvency, or in the proceedings for a composition, with intent to defraud, a proof or declaration of debt;

is guilty of a misdemeanour, and is liable to imprisonment for 1 year.

**Concealing property of insolvents**

**529.** Any person who conceals any part of the property of an insolvent, and does not, within 42 days after the appointment of a trustee of the property of the insolvent, discover such property to the trustee, or to the registrar of the Supreme Court, is guilty of an offence, and is liable on summary conviction to imprisonment for 6 months.

**Fraudulent dealing with property by debtors**

**530.** Any person who, with intent to defraud the person's creditors or any of them—

- (a) makes any gift, delivery, or transfer of the person's property, or

any charge on the person's property; or

- (b) conceals or removes any part of the person's property after or within 2 months before the date of any unsatisfied judgment or order for payment of money obtained against the person;

is guilty of a misdemeanour, and is liable to imprisonment for 1 year.

## **CHAPTER 54—OTHER OFFENCES**

### **Concealment by officers of companies on reduction of capital**

**531.** Any person who, being a director or officer of a joint stock company, the capital of which is proposed to be reduced—

- (a) conceals the name of any creditor of the company who is entitled to object to the proposed reduction; or
- (b) knowingly misrepresents the nature or amount of the debt or claim of any creditor of the company; or
- (c) is privy to any such concealment or misrepresentation as aforesaid;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

### **Falsification of books of companies**

**532.** Any person who, being a director, officer, or contributory, of a company which is in the course of being wound up under the provisions of the laws relating to joint stock companies, does any of the following acts with intent to deceive or defraud, or to make another person to deceive or defraud, that is to say—

- (a) conceals, destroys, alters, mutilates, or falsifies, any book, document, valuable security, or account, relating to the affairs of the company, or any entry in any such book, document, or account, or is privy to any such act;
- (b) makes or is privy to making any false entry in any book,

document, or account, belonging to the company;  
is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

### **Mixing uncertified with certified articles**

**533.** When a mark has been attached to any article, or a certificate has been given with respect to any article, under the authority of any statute, for the purpose of denoting the quality of the article, or the fact that it has been examined or approved by or under the authority of some public body or public officer, any person who mixes with the article so marked or certified any other article which has not been so examined or approved, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

### **Intimidation of workers and employers**

**534.(1)** Any person who—

- (a) by violence to the person or property of another, or by threats or intimidation of any kind, or by besetting the house or place of work of another, or by following another in a disorderly manner in a public highway, or by molesting or in any way obstructing, another by any physical act in the pursuit of the other person's lawful vocation—
  - (i) compels or attempts to compel any person employed in any manufacture, trade, business, or occupation, to depart from the other person's employment, or to return the other person's work before it is finished; or
  - (ii) prevents any person who is not employed from accepting employment from any other person; or
- (b) uses violence to the person or property of another, or uses threats or intimidation of any kind to another, or by any physical act molests or in any way obstructs another—
  - (i) for the purpose of inducing any person to belong to any club or association, or to contribute to any common fund, or to pay any fine or penalty; or
  - (ii) on account of any person not belonging to any particular club or association, or not having contributed or having

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refused to contribute to any common fund, or having refused to pay any fine or penalty; or

(iii) on account of any person not having complied, or refusing to comply, with any rules, orders, resolutions, or regulations, made or pretended to be made by any person, or persons, or club, or association, in order to obtain an advance of wages or to reduce the rate of wages, or to lessen or alter the hours of working in, or to decrease or alter the quantity of work done in, or to regulate the mode of carrying on, any manufacture, trade, or business, or the management thereof; or

(c) by violence to the person or property of another, or by threats or intimidation of any kind, or by molesting or in any way obstructing another, compels, or endeavours to compel, any person carrying on any manufacture, trade, or business, to make any alteration in the other person's mode of carrying it on, or to limit the number of the other person's apprentices, or the number or description of the other person's tradespersons, workers, or servants;

is guilty of an offence, and is liable on summary conviction to imprisonment for 3 months.

(2) It is lawful for 1 or more person or persons acting in contemplation of or during the continuance of any industrial dispute to attend peaceably and in a reasonable manner at or near a house or place where a person resides or works or carries on business, or happens to be, if the person or persons so attend merely for the purpose of obtaining or communicating information, and such attending is not deemed a besetting within the meaning of this section.

(3) Notification or warning of an intention to lock out or strike, or of an intention on the part of any worker or workers to refuse to enter into or continue in the employment of any employer, is not deemed a threat or intimidation or molestation or obstruction within the meaning of this section.

(4) For the purposes of this section—

**“industrial dispute”** has the same meaning as in the *Industrial Conciliation and Arbitration Act 1932*.

(5) A justice who is also an employer in the particular manufacture, trade, or business, in or concerning which any of the offences defined in this section is charged to have been committed cannot act as a justice upon a charge of such an offence.

(6) A person cannot refuse to give evidence upon a charge of any of the offences defined in this section on the ground that the person is liable to punishment under the provisions thereof, but every person who gives evidence on any such charge is indemnified against any prosecution against himself or herself for having offended in the matter with respect to which the person gives evidence.

(7) The action of persons who merely agree together to fix the rate of wages or prices which they will pay or accept for any work or article, or to fix the hours during which they will work in, or carry on, any manufacture, trade, or business, in which they are engaged, or who merely meet together and consult for the purpose of making any such agreement, is not deemed to be a physical act for the purposes of this section.

## **PART 7—PREPARATION TO COMMIT OFFENCES—CONSPIRACY—ACCESSORIES AFTER THE FACT**

### **CHAPTER 55—ATTEMPTS AND PREPARATION TO COMMIT OFFENCES**

#### **Attempts to commit offences**

**535.(1)** Any person who attempts to commit any indictable offence is guilty of an indictable offence, which, unless otherwise stated, is a misdemeanour.

(2) When a person who commits an indictable offence is punishable on summary conviction, a person who attempts to commit such an offence may also be summarily convicted.

**Punishment of attempts to commit crimes**

**536.(1)** Any person who attempts to commit a crime of such a kind that a person convicted of it is liable to the punishment of imprisonment for life or of imprisonment for a term of 14 years or upwards, with or without any other punishment, is liable, if no other punishment is provided, to imprisonment for 7 years.

**(2)** Any person who attempts to commit a crime of any other kind is liable, if no other punishment is provided, to a punishment equal to one-half of the greatest punishment to which an offender convicted of the crime which the person attempted to commit is liable.

**Punishment of attempts to commit misdemeanours**

**537.** Any person who attempts to commit a misdemeanour is liable, if no other punishment is provided, to a punishment equal to one-half of the greatest punishment to which an offender convicted of the offence which the person attempted to commit is liable.

**Reduction of punishment**

**538.(1)** When a person is convicted of attempting to commit an offence, if it is proved that the person desisted of the person's own motion from the further prosecution of the person's intention, without its fulfilment being prevented by circumstances independent of the person's will, the person is liable to one-half only of the punishment to which the person would otherwise be liable.

**(2)** If that punishment is imprisonment for life, the greatest punishment to which the person is liable is imprisonment for 7 years.

**Attempts to procure commission of criminal acts**

**539.(1)** Any person who attempts to procure another—

- (a) to do an act or make an omission in Queensland; or
- (b) to do an act or make an omission outside Queensland,

being an act or omission of such a nature that, if the act were done or the omission made, an offence would thereby be committed—

- (c) in the case referred to in paragraph (a)—under the laws of Queensland; or
- (d) in the case referred to in paragraph (b)—under the laws in force in the place where the act or omission is proposed to be done or made;

whether by himself, herself or by the other person, is guilty of an offence of the same kind and is liable to the same punishment as if the person had attempted to do the same act or make the same omission in Queensland.

**(1A)** However, in the case referred to in subsection (1)(b), the punishment cannot exceed that which the person would have incurred under the laws in force where the act or omission was proposed to be done or made, if the person had attempted to do the proposed act or make the proposed omission.

**(2)** Any person who, while out of Queensland, attempts to procure another to do an act or make an omission in Queensland of such a nature that, if the person had done the act or made the omission in Queensland, the person would have been guilty of an offence is guilty of an offence of the same kind and is liable to the same punishment as if the person had attempted to do the act or make the omission in Queensland.

### **Preparation to commit crimes with explosives etc.**

**540.** Any person who makes or knowingly has in the person's possession any explosive substance, or any dangerous or noxious engine, instrument, or thing whatever, with intent by means thereof to commit, or for the purpose of enabling any other person by means thereof to commit, any crime, is guilty of a crime, and is liable to imprisonment for 3 years.

## **CHAPTER 56—CONSPIRACY**

### **Conspiracy to commit crime**

**541.(1)** Any person who conspires with another to commit any crime, or to do any act in any part of the world which if done in Queensland would be

a crime, and which is an offence under the laws in force in the place where it is proposed to be done, is guilty of a crime, and is liable, if no other punishment is provided, to imprisonment for 7 years; or, if the greatest punishment to which a person convicted of the crime in question is liable is less than imprisonment for 7 years, then to such lesser punishment.

(2) A prosecution for an offence defined in this section shall not be instituted without the consent of the Attorney-General.

### **Conspiracy to commit other offences**

**542.(1)** Any person who conspires with another to commit any offence which is not a crime, or to do any act in any part of the world which if done in Queensland would be an offence but not a crime, and which is an offence under the laws in force in the place where it is proposed to be done, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

(2) A prosecution for an offence defined in this section shall not be instituted without the consent of the Attorney-General.

### **Other conspiracies**

**543.(1)** Any person who conspires with another to effect any of the purposes following, that is to say—

- (a) to prevent or defeat the execution or enforcement of any statute law;
- (b) to cause any injury to the person or reputation of any person, or to depreciate the value of any property of any 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 any person in the person's 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 the person's part, the free and lawful exercise by any person of the person's trade, profession, or occupation;
- (f) to effect any unlawful purpose;
- (g) to effect any lawful purpose by any unlawful means;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

(2) A prosecution for an offence defined in this section shall not be instituted without the consent of the Attorney-General.

### **Industrial disputes**

**543A.(1)** Notwithstanding anything contained in section 534 or 543, no act done or omission made by any 2 or more persons in contemplation or furtherance of any industrial dispute, and no agreement or combination by any 2 or more persons to do any act or make any omission or to procure any act to be done or omission to be made in contemplation or furtherance of any industrial dispute, shall render any of such persons guilty of any offence if such act or omission when done or made by an individual person would not have rendered such person guilty of an offence.

(2) For the purposes of this section—

“**industrial dispute**” has the same meaning as in the *Industrial Conciliation and Arbitration Act 1932*.

## **CHAPTER 57—ACCESSORIES AFTER THE FACT**

### **Accessories after the fact to crimes**

**544.** Any person who becomes an accessory after the fact to a crime is guilty of a crime, and is liable, if no other punishment is provided, to imprisonment for 2 years.

### **Accessories after the fact to misdemeanours and some other offences**

**545.(1)** Any person who becomes an accessory after the fact to a misdemeanour, or to any offence of such a nature that the offender may be sentenced on summary conviction to imprisonment for 6 months, is guilty of a misdemeanour, and is liable to a punishment equal to one-half of the greatest punishment to which the principal offender is liable on conviction.

(2) If the principal offence is such that an offender is punishable on summary conviction, the accessory may also be summarily convicted.

## **PART 8—PROCEDURE**

### **CHAPTER 58—ARREST**

#### **Arrest without warrant generally**

**546.** When an offence is such that the offender may be arrested without warrant generally—

- (a) it is lawful for a police officer who believes on reasonable grounds that the offence has been committed, and that any person has committed it, to arrest that person without warrant, whether the offence has been actually committed or not, and whether the person arrested committed the offence or not;
- (b) it is lawful for any person who is called upon to assist a police officer in the arrest of a person suspected of having committed the offence, and who knows that the person calling upon the person to assist is a police officer, to assist the officer, unless the person knows that there is no reasonable ground for the suspicion;
- (c) it is lawful for any person who finds another committing the offence to arrest the other person without warrant;
- (d) if the offence has been actually committed—it is lawful for any person who believes on reasonable ground that another person has committed the offence to arrest that person without warrant, whether that other person has committed the offence or not;
- (e) it is lawful for any person who finds another by night, under such circumstances as to afford reasonable grounds for believing that the other person is committing the offence, and who does in fact so believe, to arrest the other person without warrant;

- (f) it is lawful for a police officer who finds any person lying or loitering in any place by night, under such circumstances as to afford reasonable grounds for believing that the person has committed or is about to commit the offence, and who does in fact so believe, to arrest the person without warrant.

### **Arrest without warrant in special cases**

**547.** Where it is provided with respect to an offence that the offender may be arrested without warrant subject to certain conditions, the provisions of section 546 apply to the offence in question, subject to those conditions.

### **Arrest of persons found committing offences on aircraft**

**547A.** It is lawful for the person in command of an aircraft, on board the aircraft, and for persons acting with the person's authority to arrest or cause to be arrested without warrant any person whom the person finds committing, or whom on reasonable grounds the person suspects of having committed, or of having attempted to commit, or of being about to commit, an offence on or in relation to or affecting the use of the aircraft and for that purpose to use such force as the person or the person arresting believes, on reasonable grounds, to be necessary and is reasonable under the circumstances.

### **Arrest of persons found committing offences**

**548.(1)** It is lawful for a justice or police officer to arrest without warrant any person whom the justice or officer finds committing any indictable offence or committing any simple offence with respect to which it is provided that a person found committing it may be arrested by a police officer without warrant.

**(2)** When it is provided with respect to an offence that a person found committing the offence may be arrested without warrant generally, it is lawful for any person who finds another committing the offence to arrest the other person without warrant.

**(3)** When it is provided with respect to an offence that a person found committing the offence may be arrested without warrant by a specified

person, or specified persons, it is lawful for any such person who finds another committing the offence to arrest the other person without warrant.

### **Arrest of offender committing indictable offences by night**

**549.** It is lawful for any person who finds another person by night committing any indictable offence to arrest the other person without warrant.

### **Arrest during flight**

**550.** It is lawful for any person to arrest without warrant any other person whom the person believes, on reasonable grounds, to have committed an offence and to be escaping from, and to be freshly pursued by, some person whom, on reasonable grounds, the person believes to have authority to arrest the other person for that offence.

### **Arrest of persons offering stolen property for sale etc.**

**551.** It is lawful for any person to whom another offers to sell, pawn, or deliver, any property, and who believes, on reasonable grounds, that the property has been acquired by means of an offence with respect to which it is provided that a person found committing it may be arrested without warrant, to arrest that other person without warrant.

### **Duty of persons arresting**

**552.** It is the duty of a person who has arrested another upon a charge of an offence to take the other person forthwith before a justice to be dealt with according to law.

## **CHAPTER 59—JURISDICTION—PRELIMINARY PROCEEDINGS—BAIL**

### **Jurisdiction**

**553.** The jurisdiction of courts of justice with respect to the trial of offenders is set forth in the laws relating to the constitution and jurisdiction of those courts respectively.

### **Preliminary proceedings on charges of indictable offences**

**554.** The practice and procedure relating to the examination and committal for trial of persons charged with indictable offences are set forth in the laws relating to justices of the peace, their powers and authorities.

### **Summary convictions—time**

**556.(1)** The procedure upon the prosecution of offenders in order to their summary conviction, and for enforcing summary convictions and orders made by justices upon such prosecutions, is set forth in the laws relating to justices of the peace, their powers and authorities.

**(2)** A prosecution for a simple offence, or for an indictable offence in order to the summary conviction of the offender must, unless otherwise expressly provided, be begun within 1 year after the offence is committed.

### **Place of trial**

**557.(1)** A person charged with committing an offence may be tried in any jurisdiction within which any act or omission or event which is an element of the offence takes place.

**(2)** A person charged with stealing any property may also be tried in any jurisdiction within which the person has the stolen property in the person's possession.

**(3)** A person charged with stealing anything while employed in the public service may also be tried in any jurisdiction within which the person is arrested or is in custody.

(4) A person charged with an offence which involves the receiving of any property by the person may also be tried in any jurisdiction within which the person has the property in the person's possession.

(5) A person charged with forging anything, or with uttering any false document or writing or anything counterfeit, may also be tried in any jurisdiction within which the person is arrested or is in custody.

(6) A person who is charged with counselling or procuring the commission of an offence, or with becoming an accessory after the fact to an offence, may also be tried in any jurisdiction within which the principal offender might be tried.

(7) A person who is charged with an offence committed out of Queensland, and who may lawfully be tried in Queensland, may be tried in any jurisdiction within which the person is arrested or is in custody.

(8) If a person is charged with committing an offence for which the person may lawfully be tried in Queensland and it is uncertain where the offence was committed, the person may be tried in any jurisdiction within which the person is arrested or is in custody.

(9) A person charged with committing an offence can be tried with the person's consent in any jurisdiction.

### **Persons brought before wrong court**

**558.(1)** If on the trial of a person charged with any offence before any court it appears that the person is not properly triable before that court under any of the provisions of section 557, the person is not by reason thereof entitled to be acquitted, but the court may, at the request of the accused person, discharge the jury from giving a verdict, and direct that the person be tried before some proper court, and may remand the person for trial accordingly.

(2) If the person does not make such request, the trial is to proceed, and the verdict and judgment have the same effect in all respects as if the court had originally had jurisdiction to try the accused person.

(3) This section does not affect the right of an accused person to plead to the jurisdiction of a court.

**Change of place of trial**

**559.(1)** When a person has been committed for trial for an indictable offence at a court held at any place, whether the person has been granted bail or not, the Supreme Court or a Judge thereof may, on the application of the Crown or of the accused person, and upon good cause shown order that the trial shall be held at some other place, either before the same court or before some other court of competent jurisdiction, at a time to be named in the order.

(2) When an indictment has been presented against any person in the Supreme Court or a Circuit Court, the Court may, on the application of the Crown or the accused person, order that the trial shall be held at some place other than that named in the margin of the indictment and at a time to be named in the order.

(3) An application for a change of the place of trial for an indictable offence shall be granted if based upon the facts—

- (a) that the accused person has been committed for trial for another indictable offence at a court held at any other place or that an indictment has been presented to a court held at any other place charging the accused person with another offence; and
- (b) that the charge for the offence in respect of which the application is made and the charge for the offence referred to in paragraph (a) could have been joined in the same indictment, had the offences been committed at the same place;

unless good cause is shown for not granting the application.

(4) When an order is made under the provisions of this section, the consequences are the same in all respects, and with regard to all persons, as if the accused person had been committed for trial at the place named in the order and at the Sittings named therein; and, if the person has been granted bail, the undertakings as to bail are to be deemed to be enlarged to that time and place accordingly.

(5) Notices given to persons who are bound to attend as witnesses are in like manner deemed to be enlarged to the same time and place and notice of that time and place shall be given to those persons.

## CHAPTER 60—INDICTMENTS

### **Nature of indictments**

**560.(1)** When a person charged with an indictable offence has been committed for trial and it is intended to put the person on trial for the offence, the charge is to be reduced to writing in a document which is called an indictment.

**(2)** The indictment is to be signed and presented to the court by a Crown Law Officer or some other person appointed in that behalf by the Governor in Council.

### **Ex officio informations**

**561.(1)** A Crown Law Officer may present an indictment in any court of criminal jurisdiction against any person for any indictable offence, whether the accused person has been committed for trial or not.

**(2)** An officer appointed by the Governor in Council to present indictments in any court of criminal jurisdiction may present an indictment in that court against any person for any indictable offence within the jurisdiction of the court, whether the accused person has been committed for trial or not and against any person for an indictable offence who with the person's prior consent has been committed for trial or for sentence for an offence before that court.

### **Arrest of person charged in ex officio information**

**562.** When an indictment has been presented against a person who is not in custody, and has not been committed for trial or held to bail to attend to be tried upon the charge set forth in the indictment, or who does not appear to be tried upon the charge set forth in the indictment, a Judge of the court in which the indictment is presented may issue a warrant under the Judge's hand to arrest the accused person and bring the person before a justice of the peace; and the justice before whom the person is brought may commit the person to prison until the person can be tried on the indictment, or may, in a proper case, grant bail.

**Nolle prosequi**

**563.(1)** A Crown Law Officer may inform any court, by writing under the officer's hand, that the Crown will not further proceed upon any indictment then pending in the court.

(2) An officer appointed by the Governor in Council to present indictments in any court of criminal jurisdiction may inform that court, by signed writing, that the Crown will not further proceed upon any indictment then pending in that court.

(3) When such information is given to the court the accused person is to be discharged from any further proceedings upon that indictment.

**Form of indictment**

**564.(1)** An indictment is to be intituled with the name of the court in which it is presented, and must, subject to the provisions hereinafter contained, set forth the offence with which the accused person is charged in such a manner, and with such particulars as to the alleged time and place of committing the offence, and as to the person (if any) alleged to be aggrieved, and as to the property (if any) in question, as may be necessary to inform the accused person of the nature of the charge.

(2) If any circumstances of aggravation is intended to be relied upon, it must be charged in the indictment.

(3) It is sufficient to describe an offence in the words of this Code or of the statute defining it.

(4) The place of trial is to be named in the margin of the indictment.

**General rules applicable to indictments**

**565.** The following rules are applicable to all indictments—

- (a) any document or other thing may be described by any name or designation by which it is usually known, and any document may be described by its purport without setting out a copy or facsimile of the whole or any part of it;
- (b) a trademark may be described by that name, and any other mark may be described in any way which will indicate its nature,

without setting out a copy or facsimile of it;

- (c) it is not necessary to set forth the value of anything mentioned in an indictment unless the value is an essential element of the offence;
- (d) it is not necessary to set forth the means or instrument by which any act is done, unless the means or instrument are an essential element of the offence;
- (e) it is not necessary to set forth any particulars as to any person or thing which need not be proved, nor any other matter which need not be proved.

### **Particular indictments**

**566.(1)** An indictment for treason must state overt acts of the treason alleged.

(2) In an indictment for an offence which relates to taking or administering an oath or engagement, or to giving false testimony or to making a false statement on solemn declaration or otherwise, or to procuring the giving of false testimony or the making of a false statement, it is not necessary to set forth the words of the oath or engagement or testimony or statement, but it is sufficient to set forth the purport thereof, or so much of the purport as is material.

(3) In an indictment for an offence which relates to giving false testimony, or procuring or attempting to procure the giving of false testimony, it is not necessary to allege the jurisdiction of the court or tribunal before which the false testimony was given, or intended or proposed to be given.

(4) In an indictment for an offence committed with respect to the Post and Telegraph Department, or to the revenue of that department, or to anything sent by post or telegraph, or to anything under the control of the Postmaster-General, any property of which the ownership must be alleged may be alleged to be the property of the Postmaster-General.

(4A) And in any such case the Postmaster-General may be described by that term alone, without mentioning the Postmaster-General's name or using any other addition or description.

(5) In an indictment in which it is necessary to mention money, such money may be described simply as money, without specifying any particular form of money.

(5A) Such an averment, so far as regards the description of the property, will be sustained by proof that the offender obtained or dealt with any coin or anything which is included in the term 'money', or any portion of the value of either, in such a manner as to constitute the offence, although such coin or thing was delivered to the offender in order that some part of the value thereof should be returned to the person who delivered the same or to some other person, and has been returned accordingly.

(6) In an indictment in which it is necessary to mention any co-owners of property it is sufficient to name 1 of such persons, adding the words 'and another' or 'and others', as the case may be, and to state that the property belonged to the person so named and another or others, as the case may be.

(7) In an indictment against a man for an offence committed by him with respect to his wife's separate property, the property may be alleged to be the property of the wife.

(8) In an indictment for an offence relating to any property of a company which is authorised to sue and be sued in the name of a public officer, the property may be alleged to be the property of the public officer.

(9) In an indictment for an offence relating to any property which by any statute is to be deemed to be the property of any officer of any institution, the property in question may be alleged to be the property of the officer of the institution for the time being by the officer's name of office.

(10) In an indictment for an offence relating to a testamentary instrument, it is not necessary to allege that the instrument is the property of any person.

(11) In an indictment for an offence relating to anything fixed in a square or street, or in a place dedicated to public use or ornament, or to anything in or taken from a public office, it is not necessary to allege that the thing in respect of which the offence is committed is the property of any person.

(12) In an indictment for an offence relating to a document which is evidence of title to land or an estate in land, the document may be described as being evidence of the title of the person or some 1 of the persons having an estate in the land to which the document relates, the land or some part thereof being described in some manner sufficient to identify it.

(13) In an indictment for stealing a chattel or fixture let to the offender, the chattel or fixture may be described as the property of the person who actually let it to hire.

(14) In an indictment against a person employed in the public service for an offence committed with respect to anything which came into the person's possession by virtue of the person's employment, the thing in question may be described as the property of Her Majesty.

(15) In an indictment for an offence respecting any property (whether within the meaning of subsection (1) or section 408C), if it is uncertain to which of 2 or more persons the property belonged at the time when the offence was committed, the property may be described as being the property of one or other of such persons, naming each of them, but without specifying which of them; and the indictment will be sustained, so far as regards the allegation of ownership, upon proof that at the time when the offence was committed the property belonged to one or other of such persons without ascertaining which of them.

(16) In an indictment for the offence of obtaining or procuring the delivery of anything capable of being stolen by a false pretence and with intent to defraud, or of obtaining any property by means of a fraudulent trick or device, or of inducing by means of any such trick or device the payment or delivery of any money or goods, or of attempting to commit, or to procure the commission of, any such offence, it is not necessary to mention the owner of the property in question.

(17) In an indictment for an offence which involves any fraud or fraudulent pretence or trick or device, it is not necessary to set forth the details of the fraud or pretence or trick or device.

(18) In an indictment for an offence relating to an insolvent it is not necessary to set forth any debt, act of insolvency, adjudication, or other proceeding in any court, or any order, warrant or document, made or issued by or out of, or by the authority of, any court.

### **Joinder of charges**

**567.(1)** Except as otherwise expressly provided, an indictment must charge 1 offence only and not 2 or more offences.

(2) Charges for more than 1 indictable offence may be joined in the same

indictment against the same person if those charges are founded on the same facts or are, or form part of, a series of offences of the same or similar character or a series of offences committed in the prosecution of a single purpose.

(3) Where more than 1 offence is charged in the same indictment, each offence charged shall be set out in the indictment in a separate paragraph called a “**count**” and the several statements of the offences may be made in the same form as in other cases without any allegation of connection between the offences.

(4) Counts shall be numbered consecutively.

### **Cases in which several charges may be joined**

**568.(1)** In an indictment against a person for stealing money, the accused person may be charged and proceeded against for the amount of a general deficiency, notwithstanding that such general deficiency is made up of any number of specific sums of money the taking of which extended over any space of time.

(1A) In an indictment against a trustee to whom the *Trust Accounts Act 1973* applies, for stealing money or for an offence under section 436, the trustee may be charged and proceeded against for the amount of a general deficiency notwithstanding that such general deficiency is made up of any number of specific sums of money, such sums being the property of different persons, the taking of which extended over any space of time.

(1B) In an indictment against a person for stealing cattle the property of the same person, the total number of cattle alleged to have been stolen may be included in 1 charge notwithstanding that such cattle were stolen at different times.

(1C) In an indictment against a person for misappropriation of property the person may be charged and proceeded against for the amount of a general deficiency notwithstanding that—

- (a) any number of specific applications of property has resulted in the general deficiency; and
- (b) such applications of property have extended over any space of time; and

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- (c) the property applied belongs to different persons, and has come into the possession or control of the accused person at different times and subject to different trusts, directions, conditions or duties to account.

**(2)** In an indictment against a person for stealing property, being property of the same person, in respect of circumstances where—

- (a) the property was stolen over a space of time; and
- (b) it is not possible to identify in all instances the occasions upon which particular acts of stealing took place;

the person may be charged and proceeded against for stealing the property over the space of time in question notwithstanding that different acts of stealing took place at different times.

**(4)** Charges of—

- (a) breaking and entering a place and stealing therein any property; and
- (b) stealing the property; and
- (c) receiving the property, or any part thereof, knowing it to have been stolen;

or any 2 of such charges may be joined in the same indictment, and the accused person may, according to the evidence, be convicted of the offence referred to in paragraph (a), the offence referred to in paragraph (b) or the offence referred to in paragraph (c).

**(4A)** Where such an indictment is preferred against 2 or more persons, all or any of them may, according to the evidence, be convicted of the offence referred to in subsection (4)(a), the offence referred to in subsection (4)(b) or the offence referred to in subsection (4)(c); or, according to the evidence, 1 or more of them may be convicted of 1 of the offences and the other or others of them may be convicted of another of the offences or of 1 or the other of the other offences.

**(4B)** However, if the jury find specially that the accused person, or all or any of the accused persons where the indictment is preferred against 2 or more persons—

- (a) broke and entered the place and stole therein the property in question; or

- (b) stole the property; or
- (c) received the property, or any part thereof, knowing it to have been stolen; or
- (d) committed 1 of any 2 of those offences;

and that they are unable to say which of those offences was committed by such person or persons, as the case may be, such person or persons shall not by reason thereof be entitled to be acquitted, but the Judge shall enter a conviction for the offence for which the least or the lesser punishment is provided.

(5) Any number of persons charged with committing or with procuring the commission of the same offence, although at different times, or of being accessories after the fact to the same offence, although at different times, and any number of persons charged with receiving, although at different times, any property which has been obtained by means of a crime or misdemeanour, or by means of an act which if it had been done in Queensland would be a crime or misdemeanour and which is an offence under the laws in force in the place where it was done, or any part of any property so obtained, may be charged with substantive offences in the same indictment, and may be tried together notwithstanding that the principal offender or the person who so obtained the property is not included in the same indictment, or is not amenable to justice.

(6) Any number of persons charged with committing different or separate offences arising substantially out of the same facts or out of closely related facts so that a substantial part of the facts is relevant to all the charges may be charged in the same indictment and tried together.

### **Accessories**

**569.** A person who counsels or procures another person to commit an offence, or who aids another person in committing an offence, or who becomes an accessory after the fact to an offence, may be charged in the same indictment with the principal offender, and may be tried with the principal offender or separately, or may be indicted and tried separately, whether the principal offender has or has not been convicted, or is or is not amenable to justice.

**Statement of previous conviction**

**570.** In an indictment for an offence charged to have been committed after a conviction for any offence, it is sufficient, after charging the subsequent offence, to state the substance and effect of the indictment or complaint, and the conviction, for the previous offence, and the time and place of such conviction.

**Formal defects**

**571.(1)** An indictment is not open to objection by reason of the designation of any person by a name of office or other descriptive appellation instead of by the person's proper name, nor for omitting to state the time at which the offence was committed, unless the time is an essential element of the offence, nor for stating imperfectly the time at which the offence was committed, nor for stating the offence to have been committed on an impossible day, or on a day that never happened or has not yet happened.

**(2)** An objection to an indictment for a formal defect apparent on its face must be taken by motion to quash the indictment before the jury is sworn, and not afterwards.

**Amendment of indictments**

**572.(1)** If, on the trial of a person charged with an indictable offence, there appears to be a variance between the indictment and the evidence, or it appears that any words that ought to have been inserted in the indictment have been omitted, or that any words that ought to have been omitted have been inserted, the court may, if it considers that the variance, omission, or insertion, is not material to the merits of the case, and that the accused person will not be prejudiced thereby in the person's defence on the merits, order the indictment to be amended, so far as it is necessary, on such terms (if any) as to postponing the trial, and directing it to be had before the same jury or another jury, as the court may think reasonable.

**(2)** The indictment is thereupon to be amended in accordance with the order of the court.

**(3)** When an indictment has been amended, the trial is to proceed, at the appointed time, upon the amended indictment, and the same consequences

ensue, in all respects and as to all persons, as if the indictment had been originally in its amended form.

(4) If it becomes necessary to draw up a formal record in any case in which an amendment has been made, the record is to be drawn up setting out the indictment as amended, and without taking any notice of the fact of the amendment having been made.

### **Particulars**

**573.** The court may, in any case, if it thinks fit, direct particulars to be delivered to the accused person of any matter alleged in the indictment, and may adjourn the trial for the purpose of such delivery.

### **Summary convictions**

**574.** The provisions of this Chapter relating to indictments apply to complaints preferred against offenders upon their trial before justices in order to their summary conviction of an indictable offence.

## **CHAPTER 61—EFFECT OF INDICTMENT**

### **Offences involving circumstances of aggravation**

**575.** Except as hereinafter stated, upon an indictment charging a person with an offence committed with circumstances of aggravation, the person may be convicted of any offence which is established by the evidence, and which is constituted by any act or omission which is an element of the offence charged, with or without any of the circumstances of aggravation charged in the indictment.

### **Indictment containing count of murder or manslaughter**

**576.(1)** Upon an indictment against a person containing a count of the crime of murder, the person may be convicted on that count of the crime of manslaughter if that crime is established by the evidence but not on that

count of any other offence than that with which the person is charged except as otherwise expressly provided.

(2) Upon an indictment against a person containing a count of the crime of manslaughter the person cannot on that count be convicted of any other offence except as otherwise expressly provided.

### **Charge of homicide of child**

577. However, upon an indictment charging a person with the murder of any person, or with unlawfully killing any person, if upon the evidence it appears that the person alleged to have been killed was a child of which a woman had recently been delivered, the accused person may be convicted of the offence of preventing the child from being born alive by an act or omission of such a nature that, if the child had been born alive and had then died, the person would be deemed to have unlawfully killed the child, or of the offence of endeavouring by a secret disposition of the dead body of the child to conceal the birth, if either of those offences is established by the evidence.

### **Charge of offence of a sexual nature**

578.(1) Upon an indictment charging a person with the crime of rape, the person may be convicted of any offence, if established by the evidence, defined in section 210(1)(a), 215, 217(1), 218 or 337.

(2) Upon an indictment charging a person with having unlawful carnal knowledge of a girl under the age of 16 years, the person may be convicted of any offence, if established by the evidence, defined in section 210(1)(a), 217(1), or 218.

(3) Upon an indictment charging a person with unlawfully and indecently assaulting another, the person may be convicted of any offence, if established by the evidence, defined in section 210(1)(a).

(4) Upon an indictment charging a person with incest or an attempt to commit incest, the person may be convicted of any offence, if established by the evidence, defined in section 210(1)(a).

(5) A person convicted of any offence pursuant to this section may be

convicted of that offence with any circumstance of aggravation established by the evidence.

### **Charge of specific injury—charge of injury with specific intent**

**579.(1)** Upon an indictment charging a person with an offence of which the causing of some specific result is an element, the person may be convicted of any offence which is established by the evidence, and of which an intent to cause that result, or a result of a similar but less injurious nature, is an element.

**(2)** Upon an indictment charging a person with an offence of which an intent to cause some specific result is an element, the person may be convicted of any offence which is established by the evidence and of which the unlawful causing of that result is an element.

### **Charge of injury to property**

**580.** Upon an indictment charging a person with an offence of which destruction of property, or wilfully and unlawfully doing any specific damage to property, is an element, the person may be convicted of wilfully and unlawfully damaging the property, or of wilfully and unlawfully damaging the property in any lesser degree, if either of such offences is established by the evidence.

### **Stealing, false pretences, and cheating**

**581.** Upon an indictment charging a person with any of the offences following, that is to say—

- (a) stealing, with or without a circumstance of aggravation;
- (b) any offence set out in section 427;
- (c) obtaining from any other person any chattel, money or valuable security by passing a cheque that is not paid on presentation for payment;
- (d) cheating;
- (e) misappropriation of property;

(f) procuring any other person to commit any of such offences;

the person may be convicted of any other of such offences committed with respect to the same property, if such other offence is established by the evidence.

### **Charge of procuring commission of offence or wrongful act**

**582.(1)** Upon an indictment charging a person with procuring the commission of any offence, the person may be convicted of procuring the commission of any other offence of such a nature that a person may be convicted of it upon an indictment charging the person with committing the offence of which the accused person is alleged to have procured the commission.

**(2)** Upon an indictment charging a person with procuring another to do an act or make an omission of such a nature that if the accused person had done the act or made the omission, the person would have been guilty of an offence, the person may be convicted of procuring that other person to do any other act or make any other omission which is established by the evidence, and which is of such a nature that if the accused person had done that act or made that omission the person would have been guilty of an offence, such last-named offence being itself of such a nature that a person may be convicted of it upon an indictment charging the person with committing the offence of which the accused person would have been guilty if the person had done the act or made the omission which the person is alleged to have procured to be done or made.

### **Conviction for attempt to commit offence**

**583.(1)** Upon an indictment charging a person with committing any offence, the person may be convicted of attempting to commit that offence, or of attempting to commit any other offence of which the person might be convicted upon the indictment.

**(2)** Upon an indictment charging a person with procuring the commission of any offence, the person may be convicted of attempting to procure the commission of that offence, or of attempting to procure the commission of any other offence of such a nature that a person may be convicted of it upon an indictment charging the person with committing the

offence of which the accused person is alleged to have procured the commission.

(3) Upon an indictment charging a person with attempting to commit any offence, the person may be convicted of attempting to commit any other offence of such a nature that a person may be convicted of it upon an indictment charging the person with committing the offence which the accused person is alleged to have attempted to commit.

(4) Upon an indictment charging a person with attempting to procure the commission of any offence, the person may be convicted of attempting to procure the commission of any other offence of such a nature that a person may be convicted of it upon an indictment charging the person with committing the offence of which the accused person is alleged to have attempted to procure the commission.

(5) Upon an indictment charging a person with attempting to procure another to do an act or make an omission of such a nature that if the act had been done or the omission had been made, an offence would thereby have been committed the person may be convicted of attempting to procure that other person to do any other act or make any other omission of such a nature that if the act had been done or the omission had been made an offence would thereby have been committed, such last mentioned offence being itself of such a nature that a person may be convicted of it upon an indictment charging the person with doing the act or making the omission which the accused person is alleged in the indictment to have attempted to procure that other person to do or make.

### **When evidence shows offence of similar nature**

**584.(1)** If, on the trial of a person charged with any indictable offence, the evidence establishes that the person is guilty of another indictable offence of such a nature that upon an indictment charging the person with it the person might have been convicted of the offence with which the person is actually charged, the person may be convicted of the offence with which the person is so charged.

(2) A person so tried is not liable to be afterwards prosecuted for the offence so established by the evidence, unless the court before which the trial is had thinks fit to discharge the jury from giving any verdict, and to direct the accused person to be indicted for that offence; in which case the

person may be dealt with in all respects as if the person had not been put upon trial for the offence with which the person is actually charged.

### **Effect of conviction**

**585.** A person convicted under any of the provisions of sections 575 to 584 is liable to the same punishment as if the person had been convicted on an indictment charging the person with the offence of which the person is actually convicted.

### **Corrupt practices**

**586.** If, on the trial of a person charged with an indictable offence relating to elections the evidence establishes that the person is not guilty of the offence charged, but is guilty of an offence relating to elections and punishable on summary conviction, the person may be convicted of such last mentioned offence, and is liable to the same punishment as if the person had been summarily convicted of that offence.

### **Illegal practices**

**587.** If, on the trial of a person charged with an offence relating to elections and punishable on summary conviction, the evidence establishes that the person is guilty of an indictable offence relating to elections, the person is not entitled to have the charge dismissed if the evidence also establishes that the person did any act or acts such as to constitute the offence with which the person is actually charged.

### **Charge of stealing cattle**

**588.** If, on the trial of a person charged with stealing a horse, mare, gelding, ass, mule, camel, bull, cow, ox, ram, ewe, wether, boar, sow, barrow, deer, buffalo or goat, or the young of any such animal, the evidence establishes that the person is not guilty of the offence charged, but is guilty of any of the offences following, that is to say—

- (a) unlawfully using the animal without the consent of the owner, or of the person in lawful possession thereof;

- (b) branding or marking the animal, or knowingly permitting it to be branded or marked, with the person's registered brand or registered mark, knowing that the person is not the owner of the animal;
- (c) altering or defacing, or otherwise rendering undistinguishable, any registered brand or registered mark upon the animal;
- (d) knowingly permitting any act as mentioned in paragraph (c) to be done by any person over whom the person has control;

the person may be convicted of the offence so established by the evidence, and is liable to the same punishment as if the person had been summarily convicted of that offence.

### **Charges of stealing certain animals and of killing certain animals with intent to steal**

**588A.(1)** In this section—

“**animal**” means horse, mare, gelding, ass, mule, camel, bull, cow, ox, ram, ewe, wether, boar, sow, barrow, deer, buffalo or goat, or the young of any such animal.

(2) If on the trial of a person charged with stealing an animal the evidence establishes that the person is not guilty of the offence charged but is guilty of the offence of killing an animal with intent to steal the skin or carcass or any part of the skin or carcass, the person may be convicted of the latter offence and is liable to the punishment prescribed in respect of that offence.

(3) If on the trial of a person charged with killing an animal with intent to steal the skin or carcass or any part of the skin or carcass the evidence establishes that the person is not guilty of the offence charged but is guilty of the offence of stealing an animal, the person may be convicted of the latter offence and is liable to the punishment prescribed in respect of that offence.

(4) A reference in this section to the offence of killing an animal with intent to steal the skin or carcass or any part of the skin or carcass is a reference to the offence of killing an animal with intent to steal the skin or, as the case may be, the carcass or, as the case may be, part of the skin or, as the case may be, part of the carcass.

**Indictment for joint receiving**

**589.** Upon an indictment charging 2 or more persons jointly with an offence of which the receiving of any property is an element, if the evidence establishes that 1 or more of them separately received any part or parts of the property under such circumstances as to constitute an offence, such 1 or more of the accused persons may be convicted of the offence or offences so established by the evidence.

**CHAPTER 62—TRIAL—ADJOURNMENT—PLEAS—  
PRACTICE****Right to be tried**

**590.(1)** A person committed for trial before any court for an indictable offence may, orally or in writing at any time during any sittings of the court held after the person's committal, make application to the court to be brought to trial.

**(1A)** An application pursuant to this section shall be dealt with in open court and where the application is in writing may be dealt with in the absence of the applicant.

**(2)** If an indictment is not presented against the person committed for trial at some time during the first sittings of the court held after the person's committal, the court shall, upon motion made on the person's behalf on the last day of those sittings, grant the person bail unless it appears from evidence upon oath that some material evidence for the Crown could not be produced at those sittings.

**(3)** Where a person committed for trial who has made application pursuant to subsection (1) is not brought to trial by the last day of the sittings of the court next following the sittings during which the application was made, the person is entitled to be discharged.

**Notice of alibi**

**590A.(1)** An accused person shall not upon the person's trial on

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indictment, without the leave of the court, adduce evidence in support of an alibi unless, before the expiration of the prescribed period, the person gives notice of particulars of the alibi.

(2) An accused person shall not upon the person's trial on indictment, without the leave of the court, call any other person to give evidence in support of an alibi unless—

- (a) the notice under subsection (1) includes the name and address of the person or, if the name or address is not known to the accused person at the time the accused person gives the notice, any information in the accused person's possession that may be of material assistance in locating the person; or
- (b) where the name or address is not included in the notice, the court is satisfied that the accused person, before giving the notice, took and thereafter continued to take all reasonable steps to secure that the name or address would be ascertained; or
- (c) where the name or address is not included in the notice and the accused person subsequently discovers the name or address or receives other information that may be of material assistance in locating the person, the accused person gives notice forthwith of the name, address or, as the case may be, other information; or
- (d) where the accused person is notified by or on behalf of the Director of Prosecutions that the person has not been traced by the name or located at the address given, the accused person gives notice forthwith of any information then in the accused person's possession or subsequently received by the accused person that may be of material assistance in locating the person.

(3) The court shall not refuse leave under this section if it appears to the court that the accused person was not, upon the accused person's committal for trial, informed by the justices of the requirements of this section.

(4) Evidence tendered to disprove an alibi may, subject to a direction by the court, be given before or after evidence is given in support of the alibi.

(5) A notice purporting to be given under this section on behalf of the accused person by the person's solicitor shall, until the contrary is proved, be deemed to be given with the authority of the accused person.

(6) A notice under this section—

- (a) shall be in writing;
- (b) shall be given to the Director of Prosecutions;
- (c) shall be duly given if it is delivered to or left at the office of the Director of Prosecutions or sent by certified mail addressed to the Director of Prosecutions at the Director's office.

(7) In this section—

**“evidence in support of an alibi”** means evidence tending to show that by reason of the presence of the accused person at a particular place or in a particular area at a particular time the accused person was not, or was unlikely to have been, at the place where the offence is alleged to have been committed at the time of its alleged commission;

**“the prescribed period”** means the period of 14 days after the date of the committal for trial of the accused person.

### **Accelerating trial of persons not under committal**

**591.** When an indictment is presented in any court against any person who has not been committed for trial or held to bail upon the charge set forth in the indictment, and the accused person is not brought to trial within a year after the indictment is presented, the court may, upon the application of the accused person or any of the accused persons, if more than 1, authorise the accused person to bring on the trial, and the accused person may bring on the trial accordingly, unless in the meantime the court is informed that the Crown will not further proceed upon the indictment.

### **Adjournment of trial**

**592.(1)** The court to which a person has been committed or remanded for trial on indictment or before which an indictment is presented may, if it thinks fit, adjourn the trial and may remand the accused person accordingly.

**(1A)** A trial may be adjourned whether or not—

- (a) the accused person is present;
- (b) the accused person has been called upon to plead to the indictment;
- (c) a jury has been sworn;

(d) evidence has been given.

(2) The Crown shall, where it is proposed to make application for an adjournment in the absence of an accused person who is detained in a place of legal detention, notify in writing that accused person—

- (a) that the application is to be made and the nature, date, time and place thereof; and
- (b) that the accused person may furnish to the court a statement in writing in relation to the application; and
- (c) that the accused person may be represented by counsel on the hearing of the application.

(3) For the purposes of this section—

**“adjourn the trial”** includes postpone the trial in a case where the accused person has not been called upon to plead to the indictment.

### **Directions as to trial upon adjournment**

**593.(1)** Where the trial of a person charged or to be charged with an offence on indictment is adjourned, the court in open court may direct the trial to be held at a later sittings of the same court or before some other court of competent jurisdiction.

(1A) Upon a direction in the latter case, the indictment and other proceedings shall be transmitted by the proper officer of the court giving the direction to the proper officer of the court to which the accused person is remanded and the latter court has the same jurisdiction to try the accused person as if the person had been committed originally to be tried before it.

(2) Where the court directs a trial to be held at a later sittings of the same court, it shall at the same time pronounce the time and place for the commencement of the sittings to which the trial is adjourned.

### **Enlargement of notices to witnesses on adjournment of trial**

**593A.(1)** Where the trial of a person charged or to be charged with an offence on indictment is adjourned, the court may enlarge the notice given to any witness.

(2) Where a notice to witness is enlarged in accordance with

subsection (1), the witness is bound to attend to give evidence at the time and place to which the trial is adjourned in the same manner as if the witness had been given a fresh notice.

### **Accused person to be called upon to plead to indictment**

**594.(1)** At the time appointed for the trial of an accused person, the accused person is to be informed in open court of the offence with which the person is charged, as set forth in the indictment, and is to be called upon to plead to the indictment, and to say whether the person is guilty or not guilty of the charge.

(2) The trial is deemed to begin and the accused person is deemed to be brought to trial when the person is so called upon.

### **Presence in court and plea where accused person is a corporation**

**594A.(1)** Where an indictment is presented against a corporation in respect of an indictable offence, the corporation may be present in court by its representative and it may, on arraignment, enter a plea in writing by its representative.

(1A) Any plea so entered by the representative shall for all purposes be taken to be a plea entered by the corporation.

(2) If the corporation is not present in court by its representative or if, though it is so present, it does not enter a plea in writing by its representative, the court shall order a plea of not guilty to be entered on behalf of the corporation.

(2A) A plea so entered has the same effect as if it had been actually pleaded, and the trial of the corporation may proceed accordingly.

(3) In respect of a trial, any requirement by law that anything shall be done in the presence of the accused person or shall be read or said to or asked of the accused person shall, in the case of a corporation present in court by its representative, be construed as a requirement that that thing shall be done in the presence of the representative or read or said to or asked of the representative.

(3A) If the corporation is not present in court by its representative, it shall not be necessary for the thing to be done or read or said or asked.

(4) Where, in respect of a trial, anything is required to be done or said by the accused person personally, it may, in the case of a corporation present in court by its representative, be done or said by the representative, and anything so done or said shall for all purposes be taken to be done or said by the corporation.

(4A) Nothing contained in subsection (4) limits the provisions of subsection (1) or (1A) or the provisions of section 616.

(5) In this section—

**“representative”** means a person appointed by the corporation to represent it for the purposes of this section; but a person so appointed is not, by virtue only of being so appointed, qualified to act on behalf of the corporation before the court for any other purpose.

(6) A representative need not be appointed under the seal of the corporation; and a statement in writing purporting to be signed by a managing director of the corporation or by any other person (by whatever name called) having, or being one of the persons having, the management of the affairs of the corporation to the effect that the person named in the statement has been appointed as the representative of the corporation for the purposes of this section shall be admissible without further proof as prima facie evidence that that person has been so appointed.

### **Delivery of copy of indictment**

**595.** When an indictment is presented against any person, the court is required, upon the person’s application, to order a copy of the indictment to be delivered to the person without fee.

### **Motion to quash indictment**

**596.(1)** The accused person may before pleading apply to the court to quash the indictment on the ground that it is calculated to prejudice or embarrass the person in the person’s defence to the charge, or that it is formally defective.

(2) Upon such motion the court may quash the indictment, or may order it to be amended in such manner as the court thinks just, or may refuse the motion.

**Misnomer**

**597.** If the accused person says that the person is wrongly named in the indictment, the court may, on being satisfied by affidavit or otherwise of the error, order the indictment to be amended.

**Separate trials where 2 or more charges against the same person**

**597A.(1)** Where before a trial or at any time during a trial the court is of opinion that the accused person may be prejudiced or embarrassed in the person's defence by reason of the person's being charged with more than 1 offence in the same indictment or that for any other reason it is desirable to direct that the person should be tried separately for any 1 or more than 1 offence charged in an indictment the court may order a separate trial of any count or counts in the indictment.

**(1A)** The court may discharge a jury sworn from giving a verdict on the count or counts directed to be tried separately.

**(2)** The procedure on the separate trial of a count shall be the same in all respects as if the count had been set out in a separate indictment.

**(3)** The court may adjourn a separate trial, remand the accused person and make such orders as to bail and as to the enlargement of notices to witnesses and otherwise as the court thinks fit.

**(4)** For the purposes of this section—

**“adjourn a separate trial”** includes postpone a separate trial in a case where the accused person has not been called upon to plead to a count in an indictment.

**Pleas**

**598.(1)** If the accused person does not apply to quash the indictment or move for a separate trial of any count or counts of the indictment, the person must either plead to it, or demur to it on the ground that it does not disclose any offence cognisable by the court.

**(2)** If the accused person pleads, the person may plead either—

- (a)** that the person is guilty of the offence charged in the indictment, or, with the consent of the Crown, of any other offence of which

the person might be convicted upon the indictment;

- (b) that the person is not guilty;
- (c) that the person has already been convicted upon an indictment on which the person might have been convicted of the offence with which the person is charged, or has already been convicted of an offence of which the person might be convicted upon the indictment;
- (d) that the person has already been acquitted upon an indictment on which the person might have been convicted of the offence with which the person is charged, or has already been acquitted upon indictment of an offence of which the person might be convicted upon the indictment;
- (e) that the person has already been tried and convicted or acquitted of an offence committed or alleged to be committed under such circumstances that the person cannot under the provisions of this Code be tried for the offence charged in the indictment;
- (f) that the person has received the Royal pardon for the offence charged in the indictment; or
- (g) that the court has no jurisdiction to try the person for the offence.

(3) Two or more pleas may be pleaded together, except that the plea of guilty cannot be pleaded with any other plea to the same charge.

(4) An accused person may plead and demur together.

### **Defence of truth of defamatory matter to be specially pleaded**

**599.** A person charged with the unlawful publication of defamatory matter, who sets up as a defence that the defamatory matter is true and that it was for the public benefit that the publication should be made, must plead that matter specially, and may plead it with any other plea, except the plea of guilty.

### **Persons committed for sentence**

**600.(1)** When a person has been committed by a justice for sentence for an offence, the person is to be called upon to plead to the indictment in the

same manner as other persons, and may plead either that the person is guilty of the offence charged in the indictment or, with the consent of the Crown, of any other offence of which the person might be convicted upon the indictment.

(2) If the person pleads not guilty, the court, upon being satisfied that the person duly admitted before the justice that the person was guilty of the offence charged in the indictment, is to direct a plea of guilty to be entered, notwithstanding the person's plea of not guilty.

(3) A plea so entered has the same effect as if it had been actually pleaded.

(4) If the court is not so satisfied, or if, notwithstanding that the accused person pleads guilty, it appears to the court upon examination of the depositions of the witnesses that the person has not in fact committed the offence charged in the indictment or any other offence of which the person might be convicted upon the indictment, the plea of not guilty is to be entered, and the trial is to proceed as in other cases when that plea is pleaded.

(5) A person who has been committed for sentence may plead any of the other pleas mentioned in section 598.

### **Standing mute**

**601.(1)** If an accused person, on being called upon to plead to an indictment, will not plead or answer directly to the indictment, the court may, if it thinks fit, order a plea of not guilty to be entered on behalf of the accused person.

(2) A plea so entered has the same effect as if it had been actually pleaded.

### **Plea of autrefois convict or autrefois acquit**

**602.** In a plea that the accused person has already been convicted or acquitted, it is sufficient to state that the accused person has been lawfully convicted or acquitted, as the case may be, of the offence charged in the indictment, or of the other offence of which the person alleges that the

person has been convicted or acquitted, and, in the latter case, to describe the offence by any term by which it is commonly known.

### **Trial on plea to the jurisdiction**

**603.** Upon a plea to the jurisdiction of the court, the court is to proceed to satisfy itself in such manner and upon such evidence as it thinks fit, whether it has jurisdiction or not, and may ascertain the fact by the verdict of a jury or otherwise.

### **Trial by jury**

**604.** If the accused person pleads any plea or pleas other than the plea of guilty or a plea to the jurisdiction of the court, the person is by such plea, without any further form, deemed to have demanded that the issues raised by such plea or pleas shall be tried by a jury, and is entitled to have them tried accordingly.

### **Demurrer**

**605.(1)** When an accused person demurs only and does not plead any plea, the court is to proceed to hear and determine the matter forthwith.

**(2)** If the demurrer is overruled, the accused person is to be called upon to plead to the indictment.

**(3)** When an accused person pleads and demurs together, it is in the discretion of the court whether the plea or demurrer shall be first disposed of.

**(4)** No joinder in demurrer is necessary.

### **Separate trials**

**606.** When 2 or more persons are charged in the same indictment, whether with the same offence or with different offences, the court may, at any time during the trial, on the application of any of the accused persons, direct that the trial of the accused persons or any of them shall be had separately from the trial of the other or others of them, and for that purpose

may, if a jury has been sworn, discharge the jury from giving a verdict as to any of the accused persons.

## **Juries**

**607.** The law respecting the qualifications of jurors and the summoning of jurors to attend for the trial of persons charged with indictable offences, and the challenges allowed to such persons, is set forth in the laws relating to juries and jurors.

### **Accused person to be informed of the person's right of challenge**

**608.** When an accused person has demanded to be tried by a jury, the proper officer of the court is to inform the person in open court that the persons whose names are to be called are the jurors to be sworn for the person's trial, and is further to inform the person that if the person desires to challenge any of them the person must do so before they are sworn.

### **Challenge to array**

**609.** If the accused person desires to object to the whole panel of jurors, the person must do so before any juror is sworn for the person's trial.

### **Challenges to individual jurors for cause**

**610.(1)** The Crown or the accused person may object to a particular juror on either of the following grounds, that is to say—

- (a) that the juror is not qualified by law to act as a juror;
- (b) that the juror is not indifferent as between the Crown and the accused person.

(2) Such objections are in addition to any peremptory challenges to which an accused person is by law entitled.

### **Time for challenging**

**611.** An objection to a juror, either by way of peremptory challenge or by

way of challenge for cause, may be made at any time before the officer has begun to recite the words of the oath to the juror, but not afterwards.

### **Ascertainment of facts as to challenge**

**612.(1)** If at any time it becomes necessary to ascertain the truth of any matter alleged as cause for challenge, the fact shall be tried by the jurors already sworn, if more than 1, or, if 1 juror only has been sworn, by such juror together with some indifferent person chosen by the court from the panel of jurors, or, if no juror has been sworn, by 2 indifferent persons chosen by the court from such panel.

(2) The persons so appointed are to be sworn to try the cause for challenge, and their decision on the fact is final and conclusive.

(3) If the persons so appointed cannot agree, the court may discharge them from giving a decision, and may appoint 2 other persons to try the fact, to be chosen as in the case when no juror has been sworn.

### **Want of understanding of accused person**

**613.(1)** If, when the accused person is called upon to plead to the indictment, it appears to be uncertain, for any reason, whether the person is capable of understanding the proceedings at the trial, so as to be able to make a proper defence, a jury of 12 persons, to be chosen from the panel of jurors, are to be empanelled forthwith, who are to be sworn to find whether the person is so capable or no.

(2) If the jury find that the accused person is capable of understanding the proceedings, the trial is to proceed as in other cases.

(3) If the jury find that the person is not so capable they are to say whether the person is so found by them for the reason that the accused person is of unsound mind or for some other reason which they shall specify, and the finding is to be recorded, and the court may order the accused person to be discharged, or may order the person to be kept in custody in such place and in such manner as the court thinks fit, until the person can be dealt with according to law.

(4) A person so found to be incapable of understanding the proceedings at the trial may be again indicted and tried for the offence.

**Jury to be sworn and informed of charge**

**614.(1)** The jury are to be sworn to give a true verdict according to the evidence upon the issues to be tried by them.

(2) When the jury have been sworn, the proper officer of the court is to inform them of the charge set forth in the indictment, and of their duty as jurors upon the trial.

**Discharge of juror by court**

**615.** If, after a juror has been sworn, it appears to the court from the juror's own statement that the juror is not indifferent as between the Crown and the accused person, or that for any other reason the juror ought not to be allowed or required to act as a juror on the trial, the court may, without discharging the whole of the jury, discharge that particular juror, and direct another juror to be sworn in the juror's place.

**Defence by counsel**

**616.(1)** Every person charged with an offence is entitled to make the person's defence at the person's trial and to have the witnesses examined and cross-examined by the person's counsel.

(2) In this section—

“**counsel**” includes any person entitled to audience as an advocate.

**Presence of accused**

**617.(1)** Subject to this section the trial must take place in the presence of the accused person.

(2) If an accused person so conducts himself or herself as to render the continuance of the proceedings in the person's presence impracticable, the court may order the person to be removed and may direct the trial to proceed in the person's absence.

(3) Where 2 or more accused persons are charged in the 1 indictment, if it is made to appear to the court that any of them is unable to be present by reason of the person's illness or infirmity, the court may permit the person to be absent during the whole or any part of the trial if it is satisfied—

- (a) that the interests of the accused person will not be prejudiced by the trial proceeding in the person's absence; and
- (b) that the interests of justice require that the trial should proceed in the person's absence.

(4) The court may in any case permit a person charged with a misdemeanour to be absent during the whole or any part of the trial on such conditions as it thinks fit.

(5) If an accused person absents himself or herself during the trial without leave, the court may direct a warrant to be issued to arrest the person and bring the person before the court forthwith.

### **Evidence in defence**

**618.** At the close of the evidence for the prosecution the proper officer of the court shall ask the accused person whether the person intends to adduce evidence in the person's defence.

### **Speeches by counsel**

**619.(1)** Before any evidence is given at the trial of an accused person the counsel for the Crown is entitled to address the jury for the purpose of opening the evidence intended to be adduced for the prosecution.

(2) If the accused person or any of the accused persons, if more than 1, is defended by counsel, and if such counsel or any of such counsel says that the accused person does not intend to adduce evidence, the counsel for the Crown is entitled to address the jury a second time for the purpose of summing up the evidence already given against such accused person or persons for whom evidence is not intended to be adduced.

(3) At the close of the evidence for the prosecution the accused person, and each of the accused persons, if more than 1, may by himself, herself or the person's counsel address the jury for the purpose of opening the evidence (if any) intended to be adduced for the defence, and after the whole of the evidence is given may again address the jury upon the whole case.

(4) If evidence is adduced for an accused person, the counsel for the Crown is entitled to reply.

(5) If evidence is adduced for 1 or more of several accused persons, but

not for all of them, the counsel for the Crown is entitled to reply with respect to the person or persons by whom evidence is so adduced, but not with respect to the other or others of them.

(6) However, a Crown Law Officer is entitled to reply in all cases, whether evidence is adduced by any accused person or not.

### **Summing up**

**620.(1)** After the evidence is concluded and the counsel or the accused person or persons, as the case may be, have addressed the jury, it is the duty of the court to instruct the jury as to the law applicable to the case, with such observations upon the evidence as the court thinks fit to make.

(2) After the court has instructed the jury they are to consider their verdict.

### **Jury not to separate**

**621.(1)** Except as hereinafter stated, after the jury have been sworn and the charge has been stated to them by the proper officer, they must not separate until they have given their verdict or are discharged by the court.

(2) And no person except the officer of the court who has charge of them is to be allowed to speak to or communicate with any of them without the leave of the court until they are discharged.

(3) However, on the trial of a person charged with any indictable offence, the court may, in its discretion, permit the jury to separate before considering their verdict for such period during any adjournment of the trial as the court may think fit.

(4) If any person disobeys the directions of this section the person may be punished summarily as for contempt of court.

(5) The validity of the proceedings is not affected by any such disobedience, but, if the fact is discovered before the verdict is given, the court, if it is of opinion that such disobedience is likely to prejudice the fair trial of the charge, may discharge the jury, and may direct that a fresh jury be sworn during the same sittings of the court, or may adjourn the trial.

**Confinement of jury**

**622.** While the jury are kept together, and until they have given their verdict, they are to be kept during any adjournment of the court, and while they are considering their verdict, in some private place under the charge of an officer of the court, and are to be provided with such accommodation, meals and refreshment as the court may allow.

**View**

**623.(1)** The court may in any case, if it thinks fit, direct that the jury shall view any place or thing which the court thinks it desirable that they should see, and may give any necessary directions for that purpose.

**(2)** The validity of the proceedings is not affected by disobedience to any such directions, but, if the fact is discovered before the verdict is given, the court, if it is of opinion that such disobedience is likely to prejudice the fair trial of the charge, may discharge the jury, and may direct that a fresh jury be sworn during the same sittings of the court, or may adjourn the trial.

**Special verdict**

**624.** In any case in which it appears to the court that the question whether an accused person ought or ought not to be convicted of an offence may depend upon some specific fact, or that the proper punishment to be awarded upon conviction may depend upon some specific fact, the court may require the jury to find that fact specially.

**General verdict on charge of defamation**

**625.** Notwithstanding the provisions of section 624, the jury, on the trial of a person charged with the unlawful publication of defamatory matter, may give a general verdict of guilty or not guilty upon the whole matter in issue, in like manner as in other cases.

**Discharge of jury**

**626.(1)** When the trial of an accused person is adjourned after the jury have been sworn, the court may discharge the jury.

(2) If the jury cannot agree as to the verdict to be given, or if any emergency arises of such a nature as to render it in the opinion of the court necessary or highly expedient for the ends of justice to do so, the court may, in its discretion, discharge the jury without giving a verdict, and may direct that a fresh jury be sworn during the same sittings of the court, or may adjourn the trial.

(3) Such an exercise of discretion is not subject to review by any court.

### **Incapacity of Judge**

**627.(1)** If the presiding Judge becomes incapable of proceeding with the trial or directing the discharge of the jury, it is the duty of some officer of the court to discharge the jury.

(2) In any such case the accused person must remain in custody, and may be again put on trial.

(3) But the accused person has the same rights with respect to the granting of bail as upon an original committal for trial for the offence with which the person is charged, and any justice may, in a proper case, grant the person bail accordingly.

### **Incapacity and unavailability of juror**

**628.(1)** If at any time during the trial a juror—

- (a) dies; or
- (b) becomes in the opinion of the court incapable of continuing to act as a juror; or
- (c) becomes for any reason that in the opinion of the court is sufficient unavailable to continue to act as a juror;

the court may, in its discretion, discharge the jury under the provisions hereinbefore contained, or may, if it thinks fit, direct that the trial shall proceed with the remaining jurors and discharge the juror so becoming incapable or unavailable.

(2) In any such case the verdict of the remaining jurors, not being less than 10, shall have the same effect as if all the jurors had continued present.

**Verdict on Sunday**

**629.** The taking of a verdict or any other proceeding of the court is not invalid by reason of its happening on a Sunday.

**Procedure on charge of an offence committed after previous conviction**

**630.(1)** The proceedings upon an indictment for committing an offence after a previous conviction or convictions are required to be as follows, that is to say—

- (a) the accused person is in the first instance to be called upon to plead to so much only of the indictment as charges the subsequent offence;
- (b) if the accused person pleads any plea which raises an issue to be tried by a jury, the jury are to be charged in the first instance to inquire concerning the subsequent offence only;
- (c) if the accused person pleads guilty, or if upon trial the accused person is convicted of the subsequent offence, the person is then, and not before, to be asked whether the person had been previously convicted as alleged in the indictment;
- (d) if the accused person answers that the person had been so previously convicted, the court may proceed to pass sentence upon the person accordingly;
- (e) if the accused person denies that the person had been so previously convicted, or will not answer directly to the question, the jury are then to be charged to inquire concerning the previous conviction or convictions; and in that case it is not necessary that the jury should be sworn afresh, but the oath already taken by them is deemed to extend to such last mentioned inquiry.

**(2)** However, if on the trial of a person charged with a subsequent offence, the person offers evidence of the person's good character, the Crown may, in answer thereto, and before any verdict is given, offer evidence of the person's conviction of the previous offence or offences, and in that case the jury are required to inquire concerning the previous conviction or convictions at the same time that they inquire concerning the subsequent offence.

**Further pleas**

**631.(1)** When the issues raised by any plea or pleas, except the plea of not guilty, have been found against an accused person who has not pleaded the plea of not guilty, the person is to be called upon to plead afresh, and, if those issues have been tried by a jury, the court may direct the issues raised by any fresh plea to be tried by the same jury or by another jury.

(2) If the court directs them to be tried by the same jury, it is not necessary that the jury should be sworn afresh, but the oath already taken by them is to be deemed to extend to the trial of such fresh issues.

**Plea of guilty during trial**

**631A.(1)** If, at any time before the jury returns its verdict, the accused person informs the court that—

- (a) the person wishes to change the person's plea to one of guilty of the offence charged in the indictment; or
- (b) the person wishes to plead guilty to any other offence of which the person might be convicted upon the indictment;

the court—

- (c) in the case referred to in paragraph (a)—may direct that the accused person be again called upon in open court and in the presence of the jury to plead to the indictment, and to say whether the person is guilty or not guilty of the offence charged; or
- (d) in the case referred to in paragraph (b)—may direct, with the consent of the Crown, that the accused person be called upon in open court and in the presence of the jury to plead to any other offence of which the person might be convicted upon the indictment, and to say whether the person is guilty or not guilty of that offence.

(2) If the accused person does not plead guilty to the offence charged in the indictment or, in the circumstances described in subsection (1)(d), to another offence, the trial shall proceed.

(3) If the accused person pleads guilty to the offence charged in the indictment or, in the circumstances described in subsection (1)(d), to another offence, the jury shall be discharged from giving their verdict in

respect of the offence charged in the indictment.

(4) A plea of guilty to an offence made by the accused person in the circumstances described in this section shall have effect as if made by the person when called upon at the beginning of a trial to plead to an indictment charging the person with that offence.

## **CHAPTER 63—EVIDENCE—PRESUMPTIONS OF FACT**

### **Accomplices**

**632.** A person may be convicted of an offence on the uncorroborated testimony of an accomplice or accomplices, but the court shall warn the jury of the danger of acting on such testimony unless they find that it is corroborated in some material particular by other evidence implicating that person.

### **Evidence on charge of treason**

**633.** On the trial of a person charged with treason evidence cannot be admitted of any overt act not alleged in the indictment.

### **Evidence on trials for perjury and subornation**

**634.** On the trial of a person charged with an offence of which the giving of false testimony by any person at the trial of a person charged with an offence is an element, a certificate setting out the substance and effect only, without the formal parts, of the indictment or complaint, and the proceedings at the trial, and purporting to be signed by the officer having the custody of the records of the court where the indictment or complaint was tried, or by the officer's deputy, is sufficient evidence of the trial, without proof of the signature or official character of the person who appears to have signed the certificate.

**Evidence of previous conviction**

**635.(1)** On the trial of a person charged with an offence alleged to have been committed after a previous conviction, a certificate setting out the substance and effect only, without the formal parts, of the indictment, verdict, and judgment, or of the complaint and conviction, purporting to be signed by the officer having the custody of the records of the court where the accused person was first convicted, or by the officer's deputy is, upon proof of the identity of the person of the offender, sufficient evidence of the conviction, without proof of the signature or official character of the person who appears to have signed the certificate.

(2) If the previous conviction was a summary conviction, the conviction is presumed not to have been appealed against until the contrary is shown.

**Evidence of blood relationship**

**636.(1)** In this section—

**“blood relationship”** means the blood relationship existing between a person charged with a prescribed offence and the person in respect of whom or, as the case may be, with whom a prescribed offence is alleged to have been committed;

**“prescribed offence”** means an offence—

- (a) defined in section 222 or 223; or
- (b) defined in section 208, 209, 210 or 216(2) where it is alleged as a circumstance of aggravation that the offence was committed in respect of a child under the age of 16 years who is the lineal descendant of the person charged.

(2) On the trial of a person charged with a prescribed offence—

- (a) blood relationship is sufficiently proved by proof that the relationship is reputed to exist and it is not necessary to prove that the person charged or the person in respect of whom or with whom the prescribed offence is alleged to have been committed or any person (living or dead) upon whom the blood relationship depends was born in lawful wedlock;
- (b) the person charged is, until the contrary is proved, presumed to

have had knowledge at the time the prescribed offence is alleged to have been committed of the blood relationship.

### **Evidence of gaming**

**637.** On the trial of a person charged with an offence of such a nature that proof that any place was kept or used or resorted to for playing at any game of chance, or of mixed chance and skill, is necessary, it is not necessary to prove that any person there found playing at any game was playing for any money, wager, or stake.

### **Evidence of authority**

**638.** The averment in an indictment that the prosecution is instituted by the direction of or with the consent of a Crown Law Officer, or with the consent of the Attorney-General, or at the request of the Government of any State, is sufficient evidence of the fact, until the contrary is shown.

### **Evidence on charges of offences against customs laws**

**639.** On the trial of a person charged with any offence of which the fact that some person was at some particular time an officer of customs, or was at some particular time employed for the prevention of smuggling, is an element, the averment in the indictment or complaint that any person therein mentioned was an officer of customs, or was employed for the prevention of smuggling, at any time therein stated is sufficient evidence of the fact, until the contrary is shown.

### **Evidence on certain charges of stealing money**

**641.(1)** On the trial of a person charged with stealing, while employed in the public service, money which was the property of Her Majesty, or which came into the person's possession by virtue of the person's employment, or charged with stealing, while a clerk or servant, money which was the property of the person's employer or which came into the person's possession on account of the person's employer or being a trustee within the meaning of the *Trust Accounts Act 1973* charged with stealing money of which the person is a trustee on behalf of any other person or with an

offence under section 436, an entry in any book of account kept by the accused person, or kept in, under, or subject to, the person's charge or supervision, purporting to be an entry of the receipt of any money, is evidence that the money so purporting to have been received was so received by the person.

(2) On the trial of a person charged with any such offence, it is not necessary to prove the stealing or the conversion with intent to defraud within the meaning of section 436 by the accused person of any specific sum of money, if, on examination of the books of account or entries kept or made by the person, or kept or made in, under, or subject to, the person's charge or supervision, or by any other evidence, there is proof of a general deficiency, and if the jury are satisfied that the accused person stole or converted with intent to defraud within the meaning of section 436 the deficient money or any part of it.

(3) And on the trial of a person charged with any offence as a trustee referred to in subsection (1), the ownership of or the right, title, use or benefit in, to or of the money the subject matter of the charge may be laid in the indictment in the name of any one or other of the persons (the "beneficiaries") of whose money the person charged is the trustee as aforesaid specifying any one of the beneficiaries by name with the addition of the words 'and others', and it is immaterial whether or no the evidence establishes that the said money was the property of any specific one of the beneficiaries, or that the right, title, use or benefit in, to or of the said money was in any specific one of the beneficiaries and the indictment will be sustained so far as regards that allegation upon proof that the property in, or the right, title, use or benefit in, to or of the money was in one or other of the beneficiaries without ascertaining which of them.

### **Evidence on charges relating to seals and stamps**

**642.** On the trial of a person charged with any offence relating to any seal or stamp used for the purposes of the public revenue, or of the Post Office, in any part of Her Majesty's dominions or in any foreign state, a dispatch from 1 of Her Majesty's Principal Secretaries of State, transmitting to the Governor any stamp, mark, or impression, and stating it to be a genuine stamp, mark, or impression, of a die, plate, or other instrument, provided, made, or used, by or under the direction of the proper authority of the country in question for the purpose of expressing or denoting any stamp

duty or postal charge, is admissible as evidence of the facts stated in the dispatch; and the stamp, mark, or impression, so transmitted may be used by the court and jury and by witnesses for the purposes of comparison.

### **Intention to defraud**

**643.** On the trial of a person charged with any offence of which an intent to injure or deceive or defraud, or an intent to enable another person to deceive or defraud, is an element, it is not necessary to prove an intent to injure or deceive or defraud any particular person, or an intent to enable any particular person to deceive or defraud any particular person.

### **Admissions**

**644.(1)** An accused person may by himself, herself or the person's counsel admit on the trial any fact alleged against the person, and such admission is sufficient proof of the fact without other evidence.

**(2)** The Crown may by its counsel admit on the trial of an accused any fact relevant to the trial where the accused is in agreement with this being done, and such admission is sufficient proof of the fact without other evidence.

**(3)** In this section—

“**trial**” also includes, and it is hereby declared to have always included, proceedings before justices dealing summarily with an indictable offence.

## **CHAPTER 64—VERDICT—JUDGMENT**

### **Accused person insane during trial**

**645.(1)** If on the trial of any person charged with an indictable offence it is alleged or appears that the person is not of sound mind, the jury are to be required to consider the matter, and if the jury find that the person is not of sound mind, the finding is to be recorded, and thereupon the court is

required to order the person to be kept in strict custody, in such place and in such manner as the court thinks fit, until the person is dealt with under the *Mental Health Act 1974*.

(2) A person so found to be not of sound mind may be again indicted and tried for the offence.

### **Discharge of persons acquitted**

**646.** If the jury find that the accused person is not guilty, or give any other verdict which shows that the person is not liable to punishment, the person is entitled to be discharged from the charge of which the person is so acquitted.

### **Acquittal on ground of insanity**

**647.(1)** However, if, on the trial of a person charged with any indictable offence, it is alleged or appears that the person was not of sound mind at the time when the act or omission alleged to constitute the offence occurred, the jury are to be required to find specially, if they find that the person is not guilty, whether the person was of unsound mind at the time when such act or omission took place, and to say whether the person is acquitted by them on account of such unsoundness of mind; and if they find that the person was of unsound mind at the time when such act or omission took place, and say that the person is acquitted by them on account of such unsoundness of mind, the court is required to order the person to be kept in strict custody, in such place and in such manner as the court thinks fit, until the person is dealt with pursuant to the *Mental Health Act 1974*.

(2) In any such case the Governor, in the name of Her Majesty, may give such order for the safe custody of such person during the Governor's pleasure, in such place of confinement, and in such manner, as the Governor in Council may think fit.

### **Convicted person to be called on to show cause**

**648.** When an accused person pleads that the person is guilty of any offence, and when, upon trial, an accused person is convicted of any offence, the proper officer is required to ask the person whether the person

has anything to say why sentence should not be passed upon the person, but an omission to do so does not invalidate the judgment.

### **Arrest of judgment**

**649.(1)** A person convicted of an indictable offence, whether on the person's plea of guilty or otherwise, may at any time before sentence move that judgment be arrested on the ground that the indictment does not disclose any offence.

(2) Upon the hearing of the motion the court may allow any such amendments of the indictment as it might have allowed before verdict.

(3) The court may either hear and determine the motion forthwith or may reserve the question of law for the consideration of the Court of Appeal as hereinafter provided.

### **Sentence**

**650.** If a motion to arrest the judgment is not made or is dismissed, the court may pass sentence upon the offender forthwith or make any other order it may make by law instead of passing sentence.

### **Effect of summary conviction for indictable offences**

**659.** When a person has been summarily convicted of an indictable offence, the conviction is to be deemed a conviction of a simple offence only, and not of an indictable offence.

## **CHAPTER 65—COSTS**

### **Costs of prosecution in certain cases**

**660.(1)** When a person is convicted on indictment of any indictable offence relating to the person of any person, the court, on the application of the person aggrieved by the offence, may, in addition to any sentence which is passed upon the offender, adjudge the offender to pay to the person

aggrieved the person's costs of prosecution, together with a sum by way of compensation for any loss of time suffered by the person by reason of the offence of which the offender is convicted.

(2) An order for the payment of such costs, or of any sum so awarded by way of compensation, may be enforced in the same manner as a judgment of the court given in an action.

(3) If any money was found on the person of the offender on the offender's arrest, the court may order it to be applied towards the payment of any money so ordered to be paid by the offender.

(4) When an order is made under the provisions of this section for the payment of money by way of compensation to an aggrieved person, the offender is not liable to any civil proceedings for the same cause at the suit of that person.

### **Taxation**

**662.(1)** Costs of a prosecution or defence must be taxed by the proper officer of the court in which the indictment is presented.

(2) If the indictment is presented in a Circuit Court, the costs must be taxed by the proper officer of the Supreme Court.

(3) In this section—

**“costs of defence”** includes costs incurred by the accused person both before and after the person's committal;

**“costs of prosecution”** includes costs incurred by the person aggrieved in order to the committal of the offender, and costs incurred by the person with the consent of the Crown for the purposes of the trial.

### **Enforcement of judgment of Circuit Court**

**663.** When an order is made by a Circuit Court under the provisions of this Chapter, it may be recorded in the Supreme Court, and may then be enforced in the same manner as a judgment of that Court given in an action.

## CHAPTER 67—APPEAL—PARDON

### Definitions

**668.(1)** In this Chapter—

“**appellant**” includes a person who has been convicted and desires to appeal under this Chapter;

“**Court**” means the Court of Appeal;

“**court of trial**” means any court from whose finding, sentence, or other determination a person is by this Act entitled to appeal or to apply for leave to appeal;

“**registrar**” means the registrar of the Court;

“**sentence**” includes any order made by the court of trial on conviction of a person with reference to the person’s person or property whether or not the person is adversely affected thereby and whether or not the order is made instead of passing sentence.

(2) The power of the Court to pass any sentence includes a power to make any such order.

(3) For the purposes of this Chapter a person acquitted on the ground of insanity, where such insanity was not set up as a defence by the person, shall be deemed to be a person convicted, and any order to keep the person in custody shall be deemed to be a sentence.

### Reservation of points of law

**668B.(1)** When any person is indicted for any indictable offence, the court of trial must, on the application of counsel for the accused person made before verdict, and may in its discretion, either before or after judgment, without such application, reserve any question of law which arises on the trial for the consideration of the Court.

(2) If the accused person is convicted, and a question of law has been so reserved before judgment, the court of trial may either pronounce judgment on the conviction and respite execution of the judgment, or postpone the judgment until the question has been considered and decided, and may either commit the person convicted to prison or grant bail to the person

conditioned to appear at such time and place as the court of trial may direct, and to render himself or herself in execution, or to receive judgment, as the case may be.

(3) The Judge of the court of trial is thereupon required to state, in a case signed by the Judge, the question of law so reserved, with the special circumstances upon which it arose; and the case is to be transmitted to the Court.

(4) Any question so reserved is to be heard and determined as an appeal by the Court.

(5) The Court may send the case back to be amended or restated if it thinks it necessary so to do.

### **Appeal from arrest of judgment**

**668C.(1)** When the court of trial before which a person is convicted on indictment arrests judgment, the court is required, on the application of counsel for the prosecution, to reserve a case for the consideration of the Court as hereinbefore provided.

(2) On the hearing of the case the Court may affirm or reverse the order arresting judgment.

(3) If the order is reversed, the Court is to direct that judgment be pronounced upon the offender, and the offender is to be ordered to appear at such time and place as the Court may direct to receive judgment, and any justice may issue a warrant for the arrest of the offender.

(4) An offender so arrested may be granted bail by order of the Court or a Judge thereof, which may be made at the time when the order directing judgment to be pronounced is made, or afterwards.

### **Right of appeal**

**668D.** A person convicted on indictment may appeal to the Court—

- (a) against the person's conviction on any ground which involves a question of law alone; and
- (b) with the leave of the Court, or upon the certificate of the Judge of the court of trial that it is a fit case for appeal, against the person's

conviction on any ground of appeal which involves a question of fact alone, or question of mixed law and fact, or any other ground which appears to the Court to be a sufficient ground of appeal; and

- (c) with the leave of the Court, against the sentence passed on the person's conviction.

### **Determination of appeal in ordinary cases**

**668E.(1)** The Court on any such appeal against conviction shall allow the appeal if it is of opinion that the verdict of the jury should be set aside on the ground that it is unreasonable, or cannot be supported having regard to the evidence, or that the judgment of the court of trial should be set aside on the ground of the wrong decision of any question of law, or that on any ground whatsoever there was a miscarriage of justice, and in any other case shall dismiss the appeal.

**(1A)** However, the Court may, notwithstanding that it is of the opinion that the point or points raised by the appeal might be decided in favour of the appellant, dismiss the appeal if it considers that no substantial miscarriage of justice has actually occurred.

**(2)** Subject to the special provisions of this Chapter, the Court shall, if it allows an appeal against conviction, quash the conviction and direct a judgment and verdict of acquittal to be entered.

**(3)** On an appeal against a sentence, the Court, if it is of opinion that some other sentence, whether more or less severe, is warranted in law and should have been passed, shall quash the sentence and pass such other sentence in substitution therefor, and in any other case shall dismiss the appeal.

### **Powers of Court in special cases**

**668F.(1)** If it appears to the Court that an appellant, though not properly convicted on some count or part of the indictment, has been properly convicted on some other count or part of the indictment, the Court may either affirm the sentence passed at the trial or pass such sentence, whether more or less severe, in substitution therefor, as it thinks proper, and as may be warranted in law by the conviction on the count or part of the indictment

on which it considers the appellant has been properly convicted.

(2) Where an appellant has been convicted of an offence, and the jury could on the indictment have found the appellant guilty of some other offence, and on the finding of the jury it appears to the Court that the jury must have been satisfied of facts which proved the appellant guilty of that other offence, the Court may, instead of allowing or dismissing the appeal, substitute for the verdict found by the jury a verdict of guilty of that other offence, and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law for that other offence, not being a sentence of greater severity.

(3) Where, on the conviction of the appellant, the jury have found a special verdict, and the Court considers that a wrong conclusion has been arrived at by the court of trial on the effect of that verdict, the Court may, instead of allowing the appeal, order such conclusion to be recorded as appears to the Court to be in law required by the verdict, and pass such sentence, whether more or less severe, in substitution for the sentence passed at the trial, as may be warranted in law.

(4) If on any appeal it appears to the Court that, although the appellant committed the act or made the omission charged against the appellant, the appellant was not of sound mind at the time when the act or omission alleged to constitute the offence occurred, so as not to be responsible therefor according to law, the Court may quash the sentence passed at the trial, and order the appellant to be kept in strict custody in the same manner as if a jury had found that fact specially under section 647.

### **Power to grant new trial**

**669.** On an appeal against a conviction on indictment, the Court may, either of its own motion or on the application of the appellant, order a new trial in such manner as it thinks fit, if the Court considers that a miscarriage of justice has occurred, and that, having regard to all the circumstances, such miscarriage of justice can be more adequately remedied by an order for a new trial than by any other order which the Court is empowered to make.

**Appeal by Attorney-General**

**669A.(1)** The Attorney-General may appeal to the Court against any sentence pronounced by—

- (a) the court of trial;
- (b) a court of summary jurisdiction in a case where an indictable offence is dealt with summarily by that court;

and the Court may in its unfettered discretion vary the sentence and impose such sentence as to the Court seems proper.

**(2)** The Attorney-General may refer any point of law that has arisen at the trial upon indictment of a person in relation to any charge contained therein to the Court for its consideration and opinion thereon if—

- (a) the person has been acquitted of the charge; or
- (b) the person has been discharged in respect of that charge after counsel for the Crown, as a result of a determination of the court of trial on that point of law, has duly informed the court that the Crown will not further proceed upon the indictment in relation to that charge.

**(2A)** The Attorney-General may refer to the Court for its consideration and opinion a point of law that has arisen at the summary trial of a charge of an indictable offence, if the person charged has been—

- (a) acquitted of the charge at the summary trial; or
- (b) discharged on the charge after the prosecution, because of a decision on the point of law by the court of trial, indicates to the court that it will not further proceed on the charge in the proceeding before the court.

**(3)** Notice of the reference shall be given to the person acquitted or, as the case may be, discharged.

**(4)** Upon the reference the Court shall hear argument—

- (a) by the Attorney-General or by counsel on the Attorney-General's behalf; and
- (b) if he or she so desires, by the person acquitted or, as the case may be, discharged or by counsel on his or her behalf,

and thereupon shall consider the point referred and furnish to the Attorney-General its opinion thereon.

(5) Where the reference relates to a trial in which the person charged has been acquitted, the reference shall not affect the trial of nor the acquittal of the person.

(6) In this section—

“**discharged**” includes the dismissal or striking out of a charge at a summary trial.

### **Revesting and restitution of property on conviction**

**670.(1)** Subject to section 134 of the *Penalties and Sentences Act 1992*, the operation of any order for the restitution of any property, or for the payment of compensation to an aggrieved person, made by the court of trial, and the operation of the provisions of section 26(1) of the *Sale of Goods Act 1896* as to the revesting of the property in stolen goods on conviction, shall (unless such court directs to the contrary in any case in which in its opinion the title to the property is not in dispute) be suspended—

- (a) until the expiration of the time provided for appealing to the Court; and
- (b) where notice of appeal or of application for leave to appeal is given within the time provided, until the determination of the appeal or refusal of the application or, where the appeal is by the Attorney-General against sentence within the time provided, until the determination of that appeal;

and in cases where the operation of any such order or the operation of the said provisions is suspended until the determination of the appeal, the order or provisions, as the case may be, shall not take effect as to the property in question if the conviction is quashed on appeal, except by the special order of the Court.

(2) The Court may annul or vary any such order, although the conviction is not quashed.

(3) Where any matter arises before the Court in relation to the operation or suspension of the operation of any such order as aforesaid or the

operation or suspension of the operation of such provisions as aforesaid, the person in whose favour the order is made or the person benefiting from the operation of the said provisions, as the case may be, may by himself, herself or the person's counsel or solicitor appear before the Court and there make submissions in connection with such matter.

### **Time for appealing**

**671.(1)** Any person convicted desiring to appeal to the Court, or to obtain the leave of the Court to appeal from any conviction or sentence, shall give notice of appeal or notice of application for leave to appeal, in the prescribed manner, within 28 days of the date of such conviction or sentence.

**(2)** An appeal to the Court by the Attorney-General against sentence shall be made within 28 days of the date of such sentence.

**(3)** The time within which notice of appeal, or notice of an application for leave to appeal, may be given or within which the Attorney-General may appeal against sentence may be extended at any time by the Court.

### **Judge's notes and report to be furnished on appeal**

**671A.(1)** The Judge of the court of trial shall, in the case of any appeal or application for leave to appeal, furnish to the registrar the Judge's notes of the trial, and also a report giving the Judge's opinion upon the case or upon any point arising in the case.

**(2)** However, where shorthand notes have been taken in accordance with this Chapter, a transcript of such notes may be furnished in lieu of such Judge's notes.

### **Supplemental powers**

**671B.(1)** The Court may, if it thinks it necessary or expedient in the interests of justice—

- (a) order the production of any document, exhibit, or other thing connected with the proceedings; and
- (b) order any persons who would have been compellable witnesses at the trial to attend and be examined before the Court, whether they

were or were not called at the trial, or order any such persons to be examined before any Judge of the Court, or before any officer of the Court, or justice, or other person appointed by the Court for the purpose, and admit any depositions so taken as evidence; and

- (c) receive the evidence, if tendered, of any witness (including the appellant) who is a competent, but not a compellable, witness; and
- (d) where any question arising on the appeal involves prolonged examination of documents or accounts, or any scientific or local investigation, which cannot, in the opinion of the Court, be conveniently conducted before the Court, refer the question for inquiry and report to a commissioner appointed by the Court, and act upon the report of such commissioner so far as the Court thinks fit; and
- (e) appoint any person with special expert knowledge to act as assessor to the Court in any case in which it appears to the Court that such special knowledge is required for the determination of the case;

and exercise in relation to the proceedings of the Court any other powers which may for the time being be exercised by the Supreme Court on appeals or applications in civil matters, and issue any warrant or other process necessary for enforcing the orders or sentences of the Court.

(2) However, in no case shall any sentence be increased by reason of or in consideration of any evidence that was not given at the trial.

(3) Subject to this Chapter, the general rules may provide that any application under subsection (1)(a), (b), (d), or (e) may be heard and determined by a Judge of the Court.

### **Right of appellant to be present**

**671D.(1)** An appellant, notwithstanding that the appellant is in custody, shall be entitled to be present if the appellant desires it, on the hearing of the appellant's appeal, except where the appeal is on some ground involving a question of law alone.

(1A) On an appeal on such ground, and on an application for leave to appeal, and on any proceedings preliminary or incidental to an appeal, the

appellant shall not be entitled to be present, except by leave of the Court.

(2) The power of the Court to pass any sentence may be exercised notwithstanding that the appellant is not present.

### **Appeals permitted in writing**

**671E.** An appellant shall be entitled to present the appellant's case and argument to the Court in writing if the appellant so desires.

### **Costs of appeal**

**671F.(1)** On the hearing or determination of an appeal, or any proceedings preliminary or incidental thereto, no costs shall be allowed on either side.

(2) The expenses of any assessor appointed, and of any witnesses attending on the order of the Court or examined, and of and incidental to any examination or reference, and of the appearance of an appellant on the hearing of the appeal or on any proceedings preliminary or incidental to the appeal, shall be defrayed out of the Consolidated Fund up to an amount allowed by the registrar; but, subject to any regulations as to rates of payment made by the Crown Law Officer, the decision of the registrar may be reviewed by the Court or a Judge thereof.

### **Grant of bail to appellant and custody when attending Court**

**671G.(1)** An appellant who is not granted bail shall, pending the determination of the appeal, be treated in such manner as may be directed under the laws relating to prisons.

(3) The time during which an appellant, pending the determination of the appeal, is released on bail, and (subject to any directions which the Court may give to the contrary on any appeal) the time during which an appellant, if in custody, is specially treated as an appellant under this section, shall not count as part of any term of imprisonment under the appellant's sentence.

(3A) Any imprisonment under such sentence, whether it is the sentence passed by the court of trial or the sentence passed by the Court, shall, subject to any directions which the Court may give under subsection (3), be deemed to be resumed or to begin to run, as the case requires, if the

appellant is in custody, as from the day on which the appeal is determined, and if the appellant is not in custody as from the day on which the appellant is received into prison under the sentence.

(4) Provision shall be made under the laws relating to prisons for the manner in which an appellant, when in custody, is to be brought to any place where the appellant is entitled to be present, or ordered to be taken, for the purposes of this Chapter, and for the manner in which the appellant is to be kept in custody whilst absent from prison for the purpose; and an appellant whilst in custody in accordance with those laws shall be deemed to be in legal custody.

(5) Where pursuant to an appeal to the Court by the Attorney-General against sentence the Court varies the sentence—

- (a) by imposing a term of imprisonment; or
- (b) in a case where the court of trial imposed a term of imprisonment—by increasing the term of imprisonment imposed;

then, subject to any order the Court may make or any direction it may give to the contrary in the circumstances—

- (c) the term of imprisonment referred to in paragraph (a) shall commence from the time the person in question is received into prison pursuant to the decision of the Court or, where that person is already in prison in respect of imprisonment arising out of another matter, from the date of the decision of the Court;
- (d) in the service of the increased term of imprisonment referred to in paragraph (b) by the person in question, any part of the sentence already served by the person shall be taken into account.

### **Duties of registrar**

**67IH.(1)** The registrar shall take all necessary steps for obtaining a hearing of any appeals or applications, notice of which is given to the registrar, and shall obtain and lay before the Court in proper form all documents, exhibits, and other things relating to the proceedings in the court of trial which appear necessary for the proper determination of the appeal or application.

(2) If it appears to the registrar that any notice of appeal or of application for leave to appeal against a conviction or sentence does not show any substantial ground of appeal, the registrar may refer the appeal to the Court for summary determination; and the Court may thereupon, if it considers that the appeal is frivolous or vexatious, dismiss the appeal summarily without calling upon any person to attend the hearing.

(3) The registrar shall furnish the necessary forms and instructions in relation to notices of appeals or notices of application to any person who demands the same, and to officers of courts, superintendents of prisons, and to such other officers or persons as the registrar thinks fit, and the superintendent of every prison shall cause such forms and instructions to be placed at the disposal of prisoners desiring to appeal or to make any application, and shall cause any such notice given by a prisoner in the superintendent's custody to be forwarded on behalf of the prisoner to the registrar.

### **Documents, exhibits etc.**

**671J.** Any documents, exhibits, or other things connected with any proceedings before a court of trial, in respect of which any person is entitled or may be authorised to appeal, shall be kept in the custody of the court of trial for such time as may be prescribed, subject to such power as may be prescribed for the conditional release of any such documents, exhibits, or other things from that custody.

### **Recording of trial proceedings**

**671K.(1)** The proceedings at every trial of any person on indictment shall, if practicable, be recorded in shorthand or by a mechanical device (as referred to in the *Recording of Evidence Act 1962*) or partly in shorthand and partly by such a mechanical device.

(2) On any notice of appeal or application for leave to appeal, a record of the proceedings or any part thereof shall, if directed by the registrar, be furnished to the registrar for the use of the Court or any Judge thereof.

(3) A copy of a record of proceedings or of any part thereof may be furnished to any party interested in accordance with provisions of the Criminal Practice Rules included by rules of court made pursuant to the

power to make rules of court conferred by the *Supreme Court Act 1921*; and such Criminal Practice Rules, without limiting the generality of the foregoing, may prescribe, in respect of a trial or in respect of an appeal or in respect of both a trial and an appeal—

- (a) charges for the copy of the record or part thereof;
- (b) circumstances in which such charges may be varied or waived and on whose or by what authority they may be varied or waived;
- (c) who is a ‘party interested’ for the purpose of having furnished to the person a copy of the record or part thereof;
- (d) the authorisation of the furnishing of a copy of a record of proceedings or of any part thereof to any other person on the ground that such person has a sufficient interest therein, and by whom any such authorisation may be made.

(4) In addition to the foregoing, the Attorney-General may cause a copy of a record of proceedings or of any part thereof to be furnished to any person in such circumstances and subject to such conditions as the Attorney-General thinks fit.

(5) The Crown is entitled to receive a copy of any record of proceedings or of any part thereof without payment of any charge.

(6) The furnishing in accordance with this section and, in an appropriate case, the Criminal Practice Rules of a copy of any record of proceedings or of any part thereof shall not render the Crown, a Crown Law Officer, the registrar or any shorthand reporter or recorder or other person responsible for or associated with that furnishing liable in any way in law in respect thereof.

### **Powers exercisable by a Judge**

**671L.** The powers of the Court to give leave to appeal, to extend the time in which notice of appeal or of an application for leave to appeal may be given and to allow the appellant to be present at any proceedings in cases where the appellant is not entitled to be present without leave may be exercised by any Judge of the Court in the same manner as they may be exercised by the Court, and subject to the same provisions; but if the Judge refuses an application on the part of the appellant to exercise any such

power in the appellant's favour, the appellant shall be entitled to have the application determined by the Court.

### **Appeals from the decisions of the Court**

**672.(1)** Where an appeal to the Court is upheld, and the appellant is entitled to have the conviction against the appellant quashed by order of the Court, the Court may, upon application on behalf of the Crown, at any time before the release of such appellant, either by the same or by a separate order, direct that execution of the order quashing the appellant's conviction be stayed for such time (not exceeding 7 days) as the Court thinks fit; and the Court or a Judge thereof shall thereupon make such order for the detention of the appellant or the appellant's return to any former custody, or for granting bail to the appellant, as the Court or Judge thinks fit, for the time during which such stay has been directed.

**(2)** The Court or a Judge thereof may, upon application by or on behalf of the Crown Law Officer, make such order for the detention of the appellant or for granting bail to the appellant pending the hearing of an appeal to the High Court of Australia as the Court or a Judge may think fit, and may at any time vary or rescind such order.

**(3)** On the application of any appellant deeming himself or herself wronged by any failure to diligently prosecute such appeal, the Court or a Judge thereof may order the immediate execution of the original order of the Court quashing the conviction, and may order the appellant's immediate release, and the Court may further, if it thinks fit, award the appellant such compensation as appears just.

### **Pardoning power preserved**

**672A.** Nothing in sections 668 to 672 shall affect the pardoning power of the Governor on behalf of Her Majesty, but the Crown Law Officer, on the consideration of any petition for the exercise of the pardoning power having reference to the conviction of any person or to any sentence passed on a convicted person, may—

- (a) refer the whole case to the Court, and the case shall be heard and determined by the Court as in the case of an appeal by a person convicted;

- (b) if the Crown Law Officer desires the assistance of the Court on any point arising in the case with a view to the determination of the petition, refer that point to the Court for its opinion thereon, and the Court shall consider the point so referred and furnish the Crown Law Officer with its opinion thereon accordingly.

### **Appeals from summary convictions**

**673.(1)** A person convicted summarily of an indictable offence may appeal against the person's conviction and against the sentence passed on the person's conviction on the same grounds and on the same conditions as if the person had been convicted on indictment.

(2) The rights conferred by this section are conferred to the exclusion of any other right of appeal conferred by the *Justices Act 1886* on persons aggrieved by summary convictions and sentences passed on such convictions.

### **Conditional remission of sentence by Governor**

**675.(1)** In any case in which the Governor is authorised, on behalf of Her Majesty, to extend the Royal mercy to an offender under sentence of imprisonment, the Governor may extend mercy upon condition of the offender entering into a recognisance conditioned as in the case of offenders discharged by the Court upon suspension of the execution of a sentence.

(2) The offender is thereupon liable to the same obligations, and is liable to be dealt with in all respects in the same manner, as a person discharged by the Court on recognisance upon such suspension.

### **Pardon in case of imprisonment for non-payment of money**

**676.** The Governor may extend the Royal mercy to any person imprisoned upon conviction of any of the offences defined in Chapters 44 and 47, although the person is imprisoned for non-payment of money which is payable to some private person.

**Effect of pardon**

**677.** A pardon by the Governor, on behalf of Her Majesty, has the effect of discharging the convicted person from the consequences of the conviction.

**CHAPTER 69—SEIZURE AND DETENTION OF  
PROPERTY CONNECTED WITH OFFENCES—  
CUSTODY OF WOMEN UNLAWFULLY DETAINED  
FOR IMMORAL PURPOSES—RESTITUTION OF  
PROPERTY UNLAWFULLY ACQUIRED**

**Search warrant**

**679.(1)** If it appears to a justice, on complaint made on oath, that there are reasonable grounds for suspecting that there is in any house, vessel, vehicle, aircraft, or place—

- (a) anything with respect to which any offence which is such that the offender may be arrested with or without warrant has been, or is suspected, on reasonable grounds, to have been, committed; or
- (b) anything whether animate or inanimate and whether living or dead as to which there are reasonable grounds for believing that it will of itself or by or on scientific examination, afford evidence as to the commission of any offence; or
- (c) anything as to which there are reasonable grounds for believing that it is intended to be used for the purpose of committing any such offence;

the justice may issue a warrant directing a police officer or police officers named therein or all police officers to enter, by force if necessary, and to search such house, vessel, vehicle, aircraft, or place, and to seize any such thing if found, and to take it before a justice to be dealt with according to law.

**(2)** Any such warrant is to be executed by day unless the justice, by the warrant, specially authorises it to be executed by night, in which case it may

be so executed.

(3) Where it appears on the complaint that an offence involving the safety of an aircraft has been or is being or may be committed on board or in relation to the aircraft the justice may direct in a warrant that any person on board the aircraft or any person who is about to board the aircraft may be searched.

### **Search of aircraft**

**679A.(1)** If it appears to the person in command of an aircraft that there are reasonable grounds for suspecting that any offence involving the safety of the aircraft has been or is being or is about to be or may be committed on board or in relation to the aircraft it shall be lawful for the person and for any person acting by the person's authority with such assistance as the person or such person may think necessary to search or cause to be searched—

- (a) the aircraft and any person luggage and freight on board the aircraft; and
- (b) any person who is about to board the aircraft and any luggage or freight that is about to be placed on board the aircraft;

and seize—

- (c) anything whether animate or inanimate and whether living or dead as to which there are reasonable grounds for believing that it will of itself or by or on scientific examination, afford evidence as to the commission of any offence; or
- (d) anything as to which there are reasonable grounds for believing that it is intended to be used for the purpose of committing any offence;

and take it before a justice to be dealt with according to law.

(2) A female shall not be searched under this section except by a female.

### **Powers of police officers in respect of offences relating to certain animals**

**679B.(1)** If it appears to a police officer that there are reasonable grounds

for suspecting that any offence relating to any of the following things, that is to say, a horse, mare, gelding, ass, mule, camel, bull, cow, ox, ram, ewe, wether, boar, sow, barrow, deer, buffalo or goat, or the young of any such animal, has been, is being, is about to be or may be committed on or in relation to any holding, the police officer may, with such assistants, animals, vehicles and equipment as the officer considers necessary for the purpose—

- (a) enter upon and leave as often as the officer considers necessary the holding;
- (b) search for and inspect any such animals or their young, brand, mark, branding instrument or pliers and, in the case of any such animals or their young travelling, stop them and, for the purpose of exercising any of the powers conferred by this paragraph, stop any vehicle or vessel;
- (c) muster, yard, detain, clip and otherwise deal with any such animals or their young when the officer considers it necessary in the proper carrying out of the officer's investigations so to do;
- (d) seize and detain any such animals or their young in respect of which the officer suspects on reasonable grounds that the owner or person in charge has committed or is committing an offence mentioned in this subsection;
- (e) seize and detain any other thing in respect of which the officer suspects on reasonable grounds that an offence as aforesaid has been or is being committed by any person, whether known to the police officer or not;
- (f) use such force as is reasonably necessary to exercise any of the powers under this subsection.

(2) In this section—

“**holding**” means any run, station, farm, freehold, leasehold or place where any animals or their young referred to herein are kept or depastured, and any premises or saleyard, but does not include any premises being a dwelling house or other building or place used for human habitation.

**Property found on offenders on arrest**

**680.** When, on the arrest of any person on a charge of an offence relating to property, the property in respect of which the offence is alleged to be committed is found in the person's possession, the person arresting the person may take such property before a justice to be dealt with according to law.

**Power of search on arrest**

**680A.(1)** On the arrest of any person on a charge of an offence committed within or without Queensland relating to property it shall be lawful for a police officer to search, without warrant, in addition to the person of such person, any vehicle or other means of conveyance used by such person, and to take possession of any property reasonably suspected of being stolen or unlawfully obtained.

**(2)** The provisions of this section shall be in addition to and not in derogation from any other provision of this Code.

**Seizure of counterfeit coin, tools for coining etc.**

**681.** If any person finds in any place whatever, or in the possession of any person who has the same without lawful authority or excuse—

- (a) any counterfeit gold, silver, or copper, coin; or
- (b) any tool, instrument, or machine, adapted and intended for making any such counterfeit coin; or
- (c) any filings or clippings of gold or silver, or any gold or silver in bullion, dust, solution, or any other state, which are or is suspected, on reasonable grounds, to have been obtained by dealing with any current gold or silver coin in such a manner as to diminish its weight;

the person who so finds the same may seize the thing or things found, and to take the same forthwith before a justice to be dealt with according to law.

**Disposal of property seized**

**682.(1)** When anything is seized or taken under the provisions of this Code, the person seizing or taking it is required forthwith to carry it before a justice.

(2) The justice may cause the thing so seized or taken to be detained in such custody as the justice may direct, taking reasonable care for its preservation, until the conclusion of any investigation that may be held with respect to it; and, if any person is committed for trial for any offence committed with respect to the thing so seized or taken, or committed under such circumstances that the thing so seized or taken is likely to afford evidence at the trial, the justice may cause it to be further detained in like manner for the purpose of being produced in evidence at such trial.

(3) If no person is so committed, the justice is required to direct that the thing be returned to the person from whom it was taken, unless the justice is authorised or required by law to dispose of it otherwise.

(4) If the thing so seized or taken is anything forged or counterfeit, or is of such a nature that a person who has it in the person's possession without lawful authority or excuse is guilty of an offence, then, if any person is committed for trial for any offence committed with respect to it or committed under such circumstances as aforesaid and is convicted, the court before which the person is convicted, or, in any other case, any justice, may cause it to be defaced or destroyed.

(5) If the thing so seized or taken is of such a nature that a person who has it in his or her possession, knowing its nature and without lawful authority or excuse, is guilty of an offence, then, as soon as it appears that it will not be required, or further required, in evidence against the person who had it in his or her possession, it is to be delivered to the Treasurer, or some person authorised by the Treasurer to receive it.

**Explosives**

**683.** If the thing seized or taken is an explosive substance found in a vessel or vehicle, the person acting in the execution of the warrant may for 24 hours after seizure, and for such longer time as is necessary for the purpose of removal to a safe place of deposit, use the vessel or the vehicle, with the tackle and furniture thereof, or the beasts, and accoutrements belonging thereto as the case may be, paying afterwards to the owner of the

vessel or vehicle a sufficient recompense for its use, which is to be assessed by the justice or justices before whom the suspected offender is brought, and, in case of non-payment immediately after such assessment, may be recovered before 2 justices in a summary way.

### **Women detained for immoral purposes**

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

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

(3) A woman or girl is deemed to be unlawfully detained for immoral purposes if she—

- (a) is under the age of 16 years; or
- (b) being of or over the age of 16 years, and under the age of 18 years, is so detained against her will, or against the will of her father or mother or of any other person who has the lawful care or charge of her; or
- (c) being of or above the age of 18 years, is so detained against her will;

and, in either case, is detained by any person in order to her being unlawfully carnally known by any man, whether a particular man or not.

(4) A person authorised by warrant under this section to search for a woman or girl may enter, and if need be by force, any house or other place, specified in the warrant, and may remove the woman or girl therefrom.

(5) The warrant must be executed by the police officer mentioned in it, who must, unless the justice otherwise directs, be accompanied by the parent, relative, guardian, or other person, by whom the complaint is made, if such person so desires.

### **Orders for delivery of certain property**

**685B.(1)** Where any property has come into the custody or possession of a police officer or a court or justices in connection with any charge, the court or justices, on the conclusion of the trial and on the application of the prosecutor, may make an order for the delivery of the property to the person appearing to the court or justices to be the person lawfully entitled thereto or, if that person cannot be ascertained, may make such order with respect to the property as to the court or justices seems just.

(2) An order so made shall not be a bar to the right of any person to recover the property by action from the person to whom it is delivered by virtue of the order.

## **CHAPTER 70—INFORMATIONS BY PRIVATE PERSONS FOR INDICTABLE OFFENCES—EX OFFICIO INDICTMENTS**

### **Information by leave of the Court by private prosecutors**

**686.(1)** Any person may by leave of the Supreme Court present an information against any other person for any indictable offence, alleged to have been committed by such other person.

(2) An information presented by leave of the Court is to be signed by the person on whose application the leave is granted, or some other person appointed by the Court in that behalf, and filed in the Supreme Court.

(3) The person who signs the information is called the prosecutor.

(4) The information is to be intituled ‘The Queen on the prosecution of the prosecutor (naming the person) against the accused person (naming the person)’, and must state that the prosecutor informs the Court by leave of

the Court.

(5) Except as otherwise expressly provided, the information and the proceedings upon it are subject to the same rules and incidents in all respects as an indictment presented by a Crown Law Officer and the proceedings upon such an indictment as hereinbefore set forth.

### **Security to be given by prosecutor for costs of defence**

**687.** Before the information is presented the prosecutor is to be required to give security, in such amount and in such manner as the Court on giving leave to present the information may direct, that the prosecutor will prosecute the information without delay, and will pay to the accused person such costs incurred by the accused person in respect of the person's defence to the charge as the Court may order the prosecutor to pay.

### **Service of information**

**688.** An office copy of the information is to be served upon the accused person, upon which copy there must be endorsed a summons, under the hand of the registrar and seal of the Court, requiring the person to appear and plead to the information within the same time after service within which the person would be required to enter an appearance after service of a writ in a civil action.

### **Plea**

**689.** The accused person is required within the time so limited to enter an appearance and file the person's plea in writing in the Supreme Court, and to deliver a copy thereof forthwith to the prosecutor.

### **Default of plea**

**690.(1)** If the accused person does not plead to the information according to the exigency of the summons endorsed on the copy served on the person, the prosecutor may serve the accused person with a notice to the effect that unless the person pleads or demurs within 8 days a plea of not guilty will be filed in the person's name.

(2) Upon filing an affidavit setting forth the service of the information and of such notice, and of default of pleading in accordance with the exigency of the notice, the prosecutor may cause a plea of not guilty to be filed for the accused person, and thereupon the same proceedings may be had as if the accused person had filed a plea of not guilty.

(3) Or, in the case of a misdemeanour, judgment of conviction may, by leave of the Court or a Judge, be entered against the accused person for want of a plea.

(4) But the Court or a Judge may, either before or after the time so prescribed, allow further time for the accused person to plead or demur to the information.

### **Time and place of trial**

**691.** When the accused person pleads any plea, or when a plea of not guilty is filed for the person by the prosecutor, either party may apply to a Judge to appoint the time and place of trial, of which notice is to be given to the accused person.

### **Effect of judgment for prosecutor on demurrer**

**692.(1)** If the accused person demurs only, and does not plead any plea, and judgment is given against the person on demurrer, the person is required to plead to the information within such time as the Court or a Judge may allow.

(2) If the accused person makes default in doing so, the same proceedings may be taken as if the person had made default in pleading in the first instance.

### **Effect of judgment by default**

**693.(1)** If judgment of conviction is entered against the accused person for want of a plea, the person is required to attend to receive the judgment of the Court at a time and place to be appointed by a Judge.

(2) If the accused person does not so attend, any justice may issue a warrant to arrest the person and bring him or her before the Court to receive judgment.

**Costs of defence**

**694.** In either of the following cases, that is to say—

- (a) if the accused person pleads to the information, and is not brought to trial within a year after filing the person's plea; or
- (b) if a Crown Law Officer informs the Court that the Crown Law Officer will not further proceed on the information; or
- (c) if the accused person is acquitted upon trial;

the Court, or the Judge before whom the trial (if any) is had, may award costs to the accused person.

**Practice to be applied on ex officio information**

**695.** When an indictment is presented in the Supreme Court by a Crown Law Officer against any person who has not been committed for trial for the offence charged in the indictment, the Crown may proceed thereon in the manner prescribed in this Chapter with respect to informations filed by private prosecutors, except that no security shall be required.

**CHAPTER 71—MISCELLANEOUS PROVISIONS****Power to protect victim of violence by prohibiting publication of information about proceedings**

**695A.(1)** This section applies to—

- (a) a judge of a court—
  - (i) to which someone has been committed for trial or sentence for an indictable offence involving personal violence; or
  - (ii) before which an indictment has been presented for an offence involving personal violence; and
- (b) a magistrate summarily hearing and deciding a proceeding for an indictable offence involving personal violence, including a committal proceeding.

(2) The judge or magistrate may make an order prohibiting, indefinitely or for a specified time, the publication of information about the address of a person against whom the violence is alleged to have been committed.

(3) The order may be made on application by the person, or by the prosecution acting in the person's interests.

(4) The order may be made only if the information is not relevant to the guilt or innocence of the charged person.

(5) An application for an order under this division may be made—

(a) in chambers; and

(b) only in the presence of persons the judge or magistrate allows.

(6) On the hearing of the application the judge or magistrate may receive and act on information the judge or magistrate considers appropriate.

(7) In this section—

“**address**”, of a person, means the address of the person's residence, school, place of employment or other address.

“**proceeding for an offence involving personal violence**” includes a proceeding for an application under the *Criminal Offence Victims Act 1995*, part 3.

### **Names of jury to be given to person charged with treason or concealment of treason**

**696.** When a person is to be tried for the crime of treason, or of becoming an accessory after the fact to treason, or of failing when the person knows that any person intends to commit treason, to give information thereof with all reasonable dispatch to a justice or use other reasonable endeavours to prevent the commission of the crime, a list of the jurors, with their christian names and surnames written at full length, and with the true place of abode and description of every juror, is required to be given to the person, in the presence of 2 credible witnesses, 10 days before the person is called upon to plead to the indictment.

**Court may direct certain persons to be prosecuted for perjury**

**697.(1)** If it appears to any court that any person has been guilty of perjury in any testimony given before it, the court may commit the person to take the person's trial for such perjury before any court of competent jurisdiction in the same manner as if the person had been charged before a justice with the same perjury, and sufficient evidence had been given against the person.

(2) A person so committed may be granted bail in the same manner as if the person had been committed for trial by a justice.

(3) The court may order that any person be given a notice to appear and give evidence at the trial of a person so directed to be prosecuted.

(4) In this section—

“**court**” includes any person before whom a writ of inquiry is executed, but does not include a Magistrates Court.

**Committal of fraudulent debtors**

**698.(1)** If, on the examination of any person whose affairs are in course of administration under the provisions of the laws relating to insolvent debtors before a court which has jurisdiction to examine the person in the course of such administration, it appears to the court that the person has been guilty of any of the offences defined in Chapter 53, the court may commit the person to take the person's trial for such offence before some court of competent jurisdiction, or may grant bail to the person to appear before a justice to answer any charge that may be brought against the person for any such offence.

(2) A person so committed may be granted bail in the same manner as if the person had been committed for trial by a justice.

**Staying prosecution for publication of parliamentary paper**

**699.(1)** A person prosecuted on a charge of the unlawful publication of defamatory matter which is contained in any paper published by the person, or by the person's servant, by order or under the authority of the Legislative Assembly, may, at any stage of the proceedings, apply to the Supreme Court or a Judge thereof or to the court in which the proceedings are

pending, for an order staying the prosecution, first giving 24 hours notice of intention so to do to the prosecutor; and upon production to the court or Judge of a certificate under the hand of the Speaker of the Legislative Assembly or Clerk of the Parliament stating that the paper in respect of which the prosecution is instituted was published by the defendant, or by the defendant's servant, by order or under the authority of the Assembly, together with an affidavit verifying such certificate, the court or Judge is required immediately to stay the prosecution, and may order the prosecutor to pay to the defendant the defendant's costs of defence.

(2) A person prosecuted on a charge of the unlawful publication of defamatory matter which is contained in a copy of, or an extract from or abstract of, any such paper, may, at any stage of the proceedings, apply to the Supreme Court or a Judge thereof, or to the court in which the proceedings are pending, for an order staying the prosecution; and upon production to the court or Judge of an original of such paper, together with such a certificate as aforesaid, and an affidavit verifying the same, the court or Judge may stay the prosecution, and may order the prosecutor to pay to the defendant the defendant's costs of defence.

### **Certificate of dismissal by justices**

**700.(1)** When justices dismiss a complaint of an offence punishable on summary conviction, whether an indictable offence or not, they may, if required and if they think fit, give the accused person a certificate of dismissal.

(2) Such a certificate is a bar to any further prosecution of the accused person for the same cause.

### **Custody of girls under 18**

**701.(1)** When on the trial of a person charged with any of the offences defined in Chapter 22, relating to women or girls, it is proved to the satisfaction of the court that the seduction or prostitution or incest of a girl under the age of 18 has been caused, encouraged, or favoured, by her father, mother, guardian, master, or mistress, the court may make an order divesting such father, mother, guardian, master, or mistress, of all authority over her, and may appoint any person or persons who is or are willing to take charge of the girl to be her guardian or guardians until she has attained

the age of 18 years, or any such age under 18 years as the court may direct.

(2) The Supreme Court, or a Judge thereof, may from time to time rescind or vary any such order by the appointment of any other person or persons as such guardian or guardians, or in any other respect.

### **Saving of civil remedies**

**702.** Except when expressly so provided, the prosecution or conviction of a person for an offence does not affect any civil remedy which any person aggrieved by the offence may have against the offender.

### **No court fees in criminal cases**

**704.** No fees can be taken in any court of criminal jurisdiction or before any justice from any person who is charged with an indictable offence for any proceeding had or taken in the court or before the justice with respect to the charge.

### **Copies of depositions to be allowed to persons committed for trial**

**705.(1)** Any person who is committed for trial or granted bail for any indictable offence is entitled to have on demand from the person who has the lawful custody thereof copies of the depositions of the witnesses on whose depositions the person has been so committed or granted bail.

(2) However, if the demand is not made before the day appointed for the commencement of the sittings of the court at which the trial of the person on whose behalf the demand is made is to take place, the person is not entitled to have any such copy unless the Judge is of opinion that the copy may be made and delivered without delay or inconvenience to the trial.

(3) The court may postpone a trial on account of the accused person not having previously had a copy of the depositions.

### **Inspection of depositions at trial**

**706.** Any person who is tried for any offence is entitled at the time of the person's trial to inspect without fee all depositions, or copies of depositions,

which have been taken against the person and returned into the court before which the trial is had.

### **Forms of criminal proceedings**

**707.** A form prescribed under a rule of court for a criminal proceeding is taken to be—

- (a) sufficient for the purpose for which it is to be used; and
- (b) if used, a sufficient statement of the relevant offence or matter.

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12 Provisions that have not commenced and are not incorporated into reprint .	431

**2 Date to which amendments incorporated**

This is the day mentioned in section 5(c) of the Reprints Act 1992. Accordingly, this reprint includes all amendments that commenced operation on or before 7 August 1996. Future amendments of the Criminal Code Act 1899 and the Criminal Code may be made in accordance with this reprint because of section 49 of the Reprints Act 1992.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

### 4 Table of earlier reprints

#### TABLE OF EARLIER REPRINTS

[If a reprint number includes an arabic letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 70 of 1993	26 March 1994

### 5 Tables in earlier reprints for Criminal Code Act 1899

#### TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Renumbered provisions	1

## **6 List of legislation for Criminal Code Act 1899**

### **Criminal Code Act 1899 63 Vic No. 9**

date of assent 28 November 1899

s 2 sch 1 commenced 1 January 1901 (see s 2)

remaining provisions commenced on date of assent

**Note**—Repealed by Criminal Code No. 37 of 1995 s 460(1) sch 4 (not yet proclaimed into force)

as amended by—

### **Criminal Code Correction of Errors Act 1900 64 Vic No. 7**

date of assent 20 November 1900

commenced on date of assent

### **Statute Law Revision Act 1908 8 Edw 7 No. 18 s 2 sch 1**

date of assent 23 December 1908

commenced on date of assent

### **Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1**

date of assent 28 November 1995

commenced on date of assent

## **7 List of annotations for Criminal Code Act 1899**

### **Saving**

s 3 amd R1 (see RA s 40)

### **Printing of amendments**

s 9 om 1908 8 Edw 7 No. 18 s 2 sch 1

### **General rules**

s 10 om 1995 No. 58 s 4 sch 1

### **SCHEDULE 2—STATUTES OF THE REALM IN FORCE IN QUEENSLAND**

om R1 (see s 40 RA)

### **SCHEDULE 3—STATUTES OF NEW SOUTH WALES AND QUEENSLAND**

amd 1900 64 Vic No. 7 s 1 sch

om R1 (see RA s 40)

### **SCHEDULE 4**

om R1 (see RA s 40)

## 8 Tables in earlier reprints for Criminal Code

### TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed citations and remade laws	1
Changed titles	1
Comparative legislation	1
Corrected minor errors	1
Obsolete and redundant provisions	1
Renumbered provisions	1

## 9 List of legislation for Criminal Code

### **Criminal Code (schedule 1 to 63 Vic No. 9)**

date of assent 28 November 1899

commenced 1 January 1901 (see s 2 of Act)

**Note**—Repealed by Criminal Code No. 37 of 1995 s 460(1) sch 4 (not yet proclaimed into force)

as amended by—

### **Criminal Code Correction of Errors Act 1900 64 Vic No. 7**

date of assent 20 November 1900

commenced on date of assent

### **Statute Law Revision Act 1908 8 Edw 7 No. 18 s 5 sch 3**

date of assent 23 December 1908

commenced on date of assent

### **Criminal Code Amendment Act 1913 4 Geo 5 No. 23**

date of assent 26 November 1913

commenced on date of assent

### **Criminal Code Amendment Act 1913 (No. 2) 4 Geo 5 No. 25**

date of assent 26 November 1913

commenced on date of assent

### **Criminal Code Amendment Act 1914 5 Geo 5 No. 22**

date of assent 3 December 1914

commenced on date of assent

### **Trade Union Act 1915 6 Geo 5 No. 31 pt 2**

date of assent 29 December 1915

commenced on date of assent

**Criminal Code Amendment Act 1922 13 Geo 5 No. 2**

date of assent 31 July 1922  
commenced on date of assent

**Criminal Code Amendment Act 1922 (No. 2) 13 Geo 5 No. 26**

date of assent 16 October 1922  
commenced on date of assent

**State Children Acts Amendment Act 1928 19 Geo 5 No. 19 s 3**

date of assent 14 November 1928  
commenced on date of assent

**Industrial Conciliation and Arbitration Act 1929 20 Geo 5 No. 28 s 119**

date of assent 23 December 1929  
commenced on date of assent

**Art Union Regulation Act 1930 21 Geo 5 No. 11 s 3**

date of assent 2 October 1930  
commenced on 23 October 1930 (proc pubd gaz 25 October 1930 p 1592)

**Criminal Code (Prohibition of Secret Commissions) and Further Amendment Act 1931 22 Geo 5 No. 40**

date of assent 24 December 1931  
commenced on date of assent

**Industrial Conciliation and Arbitration Act 1932 23 Geo 5 No. 36 s 85**

date of assent 6 January 1933  
commenced 1 February 1933 (proc pubd gaz 14 January 1933 p 316)

**Dairy Produce Acts and Other Acts Amendment Act 1934 25 Geo 5 No. 11 s 11**

date of assent 25 October 1934  
commenced on date of assent

**Criminal Code Amendment Act 1939 3 Geo 6 No. 28**

date of assent 1 December 1939  
commenced on date of assent

**Criminal Code Amendment Act 1943 7 Geo 6 No. 14**

date of assent 29 April 1943  
commenced on date of assent

**Criminal Law Amendment Act 1945 9 Geo 6 No. 11 pt 2**

date of assent 5 April 1945  
commenced on date of assent

**Criminal Code Amendment Act 1946 10 Geo 6 No. 22**

date of assent 11 April 1946  
commenced on date of assent

**Criminal Law Amendment Act 1946 11 Geo 6 No. 6 ss 5–6**

date of assent 20 December 1946  
commenced on date of assent

**Criminal Law Amendment Act 1948 12 Geo 6 No. 48 pt 2**

date of assent 9 December 1948  
commenced on date of assent

**Elections Acts and the Criminal Code Amendment Act 1952 1 Eliz 2 No. 4 pt 3**

date of assent 9 April 1952  
commenced 1 December 1952 (proc pubd gaz 15 November 1952 p 1210)

**Criminal Code and Justices Acts Amendment Act 1956 5 Eliz 2 No. 5 pt 2**

date of assent 29 October 1956  
commenced on date of assent

**Criminal Code Amendment Act 1957 6 Eliz 2 No. 1**

date of assent 5 April 1957  
commenced on date of assent

**Criminal Code and Other Acts Amendment Act 1961 10 Eliz 2 No. 11**

date of assent 29 March 1961  
commenced on date of assent

**Criminal Code Amendment Act 1964 No. 14**

date of assent 6 April 1964  
commenced on date of assent

**Criminal Code Amendment Act 1968 No. 44**

date of assent 19 December 1968  
commenced 1 January 1969 (see s 2)

**Criminal Code and the Offenders Probation and Parole Act Amendment Act 1971 No. 41 pt 2**

date of assent 25 October 1971  
commenced on date of assent

**Elections Act and the Criminal Code Amendment Act 1973 No. 8 pt 3**

date of assent 11 April 1973  
commenced 1 July 1973 (proc pubd gaz 19 May 1973 p 476)

**Criminal Code Amendment Act 1973 No. 53**

date of assent 25 October 1973  
commenced on date of assent

**Criminal Code and the Justices Act and Another Act (Stock Offences) Amendment Act 1973 No. 88 pt 2**

date of assent 20 December 1973  
commenced 1 April 1974 (proc pubd gaz 16 February 1974 p 687)

**Public Defence Act 1974 No. 3 s 3(1)(b)**

date of assent 2 April 1974  
commenced 1 July 1974 (proc pubd gaz 15 June 1974 p 997)

**Age of Majority Act 1974 No. 57 s 8 sch**

date of assent 27 September 1974  
commenced 1 March 1975 (proc pubd gaz 16 November 1974 p 1083)

**Limitations of Actions Act 1974 No. 75 s 4 sch**

date of assent 1 November 1974  
commenced 1 July 1975 (see s 2)

**Criminal Code and the Justices Act Amendment Act 1975 No. 27**

date of assent 15 May 1975  
commenced 1 July 1975 (see s 1(4))

**Criminal Code Amendment Act 1976 No. 25**

date of assent 22 April 1976  
commenced 1 July 1976 (see s 2)

**Jury Act and Other Acts Amendment Act 1976 No. 39 pt 4**

date of assent 5 May 1976  
commenced 30 August 1976 (proc pubd gaz 24 July 1976 p 1718)

**Justices Act and the Criminal Code Amendment Act 1977 No. 13 pt 3**

date of assent 14 April 1977  
commenced 1 July 1977 (proc pubd gaz 18 June 1977 p 1050)

**Evidence Act 1977 No. 47 s 3(7) sch 1 pt G**

date of assent 3 October 1977  
commenced 1 January 1978 (see s 1(2))

**Justices Act and the Criminal Code Amendment Act 1978 No. 10 pt 3**

date of assent 31 May 1978  
commenced on date of assent

**Status of Children Act 1978 No. 30 s 14 sch**

date of assent 8 June 1978  
commenced 1 January 1979 (see s 1(2))

**Criminal Law Amendment Act 1979 No. 2 pt 2**

date of assent 6 April 1979  
commenced 7 April 1979 (proc pubd gaz 7 April 1979 p 1359)

**Bail Act 1980 No. 35 s 4(1) sch 1**

date of assent 14 May 1980  
commenced 1 July 1980 (proc pubd gaz 28 June 1980 p 1634)

**Criminal Law Amendment Act 1982 No. 34**

date of assent 1 September 1982  
commenced on date of assent

**Criminal Law Amendment Act 1982 (No. 2) No. 59**

date of assent 3 December 1982  
commenced on date of assent

**Criminal Code Amendment Act 1984 No. 28**

date of assent 5 April 1984  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 July 1984 (proc pubd gaz 30 June 1984  
p 1475)

**Criminal Code and Bail Act Amendment Act 1984 No. 32 pt 2**

date of assent 12 April 1984  
commenced on date of assent

**Mental Health Act, Criminal Code and Health Act Amendment Act 1984 No. 66 pt 3**

date of assent 12 September 1984  
commenced 1 July 1985 (proc pubd gaz 27 April 1985 p 2349)

**Director of Prosecutions Act 1984 No. 95 s 34(3)**

date of assent 6 December 1984  
commenced 17 January 1985 (proc pubd gaz 19 January 1985 p 165)

**Regulatory Offences Act 1985 No. 32 s 10**

date of assent 17 April 1985  
commenced 29 April 1985 (proc pubd gaz 27 April 1985 p 2349)

**Criminal Code Amendment Act 1986 No. 1**

date of assent 6 March 1986  
ss 1–2 commenced on date of assent  
ss 4–25, 27(b), 28–35, 60–65, 66(b), 67–80 and 83–97 commenced 29 March 1986 (proc pubd gaz 29 March 1986 p 1289 as amd by proc pubd gaz 5 April 1986 p 1396)  
remaining provisions commenced 1 July 1987 (proc pubd gaz 13 June 1987 p 1461)

**Corrective Services (Consequential Amendments) Act 1988 No. 88 s 5 sch 2 (as amd by 1989 No. 103 s 3 sch)**

date of assent 1 December 1988  
commenced 15 December 1988 (see s 2(2) of Act and o in c pubd gaz 10 December 1988 p 1675)

**Criminal Code, Evidence Act and Other Acts Amendment Act 1989 No. 17 pt 2**

date of assent 30 March 1989  
ss 8, 56(b) never proclaimed into force and rep 1994 No. 87 s 4(1) sch 3 pt 2  
remaining provisions commenced 3 July 1989 (proc pubd gaz 24 June 1989 p 1821 as amd by proc pubd gaz 1 July 1989 p 2190)

**Public Service (Administrative Arrangements) Act (No. 2) 1990 No. 80 s 3 sch 1**

date of assent 14 November 1990  
commenced on date of assent

**Criminal Code and Another Act Amendment Act 1990 No. 93**

date of assent 7 December 1990  
ss 1–2 commenced on date of assent  
remaining provisions commenced 19 January 1991 (proc pubd gaz 19 January 1991 p 174)

**Referendums Legislation Amendment Act 1990 No. 101 pt 6**

date of assent 12 December 1990  
commenced on date of assent

**Supreme Court of Queensland Act 1991 No. 68 pts 1, 10 s 111 sch 2**

date of assent 24 October 1991

ss 1–2 commenced on date of assent

remaining provisions commenced 14 December 1991 (1991 SL No. 173)

**Statutory Instruments Act 1992 No. 22 pts 1, 8**

date of assent 1 June 1992

commenced on date of assent

**Criminal Law (Escaped Prisoners) Amendment Act 1992 No. 25 pts 1–2**

date of assent 1 June 1992

commenced on date of assent

**Electoral Act 1992 No. 28 pts 1, 10 div 3**

date of assent 1 June 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 19 June 1992 (1992 SL No. 160)

**Juvenile Justice Act 1992 No. 44 pts 1, 7 s 235 sch 3**

date of assent 19 August 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 1 September 1993 (1993 SL No. 313)

**Penalties and Sentences Act 1992 No. 48 pts 1, 12, 13 ss 197, 207 sch**

date of assent 24 November 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 27 November 1992 (1992 SL No. 377)

**Prostitution Laws Amendment Act 1992 No. 65 pts 1, 3**

date of assent 7 December 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 1 February 1993 (1993 SL No. 11)

**Statute Law (Miscellaneous Provisions) Act (No. 2) 1992 No. 68 ss 1–3 sch 2**

date of assent 7 December 1992

commenced on date of assent

**Criminal Law Amendment Act 1993 No. 65**

date of assent 23 November 1993

commenced on date of assent

**Justice and Attorney-General Legislation (Miscellaneous Provisions) Act 1993  
No. 68 pts 1, 6**

date of assent 23 November 1993

commenced on date of assent

**Local Government Act 1993 No. 70 ch 1, pt 1, ch 3, pt 1 s 804 sch**

date of assent 7 December 1993

ss 1–2 commenced on date of assent

remaining provisions commenced 26 March 1994 (see s 2(5))

**Fisheries Act 1994 No. 37 pts 1, 13 s 244 sch 2**

date of assent 8 September 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 27 January 1995 (1995 SL No. 9)

**Criminal Code No. 37 of 1995 ss 1–2, 459(2) sch 3 pt 1 div 2, 459(4) sch 3 pt 2 div 2, 459(6) sch 3 pt 3 div 2 (as amd 1995 No. 58 ss 1–2, 4 sch 1 (as from 16 June 1995 (see s 2(1) sch 1)))**

date of assent 16 June 1995

ss 1–2, 459(2) sch 3 pt 1 div 2 commenced on date of assent (see s 2(2))

remaining provisions commence immediately before s 3 commences (see s 2(3)) (automatic commencement under AIA s 15DA(2) deferred to 14 June 1997) (1996 SL No. 84 s 2(2))**Jury Act 1995 No. 42 ss 1–2, 76 sch 2**

date of assent 9 November 1995

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force**Criminal Offence Victims Act 1995 No. 54 ss 1–2, 45 sch 2**

date of assent 22 November 1995

ss 1–2 commenced on date of assent

remaining provisions commenced 18 December 1995 (1995 SL No. 383)

**Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1**

date of assent 28 november 1995

commenced on date of assent

## 10 List of annotations for Criminal Code

**Note—Bys 19 of Act No. 13 of 1977 notes to certain sections of the Criminal Code shall be deemed to be headings to such sections.**

### Index

amd 1982 No. 59 s 4; 1984 No. 32 s 5; 1989 No. 17 s 58; 1990 No. 93 s 3  
om R1 (see RA s 36)

### Construction of terms

#### s 1

def “**adult**” ins 1989 No. 17 s 4def “**aircraft**” ins 1964 No. 14 s 2(a)def “**animal**” ins 1986 No. 1 s 3def “**committal for trial**” ins 1975 No. 27 s 2(a)def “**Crown Law Officer**” amd 1984 No. 95 s 34(3)def “**intellectually impaired person**” ins 1992 No. 65 s 6def “**motor vehicle**” ins 1964 No. 14 s 2(b)def “**prostitution**” ins 1992 No. 65 s 6def “**registered brand**” and “**registered mark**” amd 1961 10 Eliz 2  
No. 11 s 2def “**sexual act**” ins 1992 No. 65 s 6def “**trial**” ins 1975 No. 27 s 2(b)

**Division of offences**

**s 3** sub 1985 No. 32 s 10(a)

**Carnal knowledge**

**s 6** amd 1990 No. 93 s 4

**Application of Code as to offences wholly or partially committed in Queensland**

**s 12** sub 1989 No. 17 s 5

**Offences enabled, aided, procured or counselled by persons out of Queensland**

**s 13** sub 1989 No. 17 s 6

**Offences procured in Queensland to be committed out of Queensland**

**s 14** amd 1989 No. 17 s 7

**Offences committed on the high seas**

**s 14A** ins 1976 No. 25 s 3

**CHAPTER 4—ROYAL PREROGATIVE OF MERCY**

**ch hdg** sub 1992 No. 48 s 207 sch

**Royal prerogative of mercy**

**s 18** amd 1914 5 Geo 5 No. 22 s 2(1); 1922 13 Geo 5 No. 2 s 3(i); 1928 19 Geo 5 No. 19 s 3; 1986 No. 1 s 4; 1988 No. 88 s 5 sch 2  
sub 1992 No. 44 s 235 sch 3; 1992 No. 48 s 207 sch

**Construction of provisions of Code as to punishments**

**s 19** amd 1922 13 Geo 5 No. 2 s 3(ii); 1943 7 Geo 6 No. 14 s 2; 1948 12 Geo 6 No. 48 s 4; 1961 10 Eliz 2 No. 11 s 3; 1971 No. 41 s 4; 1975 No. 27 s 3; 1986 No. 1 s 5; 1988 No. 88 s 5 sch 2; 1989 No. 17 s 8 (never proclaimed into force and om 1994 No. 87 s 4(1) sch 3 pt 2)  
om 1992 No. 48 s 207 sch

**Calculation of Term of Sentence: Cumulative Sentences: Escaped Prisoners**

**prov hdg** amd 1992 No. 25 s 2(1)

**s 20** amd 1948 12 Geo 6 No. 48 s 5; 1988 No. 88 s 5 sch 2; 1992 No 25 s 2(2)  
om 1992 No 48 s 207 sch

**Ignorance of the law—bona fide claim of right**

**s 22** amd 1985 No. 32 s 10(b); 1992 No. 22 s 50; 1992 No. 68 s 3 sch 2

**Immature age**

**s 29** amd 1976 No. 25 s 19 sch; 1989 No. 17 s 9

**Justification and excuse—compulsion**

**s 31** amd 1922 13 Geo 5 No. 2 s 3(iii); 1971 No. 41 s 7

**Compulsion of husband**

**s 32** amd 1922 13 Geo 5 No. 2 s 3(iii); 1971 No. 41 s 7

**Liability of husband and wife for offences committed by either with respect to the other's property**

**s 35** amd 1977 No. 47 s 3(7) sch 1 pt G

**Application of rules**

**s 36** amd 1985 No. 32 s 10(c)

**Treason**

**s 37** amd 1922 13 Geo 5 No. 2 s 3(iv); 1988 No. 88 s 5 sch 2; 1992 No. 48 s 207 sch

**Concealment of treason**

**s 38** amd 1988 No. 88 s 5 sch 2

**Treasonable crimes**

**s 39** amd 1988 No. 88 s 5 sch 2

**Inciting to mutiny**

**s 41** amd 1986 No. 1 s 6; 1988 No. 88 s 5 sch 2

**Assisting escape of prisoners of war**

**s 42** amd 1988 No. 88 s 5 sch 2

**Unlawful oaths to commit certain crimes**

**prov hdg** amd 1922 13 Geo 5 No. 2 s 3(v)

**s 47** amd 1922 13 Geo 5 No. 2 s 3(v); 1971 No. 41 s 7; 1986 No. 1 s 7; 1988 No. 88 s 5 sch 2

**Other unlawful oaths to commit offences**

**s 48** amd 1922 13 Geo 5 No. 2 s 3(vi); 1988 No. 88 s 5 sch 2

**Unlawful drilling**

**s 51** amd 1900 64 Vic No. 7 s 1 sch; 1988 No. 88 s 5 sch 2

**Sedition**

**s 52** amd 1988 No. 88 s 5 sch 2

**Interference with Governor or Ministers**

**s 54** amd 1939 3 Geo 6 No. 28 s 3; 1995 No. 37 s 459(6) sch 3 pt 3 div 2  
reloc (as 1987 No. 73 s 14) 1995 No. 37 s 459(6) sch 3 pt 3 div 2

**Demands with menaces upon agencies of government**

**s 54A** ins 1984 No. 32 s 3  
amd 1988 No. 88 s 5 sch 2; 1992 No 48 s 207 sch; R1 (see RA s 39)

**Interference with the Legislature**

**s 55** amd 1939 3 Geo 6 No. 28 s 3; 1995 No. 37 s 459(4) sch 3 pt 3 div 2  
reloc (as 1867 31 Vic No. 21 s 19) 1995 No. 37 s 459(4) sch 3 pt 3 div 2

**Disturbing the Legislature**

**s 56** amd 1939 3 Geo 6 No. 28 s 3; 1995 No. 37 s 459(4) sch 3 pt 3 div 2  
reloc (as 1867 31 Vic No. 21 s 20) 1995 No. 37 s 459(4) sch 3 pt 3 div 2

**Disturbance in House When Parliament not sitting**

**s 56A** ins 1939 3 Geo 6 No. 28 s 2  
amd 1988 No. 88 s 5 sch 2

**Going armed to Parliament House**

**s 56B** ins 1939 3 Geo 6 No. 28 s 2  
amd 1988 No. 88 s 5 sch 2  
reloc (as 1867 31 Vic No. 21 s 21) 1995 No. 37 s 459(4) sch 3 pt 3 div 2

**False evidence before Parliament**

s 57      amd 1988 No. 88 s 5 sch 2; 1995 No. 37 s 459(4) sch 3 pt 3 div 2  
             reloc (as 1867 31 Vic No. 21 s 22) 1995 No. 37 s 459(4) sch 3 pt 3 div 2

**Witnesses refusing to attend or give evidence before Parliament or parliamentary committee**

s 58      amd 1900 64 Vic No. 7 s 1 sch; 1995 No. 37 s 459(4) sch 3 pt 3 div 2  
             reloc (as 1867 31 Vic No. 21 s 23) 1995 No. 37 s 459(4) sch 3 pt 3 div 2

**Member of Parliament receiving bribes**

s 59      amd 1988 No. 88 s 5 sch 2

**Bribery of member of Parliament**

s 60      amd 1922 13 Geo 5 No. 26 s 2; 1988 No. 88 s 5 sch 2

**Punishment of unlawful assembly**

s 62      amd 1939 3 Geo 6 No. 28 s 3

**Punishment of riot**

s 63      amd 1939 3 Geo 6 No. 28 s 3; 1988 No. 88 s 5 sch 2

**Rioters remaining after proclamation ordering them to disperse**

s 64      amd 1986 No. 1 s 8; 1988 No. 88 s 5 sch 2

**Rioters demolishing buildings etc.**

s 65      amd 1986 No. 1 s 9; 1988 No. 88 s 5 sch 2

**Rioters injuring building, machinery etc.**

s 66      amd 1988 No. 88 s 5 sch 2

**Smuggling or rescuing goods under arms**

s 67      amd 1988 No. 88 s 5 sch 2

**Smuggling under arms or in disguise**

s 68      amd 1988 No. 88 s 5 sch 2

**Going armed so as to cause fear**

s 69      amd 1939 3 Geo 6 No. 28 s 3; 1975 No. 27 s 4; 1988 No. 88 s 5 sch 2

**Affray**

s 72      amd 1988 No. 88 s 5 sch 2

**Challenge to fight a duel**

s 73      amd 1988 No. 88 s 5 sch 2

**Threatening violence**

s 75      amd 1975 No. 27 s 5; 1988 No. 88 s 5 sch 2

**Assembling for the purpose of smuggling**

s 76      amd 1988 No. 88 s 5 sch 2

**Interfering with political liberty**

s 78      amd 1988 No. 88 s 5 sch 2

**Punishment of piracy**

s 81      amd 1922 13 Geo 5 No. 2 s 3(vii); 1988 No. 88 s 5 sch 2; 1992 No. 48  
             s 207 sch

**Attempted piracy with personal violence**

**s 82** amd 1922 13 Geo 5 No. 2 s 3(vii); 1988 No. 88 s 5 sch 2; 1992 No. 48 s 207 sch

**Aiding pirates**

**s 83** amd 1988 No. 88 s 5 sch 2

**Official corruption**

**s 87** amd 1988 No. 88 s 5 sch 2

**False claims by officials**

**s 91** amd 1988 No. 88 s 5 sch 2

**Abuse of office**

**s 92** amd 1988 No. 88 s 5 sch 2

**False certificates by public officers**

**s 94** amd 1988 No. 88 s 5 sch 2

**False assumption of authority**

**s 96** amd 1988 No. 88 s 5 sch 2

**Personating public officers**

**s 97** amd 1988 No. 88 s 5 sch 2

**Definitions**

**s 98** def “election” amd 1990 No. 101 s 19(a)  
def “municipal election” om 1993 No. 70 s 804 sch  
def “parliamentary election” amd 1990 No. 101 s 19(b)

**Chapter does not apply to certain elections**

**s 98A** ins 1992 No. 28 s 197  
sub 1993 No. 70 s 804 sch

**Personation**

**s 99** amd 1988 No. 88 s 5 sch 2

**Double voting**

**s 100** amd 1988 No. 88 s 5 sch 2

**Treating**

**s 101** amd 1988 No. 88 s 5 sch 2

**Undue influence**

**s 102** amd 1988 No. 88 s 5 sch 2

**Bribery**

**s 103** amd 1973 No. 8 s 25; 1988 No. 88 s 5 sch 2

**Further Penalty for Corrupt Practices**

**s 104** om 1993 No. 70 s 804 sch

**Illegal practices**

**s 105** amd 1993 No. 70 s 804 sch

**Other illegal practices**

**s 106** amd 1990 No. 101 s 20; 1993 No. 70 s 804 sch

**Corrupt and illegal practices—time**

s 107      amd 1993 No. 70 s 804 sch

**Interference at elections**

s 108      amd 1988 No. 88 s 5 sch 2

**Electors attempting to violate secrecy of ballot**

s 109      amd 1988 No. 88 s 5 sch 2; 1990 No. 101 s 21

**Other attempts of like kind**

s 110      amd 1988 No. 88 s 5 sch 2

**Stuffing ballot boxes**

s 111      amd 1988 No. 88 s 5 sch 2

**Offences by presiding officers at elections**

s 112      amd 1988 No. 88 s 5 sch 2

**False answers to questions at elections**

s 113      amd 1988 No. 88 s 5 sch 2

**Interfering with secrecy at elections**

s 114      amd 1988 No. 88 s 5 sch 2; 1990 No. 101 s 22

**Breaking seal of packets used at elections**

s 115      amd 1952 1 Eliz 2 No. 4 s 25; 1988 No. 88 s 5 sch 2; 1990 No. 101 s 23

**False claims**

s 117      amd 1988 No. 88 s 5 sch 2

**Bargaining for offices in public service**

s 118      amd 1988 No. 88 s 5 sch 2

**Judicial corruption**

s 120      amd R1 (see RA s 39)

**Official corruption not judicial but relating to offences**

s 121      amd 1988 No. 88 s 5 sch 2

**Corrupting or threatening jurors**

s 122      amd 1988 No. 88 s 5 sch 2

**Punishment of perjury**

s 124      amd 1922 13 Geo 5 No. 2 s 3(viii); 1988 No. 88 s 5 sch 2

**Fabricating evidence**

s 126      amd 1988 No. 88 s 5 sch 2

**Corruption of witnesses**

s 127      amd 1988 No. 88 s 5 sch 2

**Deceiving witnesses**

s 128      amd 1988 No. 88 s 5 sch 2

**Destroying evidence**

s 129      amd 1988 No. 88 s 5 sch 2

**Conspiracy to bring false accusation**

**s 131** amd 1922 13 Geo 5 No. 2 s 3(ix); 1986 No. 1 s 10; 1988 No. 88 s 5 sch 2

**Conspiring to defeat justice**

**s 132** amd 1986 No. 1 s 11; 1988 No. 88 s 5 sch 2

**Compounding crimes**

**s 133** amd 1922 13 Geo 5 No. 2 s 3(x); 1988 No. 88 s 5 sch 2

**Inserting advertisement without authority of court**

**s 139** amd 1988 No. 88 s 5 sch 2

**Attempting to pervert justice**

**s 140** amd 1988 No. 88 s 5 sch 2

**CHAPTER 17—ESCAPES—OBSTRUCTING OFFICERS OF COURTS**

**ch hdg** amd 1992 No. 25 s 3

**Aiding persons to escape from lawful custody**

**s 141** amd 1922 13 Geo 5 No. 2 s 3(xi); 1971 No. 41 s 7; 1988 No. 88 s 5 sch 2  
sub 1992 No 25 s 4

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**s 144** amd 1988 No. 88 s 5 sch 2  
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**s 145** sub 1992 No. 25 s 4  
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s 151      amd R1 (see RA s 39)

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s 152      amd R1 (see RA s 39)

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s 153      amd R1 (see RA s 39)

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s 154      amd R1 (see RA s 39)

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s 155      amd R1 (see RA s 39)

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s 156      amd R1 (see RA s 39)

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s 157      amd 1900 64 Vic No. 7 s 1 sch; R1 (see s 39 RA)

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s 158      amd R1 (see RA s 39)

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s 159      amd R1 (see RA s 39)

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s 160      amd R1 (see RA s 39)

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s 161      amd R1 (see RA s 39)

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s 162      amd R1 (see RA s 39)

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s 164      amd R1 (see RA s 39)

**Intercepting things sent by post or telegraph**

s 165      amd R1 (see RA s 39)

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s 166      amd R1 (see RA s 39)

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s 167      amd R1 (see RA s 39)

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s 169      amd R1 (see RA s 39)

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s 170      amd R1 (see RA s 39)

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s 171      amd R1 (see RA s 39)

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s 172      amd R1 (see RA s 39)

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s 176      amd R1 (see RA s 39)

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s 184      amd R1 (see RA s 39)

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s 187      amd R1 (see RA s 39)

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s 191      amd R1 (see RA s 39)

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s 192      om 1922 13 Geo 5 No. 2 s 3(xii)

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s 193      amd 1988 No. 88 s 5 sch 2

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s 196      amd 1988 No. 88 s 5 sch 2

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s 197      amd 1988 No. 88 s 5 sch 2

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s 199      amd 1988 No. 88 s 5 sch 2

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s 206      amd 1988 No. 88 s 5 sch 2

**Unlawful anal intercourse**

s 208      amd 1988 No. 88 s 5 sch 2; 1989 No. 17 s 10  
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**Attempt to have unlawful anal intercourse**

s 209      amd 1988 No. 88 s 5 sch 2; 1989 No. 17 s 11  
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**Indecent treatment of children under 16**

prov hdg    amd 1975 No. 27 s 6(a)

s 210      amd 1975 No. 27 s 6(b)–(d); 1988 No. 88 s 5 sch 2  
sub 1989 No. 17 s 12

**Carnal knowledge of animal**

s 211      amd 1943 7 Geo 6 No. 14 s 3; 1988 No. 88 s 5 sch 2  
sub 1990 No. 93 s 7

**Defilement of Girls under Twelve**

**s 212** amd 1943 7 Geo 6 No. 14 s 4; 1945 9 Geo 6 No. 11 s 4; 1977 No. 47 s 3(7) sch 1 pt G  
sub 1986 No. 1 s 12; 1988 No. 88 s 5 sch 2  
om 1989 No. 17 s 13

**Householder permitting abuse of children on householder's premises**

**s 213** amd 1913 4 Geo 5 No. 25 s 2(i); 1976 No. 25 s 19 sch; 1977 No. 47 s 3(7) sch 1 pt G; 1986 No. 1 s 13; 1988 No. 88 s 5 sch 2  
sub 1989 No. 17 s 13  
amd 1990 No. 93 s 8

**Attempt to Abuse Girls under Ten**

**s 214** amd 1977 No. 47 s 3(7) sch 1 pt G; 1986 No. 1 s 14; 1988 No. 5 sch 2  
om 1989 No. 17 s 14

**Carnal knowledge of girls under 16**

**prov hdg** amd 1913 4 Geo 5 No. 25 s 2(ii); 1976 No. 25 s 19 sch  
**s 215** amd 1913 4 Geo 5 No. 25 s 2(ii); 1945 9 Geo 6 No. 11 s 5; 1976 No. 25 s 19 sch; 1977 No. 47 s 3(7) sch 1 pt G; 1988 No. 88 s 5 sch 2  
sub 1989 No. 17 s 14

**Abuse of intellectually impaired persons**

**prov hdg** amd 1913 4 Geo 5 No. 25 s 2(iii); 1976 No. 25 s 19 sch  
**s 216** amd 1913 4 Geo 5 No. 25 s 2(iii); 1945 9 Geo 6 No. 11 s 6; 1975 No. 27 s 41 sch; 1976 No. 25 s 19 sch; 1977 No. 47 s 3(7) sch 1 pt G; 1986 No. 1 s 15; 1988 No. 88 s 5 sch 2  
sub 1989 No. 17 s 14  
amd 1990 No. 93 s 9; 1992 No. 65 s 7

**Procuring young person etc. for carnal knowledge**

**s 217** amd 1974 No. 57 s 8 sch; 1977 No. 47 s 3(7) sch 1 pt G; 1988 No. 88 s 5 sch 2  
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**Procuring sexual acts by coercion etc.**

**s 218** amd 1977 No. 47 s 3(7) sch 1 pt G; 1988 No. 88 s 5 sch 2; 1989 No. 17 s 16  
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**s 219** amd 1977 No. 47 s 3(7) sch 1 pt G; 1988 No. 88 s 5 sch 2  
sub 1989 No. 17 s 17  
amd 1990 No. 93 s 10

**Unlawful Detention with Intent to Defile or in a Brothel**

**s 220** amd 1977 No. 47 s 3(7) sch 1 pt G; 1988 No. 88 s 5 sch 2  
om 1989 No. 17 s 18

**Conspiracy to defile**

**s 221** amd 1986 No. 1 s 16; 1988 No. 88 s 5 sch 2

**Incest by man**

s 222 amd 1943 7 Geo 6 No. 14 s 5; 1977 No. 47 s 3(7) sch 1 pt G; 1988 No. 88 s 5 sch 2; 1989 No. 17 s 19

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s 223 amd 1943 7 Geo 6 No. 14 s 6; 1977 No. 47 s 3(7) sch 1 pt G; 1988 No. 88 s 5 sch 2

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s 224 amd 1988 No. 88 s 5 sch 2

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s 225 amd 1988 No. 88 s 5 sch 2

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s 226 amd 1988 No. 88 s 5 sch 2

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s 227 amd 1943 7 Geo 6 No. 14 s 7; 1988 No. 88 s 5 sch 2

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s 228 amd 1988 No. 88 s 5 sch 2; 1989 No. 17 s 20

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s 229 amd 1989 No. 17 s 21

**Indictable offences against morality that may be dealt with summarily**

s 229A ins 1975 No. 27 s 7  
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**Maintaining a sexual relationship with a child under 16**

s 229B ins 1989 No. 17 s 23

**CHAPTER 22A—PROSTITUTION**

ch hdg ins 1992 No. 65 s 10

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s 229D ins 1992 No. 65 s 10

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s 231 amd 1988 No. 88 s 5 sch 2  
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s 232 amd 1988 No. 88 s 5 sch 2

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s 233 amd 1961 10 Eliz 2 No. 11 s 4; 1988 No. 88 s 5 sch 2

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s 234 amd 1930 21 Geo 5 No. 11 s 3; 1988 No. 88 s 5 sch 2

**Acting as keeper of gaming houses, betting houses, and lotteries**

prov hdg amd 1992 No. 65 s 12(1)

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s 236 amd 1988 No. 88 s 5 sch 2

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s 237 amd 1988 No. 88 s 5 sch 2

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s 238 amd 1988 No. 88 s 5 sch 2

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s 239 amd 1988 No. 88 s 5 sch 2

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s 240 amd 1988 No. 88 s 5 sch 2

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s 242 amd 1988 No. 88 s 5 sch 2

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s 244      amd 1988 No. 88 s 5 sch 2

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s 245      amd 1946 11 Geo 6 No. 6 s 5; 1989 No. 17 s 24

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s 256      amd 1922 13 Geo 5 No. 2 s 3(xiii)

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s 299      om 1992 No. 48 s 207 sch

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s 300      amd 1971 No. 41 s 7

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s 301      om 1971 No. 41 s 5

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s 302      amd 1971 No. 41 s 6

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s 303      amd 1971 No. 41 s 7

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s 304A     ins 1961 10 Eliz 2 No. 11 s 5  
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s 305      amd 1922 13 Geo 5 No. 2 s 3(xiv); 1971 No. 41 s 7; 1988 No. 88 s 5  
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s 306      amd 1986 No. 1 s 17; 1988 No. 88 s 5 sch 2

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s 307      amd 1971 No. 41 s 7; 1988 No. 88 s 5 sch 2

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s 308      amd 1986 No. 1 s 18; 1988 No. 88 s 5 sch 2

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s 309      amd 1988 No. 88 s 5 sch 2

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s 310      amd 1988 No. 88 s 5 sch 2

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s 311 amd 1988 No. 88 s 5 sch 2

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s 312 om 1979 No. 2 s 4

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s 313 amd 1988 No. 88 s 5 sch 2

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s 314 amd 1988 No. 88 s 5 sch 2

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s 315 amd 1986 No. 1 s 19; 1988 No. 88 s 5 sch 2

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s 316 amd 1988 No. 88 s 5 sch 2

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s 317 amd 1900 64 Vic No. 7 s 1 sch; 1986 No. 1 s 20; 1988 No. 88 s 5 sch 2

**Taking or sending dangerous goods on aircraft**

s 317A ins 1964 No. 14 s 4  
amd 1988 No. 88 s 5 sch 2

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s 318 amd 1986 No. 1 s 21; 1988 No. 88 s 5 sch 2

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s 319 amd 1986 No. 1 s 22; 1988 No. 88 s 5 sch 2

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s 319A ins 1964 No. 14 s 5  
amd 1988 No. 88 s 5 sch 2

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s 320 amd 1975 No. 27 s 41 sch; 1988 No. 88 s 5 sch 2

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s 321 amd 1986 No. 1 s 23; 1988 No. 88 s 5 sch 2

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s 322 amd 1988 No. 88 s 5 sch 2

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s 323 amd 1943 7 Geo 6 No. 14 s 8; 1975 No. 27 s 41 sch; 1988 No. 88 s 5 sch 2

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s 324 amd 1988 No. 88 s 5 sch 2

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s 325 amd 1988 No. 88 s 5 sch 2

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s 326 amd 1988 No. 88 s 5 sch 2

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s 327 amd 1988 No. 88 s 5 sch 2

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s 328 amd 1948 12 Geo 6 No. 48 s 6; 1988 No. 88 s 5 sch 2

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s 328A ins 1943 7 Geo 6 No. 14 s 9  
amd 1948 12 Geo 6 No. 48 s 7  
sub 1961 10 Eliz 2 No. 11 s 6  
amd 1964 No. 14 s 6; 1975 No. 27 s 41 sch; 1982 No. 59 s 2; 1988 No. 88  
s 5 sch 2; 1989 No. 17 s 27

**Additional power to convict for dangerous driving**

s 328B ins 1943 7 Geo 6 No. 14 s 9  
sub 1948 12 Geo 6 No. 48 s 8; 1961 10 Eliz 2 No. 11 s 7  
amd 1964 No. 14 s 7

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s 328C ins 1943 7 Geo 6 No. 14 s 9  
sub 1948 12 Geo 6 No. 48 s 9  
amd 1961 10 Eliz 2 No. 11 s 8  
om 1992 No. 48 s 207 sch

**Endangering safety of persons travelling by railway**

s 329 amd 1988 No. 88 s 5 sch 2

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s 330 amd 1938 No. 88 s 5 sch 2

**Endangering steamships by tampering with machinery**

s 331 amd 1988 No. 88 s 5 sch 2

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s 333 amd 1988 No. 88 s 5 sch 2

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s 334 amd 1988 No. 88 s 5 sch 2

**Common assault**

s 335 amd 1988 No. 88 s 5 sch 2

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prov hdg amd 1990 No. 93 s 11

s 336 amd 1988 No. 88 s 5 sch 2; 1990 No. 93 s 12

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s 337 amd 1975 No. 27 s 41 sch; 1988 No. 88 s 5 sch 2  
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amd 1990 No. 93 s 13

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s 338 amd 1988 No. 88 s 5 sch 2

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s 338A ins 1964 No. 14 s 8  
amd 1988 No. 88 s 5 sch 2

**Assaults occasioning bodily harm**

s 339 amd 1943 7 Geo 6 No. 14 s 10; 1986 No. 1 s 24; 1988 No. 88 s 5 sch 2

**Serious assaults**

s 340 amd 1988 No. 88 s 5 sch 2

**Common assaults**

s 343 amd 1943 7 Geo 6 No. 14 s 11; 1961 10 Eliz 2 No. 11 s 9; 1975 No. 27 s 41 sch; 1988 No. 88 s 5 sch 2

**Assaults occasioning bodily harm**

s 343A ins 1975 No. 27 s 8  
amd 1976 No. 25 ss 4, 19 sch; 1988 No. 88 s 5 sch 2

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s 344 amd 1943 7 Geo 6 No. 14 s 12; 1946 11 Geo 6 No. 6 s 6; 1961 10 Eliz 2 No. 11 s 10; 1975 No. 27 s 9; 1988 No. 88 s 5 sch 2; 1989 No. 17 s 29

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s 345 amd 1975 No. 27 s 10  
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s 346 amd 1988 No. 88 s 5 sch 2

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s 347 amd 1900 64 Vic No. 7 s 1 sch  
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s 348 amd 1988 No. 88 s 5 sch 2

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s 349 amd 1943 7 Geo 6 No. 14 s 13; 1988 No. 88 s 5 sch 2

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s 350 amd 1975 No. 27 s 41 sch; 1988 No. 88 s 5 sch 2  
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s 351 amd 1974 No. 57 s 8 sch; 1988 No. 88 s 5 sch 2

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prov hdg amd 1913 4 Geo 5 No. 25 s 2(iv)  
s 352 amd 1913 4 Geo 5 No. 25 s 2(iv); 1988 No. 88 s 5 sch 2  
om 1989 No. 17 s 32

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s 353 om 1977 No. 47 s 3(7) sch 1 pt G

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s 354 amd 1986 No. 1 s 25; 1988 No. 88 s 5 sch 2

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s 354A ins 1961 10 Eliz 2 No. 11 s 11  
amd 1988 No. 88 s 5 sch 2; 1989 No. 17 s 33

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s 355 amd 1988 No. 88 s 5 sch 2

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s 356 amd 1988 No. 88 s 5 sch 2

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s 359 amd 1961 10 Eliz 2 No. 11 s 12

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s 359A ins 1993 No. 65 s 3

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s 359B ins 1993 No. 65 s 3

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s 360 amd 1943 7 Geo 6 No. 14 s 14; 1977 No. 47 s 3(7) sch 1 pt G; 1988 No. 88 s 5 sch 2

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s 361 amd 1974 No. 57 s 8 sch

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s 363 amd 1946 10 Geo 6 No. 22 s 2; 1977 No. 47 s 3(7) sch 1 pt G; 1978 No. 30 s 14 sch; 1988 No. 88 s 5 sch 2; 1989 No. 17 s 34

**Abduction of child under 16**

s 363A ins 1989 No. 17 s 35

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s 364 amd 1989 No. 17 s 36

**CHAPTER 35—DEFAMATION**

ch hdg om 1995 No. 37 s 459(2) sch 3 pt 1 div 2

**Definition of “periodical”**

s 365 om 1995 No. 37 s 459(2) sch 3 pt 1 div 2

**Definition of “defamatory matter”**

s 366 reloc (as 1889 53 Vic No. 12 s 4) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

**Questions of fact and law**

s 367 reloc (as 1889 53 Vic No. 12 s 18) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

**Definition of defamation**

s 368 reloc (as 1889 53 Vic No. 12 s 5) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

**Publication**

s 369 reloc (as 1889 53 Vic No. 12 s 6) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

**Publication of defamatory matter prima facie unlawful**

s 370 reloc (as 1889 53 Vic No. 12 s 7) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

**Absolute protection—privilege of Parliament**

s 371 amd 1995 No. 37 s 459(2) sch 3 pt 1 div 2 (as amd 1995 No. 58 s 4 sch 1)  
reloc (as 1889 53 Vic No. 12 s 10A) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

**Absolute protection—privileges of Judges, witnesses and others in courts of justice**

- s 372      amd 1995 No. 37 s 459(2) sch 3 pt 1 div 2  
               reloc (as 1889 53 Vic No. 12 s 11) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

**Absolute protection—reports of official inquiries**

- s 373      amd 1995 No. 37 s 459(2) sch 3 pt 1 div 2  
               reloc (as 1889 53 Vic No. 12 s 12) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

**Protection—reports of matters of public interest**

- s 374      amd 1995 No. 37 s 459(2) sch 3 pt 1 div 2  
               reloc (as 1889 53 Vic No. 12 s 13) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

**Protection—fair comment**

- s 375      amd 1995 No. 37 s 459(2) sch 3 pt 1 div 2 (as amd 1995 No. 58 s 4 sch 1)  
               reloc (as 1889 53 Vic No. 12 s 14) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

**Protection—truth**

- s 376      reloc (as 1889 53 Vic No. 12 s 15) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

**Qualified protection—excuse**

- s 377      reloc (as 1889 53 Vic No. 12 s 16) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

**Good faith**

- s 378      reloc (as 1889 53 Vic No. 12 s 17) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

**Relevancy and public benefit questions of fact**

- s 379      reloc (as 1889 53 Vic No. 12 s 19) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

**Unlawful publication of defamatory matter**

- s 380      amd 1988 No. 88 s 5 sch 2; 1995 No. 37 s 459(2) sch 3 pt 1 div 2  
               reloc (as 1889 53 Vic No. 12 s 9) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

**Defamation of members of Parliament by strangers**

- s 381      amd 1988 No. 88 s 5 sch 2; 1995 No. 37 s 459(2) sch 3 pt 1 div 2  
               reloc (as 1889 53 Vic No. 12 s 10) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

**Defence in case of defamation by words, sounds, signs, signals, or gestures**

- s 382      om 1995 No. 37 s 459(2) sch 3 pt 1 div 2

**Publishing or threatening to publish defamatory matter with intent to extort money**

- s 383      amd 1988 No. 88 s 5 sch 2  
               om 1995 No. 37 s 459(2) sch 3 pt 1 div 2

**Liability of proprietor, publisher, and editor of periodicals**

- s 384      reloc (as 1889 53 Vic No. 12 s 30) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

**Protection of innocent sellers of periodicals**

- s 385      reloc (as 1889 53 Vic No. 12 s 31) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

**Protection of innocent sellers of books**

- s 386      reloc (as 1889 53 Vic No. 12 s 32) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

**Protection of employers**

- s 387      reloc (as 1889 53 Vic No. 12 s 33) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

**Prosecution of newspapers to be by sanction of a Judge after notice**

s 388        reloc (as 1889 53 Vic No. 12 s 34) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

**Summary jurisdiction in trivial cases of defamation**

s 389        reloc (as 1889 53 Vic No. 12 s 35) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

**Things capable of being stolen**

s 390        amd 1986 No. 1 s 26

**Definition of “stealing”**

s 391        amd 1943 7 Geo 6 No. 14 s 15; 1989 No. 17 s 37

**Punishment of stealing**

s 398        amd 1961 10 Eliz 2 No. 11 s 13; 1964 No. 14 s 9; 1973 No. 88 s 5; 1986  
No. 1 s 27; 1988 No. 88 s 5 sch 2; 1989 No. 17 s 38

**Concealing registers**

s 399        amd 1988 No. 88 s 5 sch 2

**Concealing wills**

s 400        amd 1988 No. 88 s 5 sch 2

**Concealing deeds**

s 401        amd 1988 No. 88 s 5 sch 2

**Killing animals with intent to steal**

s 402        renum as s 444A 1986 No. 1 s 38(a)–(b)

**Using registered brands with criminal intention**

s 404        renum as s 444B 1986 No. 1 s 39(a)–(b)

**Fraudulently dealing with minerals in mines**

s 405        amd 1988 No. 88 s 5 sch 2

**Fraudulent disposition of mortgaged goods**

s 407        amd 1988 No. 88 s 5 sch 2

**Fraudulent appropriation of power**

s 408        amd 1988 No. 88 s 5 sch 2

**Unlawful user or possession of motor vehicles, aircraft or vessels**

s 408A      ins 1957 6 Eliz 2 No. 1 s 2  
amd 1961 10 Eliz 2 No. 11 s 14; 1964 No. 14 s 10  
sub 1975 No. 27 s 11  
amd 1988 No. 88 s 5 sch 2

**Indictable offences relating to user or possession of motor vehicles, aircraft or vessels that may be dealt with summarily**

s 408B      ins 1976 No. 25 s 5  
amd 1988 No. 88 s 5 sch 2; 1992 No. 44 s 235 sch 3

**Misappropriation of property**

s 408C      ins 1979 No. 2 s 5  
amd 1988 No. 88 s 5 sch 2; 1989 No. 17 s 39

**Punishment of robbery**

s 411        amd 1986 No. 1 s 28; 1988 No. 88 s 5 sch 2

**Attempted robbery—accompanied by wounding, or in company**

s 412 amd 1986 No. 1 s 29; 1988 No. 88 s 5 sch 2

**Assault with intent to steal**

s 413 amd 1988 No. 88 s 5 sch 2

**Demanding property with menaces with intent to steal**

s 414 amd 1988 No. 88 s 5 sch 2

**Demanding property, benefit or performance of services with threats**

prov hdg amd 1976 No. 25 s 6(a)

s 415 sub 1961 10 Eliz 2 No. 11 s 15;  
amd 1976 No. 25 s 6(b); 1977 No. 13 s 15  
sub 1984 No. 32 s 4  
amd 1988 No. 88 s 5 sch 2

**Attempts at extortion by threats**

s 416 amd 1922 13 Geo 5 No. 2 s 3(xv); 1976 No. 25 s 7; 1986 No. 1 s 30; 1988 No. 88 s 5 sch 2; 1990 No. 93 s 14

**Procuring execution of deeds etc. by threats**

s 417 amd 1988 No. 88 s 5 sch 2; 1989 No. 17 s 40

**Taking control of aircraft**

s 417A ins 1964 No. 14 s 11  
amd 1988 No. 88 s 5 sch 2

**Housebreaking—burglary**

s 419 amd 1976 No. 25 s 8; 1988 No. 88 s 5 sch 2

**Entering dwelling house with intent to commit an indictable offence**

prov hdg amd 1976 No. 25 s 9(a)

s 420 amd 1976 No. 25 s 9(b); 1988 No. 88 s 5 sch 2

**Breaking into places and committing indictable offences**

s 421 amd 1945 9 Geo 6 No. 11 s 7  
sub 1975 No. 27 s 12  
amd 1988 No. 88 s 5 sch 2

**Breaking into places with intent to commit indictable offences**

s 422 amd 1945 9 Geo 6 No. 11 s 8  
sub 1975 No. 27 s 13  
amd 1988 No. 88 s 5 sch 2

**Breaking into Place of Worship and Committing Crime**

s 423 om 1975 No. 27 s 14

**Breaking into Place of Worship with Intent to Commit a Crime**

s 424 om 1975 No. 27 s 15

**Persons found armed etc. with intent to commit an indictable offence**

prov hdg amd 1976 No. 25 s 10(a)

s 425 amd 1976 No. 25 s 10(b); 1988 No. 88 s 5 sch 2

**Definitions for purposes of chapter**

s 425A ins 1943 7 Geo 6 No. 14 s 16  
 amd 1945 9 Geo 6 No. 11 s 9  
 sub 1975 No. 27 s 16

**CHAPTER 40—OBTAINING PROPERTY BY FALSE  
 PRETENCES—CHEATING**

ch hdg amd 1900 64 Vic No. 7 s 1 sch

**Definition**

s 426 amd 1961 10 Eliz 2 No. 11 s 16

**Obtaining goods or credit by false pretence or wilfully false promise**

s 427 sub 1961 10 Eliz 2 No. 11 s 17  
 amd 1988 No. 88 s 5 sch 2

**Obtaining property by passing valueless cheques**

s 427A ins 1975 No. 27 s 17  
 amd 1986 No. 1 s 31; 1988 No. 88 s 5 sch 2

**Obtaining execution of valuable security by a false pretence or wilfully false promise**

s 428 sub 1961 10 Eliz 2 No. 11 s 18  
 amd 1988 No. 88 s 5 sch 2

**Cheating**

s 429 amd 1988 No. 88 s 5 sch 2

**Conspiracy to defraud**

s 430 amd 1943 7 Geo 6 No. 14 s 17; 1986 No. 1 s 32; 1988 No. 88 s 5 sch 2

**Frauds on sale or mortgage of property**

s 431 amd 1988 No. 88 s 5 sch 2

**Pretending to exercise witchcraft or tell fortunes**

s 432 amd 1988 No. 88 s 5 sch 2

**Receiving stolen property etc.**

s 433 amd 1943 7 Geo 6 No. 14 s 18; 1988 No. 88 s 5 sch 2

**Receiving after change of ownership**

prov hdg amd 1900 64 Vic No. 7 s 1 sch  
 s 434 amd 1943 7 Geo 6 No. 14 s 19

**Taking reward for recovery of property obtained by means of indictable offences**

s 435 amd 1988 No. 88 s 5 sch 2

**Trustees fraudulently disposing of trust property**

s 436 amd 1945 9 Geo 6 No. 11 s 10; 1975 No. 27 s 41 sch; 1986 No. 1 s 33;  
 1988 No. 88 s 5 sch 2

**Directors and officers of corporations or companies fraudulently appropriating property, or keeping fraudulent accounts, or falsifying books or accounts**

s 437 amd 1975 No. 27 s 41 sch; 1986 No. 1 s 34; 1988 No. 88 s 5 sch 2

**False statements by officials of companies**

s 438      amd 1975 No. 27 s 41 sch; 1986 No. 1 s 35; 1988 No. 88 s 5 sch 2

**Misappropriation by members of local governments**

s 440      amd 1988 No. 88 s 5 sch 2

**Fraudulent false accounting**

s 441      amd 1975 No. 27 s 41 sch; 1988 No. 88 s 5 sch 2

**False accounting by public officer**

s 442      amd 1988 No. 88 s 5 sch 2

**CHAPTER 42A—SECRET COMMISSIONS**

ch hdg    ins 1931 22 Geo 5 No. 40 s 2

**Definitions**

s 442A    ins 1931 22 Geo 5 No. 40 s 2

**Receipt or solicitation of secret commission by an agent**

s 442B    ins 1931 22 Geo 5 No. 40 s 3

**Secret gifts received by parent, wife, child, partner etc. of agent**

s 442C    ins 1931 22 Geo 5 No. 40 s 4

**False or misleading receipt or account**

s 442D    ins 1931 22 Geo 5 No. 40 s 5

**Secret commission for advice given**

s 442E    ins 1931 22 Geo 5 No. 40 s 6

**Secret commission to trustee in return for substituted appointment**

s 442F    ins 1931 22 Geo 5 No. 40 s 7

**Liability of director etc. acting without authority**

s 442G    ins 1931 22 Geo 5 No. 40 s 8

**Offences**

s 442H    ins 1931 22 Geo 5 No. 40 s 9  
          amd 1934 25 Geo 5 No. 11 s 11

**Penalty on conviction**

s 442I    ins 1931 22 Geo 5 No. 40 s 10  
          amd 1988 No. 88 s 5 sch 2

**Court may order withdrawal of trifling or technical cases**

s 442J    ins 1931 22 Geo 5 No. 40 s 11

**Witness giving answers criminating himself or herself**

s 442K    ins 1931 22 Geo 5 No. 40 s 12

**Certificate to witness**

s 442L    ins 1931 22 Geo 5 No. 40 s 12

**Custom of itself no defence**

s 442M    ins 1931 22 Geo 5 No. 40 s 13

**Indictable offences which may be dealt with summarily**

**s 443** amd 1943 7 Geo 6 No. 14 s 20(1); 1961 10 Eliz 2 No. 11 s 19; 1964 No. 14 s 12; 1973 No. 88 s 6; 1975 No. 27 s 18; 1976 No. 25 ss 11, 19 sch; 1986 No. 1 s 36; 1988 No. 88 s 5 sch 2; 1989 No. 17 s 41

**Procedure**

**s 444** amd 1964 No. 14 s 13; 1976 No. 25 s 12; 1989 No. 17 s 42

**CHAPTER 44—OFFENCES ANALOGOUS TO STEALING RELATING TO ANIMALS**

**ch hdg** amd 1986 No. 1 s 37(a)

**Chapter Division 1—Indictable offences**

**ch div hdg** ins 1986 No. 1 s 37(b)

**Killing animals with intent to steal**

**s 444A** (prev s 402) renum 1986 No. 1 s 39(a)–(b)  
amd 1986 No. 1 s 38(c)

**Using registered brands with criminal intention**

**s 444B** (prev s 404) renum 1986 No. 1 s 39(a)–(b)  
amd 1986 No. 1 s 39(c); amd 1988 No. 88 s 5 sch 2

**Chapter Division 2—Offences relating to animals punishable on summary conviction**

**ch div hdg** ins 1986 No. 1 s 40

**Unlawfully using cattle**

**s 445** amd 1931 22 Geo 5 No. 40 s 15; 1961 10 Eliz 2 No. 11 s 20; 1986 No. 1 s 41; 1988 No. 88 s 5 sch 2

**Suspicion of stealing cattle**

**s 446** amd 1961 10 Eliz 2 No. 11 s 21; 1973 No. 88 s 7; 1986 No. 1 s 42; 1988 No. 88 s 5 sch 2

**Illegal branding**

**s 447** amd 1961 10 Eliz 2 No. 11 s 22; 1973 No. 88 s 8; 1986 No. 1 s 43; 1988 No. 88 s 5 sch 2; R1 (see RA s 39)

**Defacing brands**

**s 448** amd 1961 10 Eliz 2 No. 11 s 23; 1973 No. 88 s 9; 1986 No. 1 s 44; 1988 No. 88 s 5 sch 2

**Having in possession an animal with defaced brand**

**s 448A** ins 1931 22 Geo 5 No. 40 s 16  
amd 1961 10 Eliz 2 No. 11 s 24; 1973 No. 88 s 10; 1986 No. 1 s 45; 1988 No. 88 s 5 sch 2

**Chapter Division 3—Procedural and auxiliary provisions**

**ch div hdg** ins 1986 No. 1 s 46

**Time for prosecution**

**s 449** amd 1931 22 Geo 5 No. 40 s 17; 1961 10 Eliz 2 No. 11 s 25; 1986 No. 1 s 47

**Committal for trial**

s 450 amd 1986 No. 1 s 48

**Arrest without warrant**

s 450A ins 1986 No. 1 s 49

**Warrant in first instance**

s 450B ins 1986 No. 1 s 50

**Effect of civil proceedings**

s 450C ins 1986 No. 1 s 51

**CHAPTER 44A—SPECIAL PROVISIONS IN RESPECT OF OFFENCES  
RELATING TO ANIMALS**

ch hdg ins 1986 No. 1 s 52

**Meaning of term “animal”**

s 450D ins 1986 No. 1 s 53

**Animals not tendered in certain cases**

s 450E ins 1986 No. 1 s 54

**Animal valuers and valuations**

s 450F ins 1986 No. 1 s 55

**Identification of animals and return to owners prior to tender in certain cases**

s 450G ins 1986 No. 1 s 56

**Licence disqualification where commission of offence facilitated by licence or  
use of vehicle**s 450H ins 1986 No. 1 s 57  
amd 1989 No. 17 s 43**Forfeiture in cases of conviction for offences under specified sections**s 450I ins 1986 No. 1 s 58  
amd 1989 No. 17 s 44**CHAPTER 44B—OTHER OFFENCES ANALOGOUS TO STEALING  
PUNISHABLE ON SUMMARY CONVICTION**

ch hdg ins 1986 No. 1 s 59

**Unlawful possession of shipwrecked goods**

s 451 amd 1988 No. 88 s 5 sch 2

**Offering shipwrecked goods for sale**

s 452 amd 1988 No. 88 s 5 sch 2

**Unlawfully dredging for oysters**s 453 amd 1988 No. 88 s 5 sch 2  
om 1994 No. 37 s 244 sch 2**Unlawfully taking fish**

s 454 om 1994 No. 37 s 244 sch 2

**Effect of summary conviction and of civil proceedings**

s 457 amd 1986 No. 1 s 60

**Arson**

s 461      amd 1948 12 Geo 6 No. 48 s 10; 1988 No. 88 s 5 sch 2

**Attempts to commit arson**

s 462      amd 1988 No. 88 s 5 sch 2

**Setting fire to crops and growing plants**

s 463      amd 1986 No. 1 s 61; 1988 No. 88 s 5 sch 2

**Attempting to set fire to crops etc.**

s 464      amd 1986 No. 1 s 62; 1988 No. 88 s 5 sch 2

**Casting away ships**

s 465      amd 1986 No. 1 s 63; 1988 No. 88 s 5 sch 2

**Attempts to cast away ships**

s 466      amd 1986 No. 1 s 64; 1988 No. 88 s 5 sch 2

**Obstructing and injuring railways**

s 467      amd 1900 64 Vic No. 7 s 1 sch; 1986 No. 1 s 65; 1988 No. 88 s 5 sch 2

**Endangering the safe use of an aircraft**

s 467A     ins 1964 No. 14 s 14  
            amd 1988 No. 88 s 5 sch 2

**Injuring animals**

s 468      amd 1986 No. 1 s 66; 1988 No. 88 s 5 sch 2; 1989 No. 17 s 45

**Malicious injuries in general**

s 469      amd 1964 No. 14 s 15; 1986 No. 1 s 67; 1988 No. 88 s 5 sch 2

**Attempts to destroy property by explosives**

s 470      amd 1986 No. 1 s 68; 1988 No. 88 s 5 sch 2

**Unlawful deposition of explosives**

s 470A     ins 1943 7 Geo 6 No. 14 s 21  
            amd 1988 No. 88 s 5 sch 2

**Attempts to injure mines**

s 471      amd 1986 No. 1 s 69; 1988 No. 88 s 5 sch 2

**Interfering with marine signals**

s 472      amd 1986 No. 1 s 70; 1988 No. 88 s 5 sch 2

**Interfering with navigation works**

s 473      amd 1986 No. 1 s 71; 1988 No. 88 s 5 sch 2

**Communicating infectious diseases to animals**

s 474      amd 1986 No. 1 s 72; 1988 No. 88 s 5 sch 2

**Travelling with infected animals**

s 475      amd 1986 No. 1 s 73; 1988 No. 88 s 5 sch 2

**Removing boundary marks**

s 476      amd 1988 No. 88 s 5 sch 2

**Obstructing railways**

s 477      amd 1988 No. 88 s 5 sch 2

**Sending letters threatening to burn or destroy**

s 478      amd 1988 No. 88 s 5 sch 2

**Arrest without warrant**

s 479      sub 1943 7 Geo 6 No. 14 s 22

**Offences which may be dealt with summarily**

s 480      amd 1943 7 Geo 6 No. 14 s 23; 1961 10 Eliz 2 No. 11 s 26; 1964 No. 14  
s 16; 1975 No. 27 s 19; 1976 No. 25 s 19 sch; 1988 No. 88 s 5 sch 2;  
1989 No. 17 s 46

**Punishment of forgery in general**

s 488      amd 1986 No. 1 s 74; 1988 No. 88 s 5 sch 2; 1990 No. 80 s 3 sch 1

**Obliterating crossings on cheques**

s 493      amd 1988 No. 88 s 5 sch 2

**Making documents without authority**

s 494      amd 1988 No. 88 s 5 sch 2

**Demanding property upon forged testamentary instruments**

s 495 hdg    amd 1900 64 Vic No. 7 s 1 sch

**Purchasing forged bank notes**

s 496      amd 1988 No. 88 s 5 sch 2

**Falsifying warrants for money payable under public authority**

s 498      amd 1988 No. 88 s 5 sch 2

**Falsification of registers**

s 499      amd 1988 No. 88 s 5 sch 2

**Sending false certificate of marriage to registrar**

s 500      amd 1988 No. 88 s 5 sch 2

**False statements for the purpose of registers of births, deaths, and marriages**

s 501      amd 1988 No. 88 s 5 sch 2

**Attempts to procure unauthorised status**

s 502      amd 1988 No. 88 s 5 sch 2

**Counterfeiting trademarks**

s 503      amd 1988 No. 88 s 5 sch 2

**Circulating false copies of rules or lists of members of societies or companies**

s 504      amd 1988 No. 88 s 5 sch 2

**Sending false telegrams**

s 505      amd 1988 No. 88 s 5 sch 2

**Forgery of sailors' tickets or documents under Factories and Shops Act**

s 506      amd 1988 No. 88 s 5 sch 2

**Instruments and materials for forgery**

s 510      amd 1988 No. 88 s 5 sch 2

**Counterfeit stamps**

s 511      amd 1988 No. 88 s 5 sch 2

**Paper for postal purposes**

s 512      amd 1988 No. 88 s 5 sch 2

**Paper and dies for postage stamps**

s 513      amd 1988 No. 88 s 5 sch 2

**Personation in general**

s 514      amd 1988 No. 88 s 5 sch 2

**Falsely acknowledging deeds, recognisances etc.**

s 515      amd 1988 No. 88 s 5 sch 2

**Lending certificates for personation**

s 517      amd 1988 No. 88 s 5 sch 2

**Abscinding with property in contemplation of or immediately after insolvency**

s 519      amd 1988 No. 88 s 5 sch 2

**Frauds by insolvents**

s 520      amd 1988 No. 88 s 5 sch 2

**Other frauds by insolvents**

s 521      amd 1988 No. 88 s 5 sch 2

**Falsification of books by insolvents**

s 522      amd 1988 No. 88 s 5 sch 2

**Frauds by insolvents in course of insolvency proceedings**

s 523      amd 1988 No. 88 s 5 sch 2

**Failure by insolvents to discover property**

s 524      amd 1988 No. 88 s 5 sch 2

**Failure to keep proper books**

s 525      amd 1988 No. 88 s 5 sch 2

**Concealing documents**

s 526      amd 1988 No. 88 s 5 sch 2

**Receiving insolvent's property with intent to defraud**

s 527      amd 1988 No. 88 s 5 sch 2

**Making false claim in insolvency**

s 528      amd 1988 No. 88 s 5 sch 2

**Concealing property of insolvents**

s 529      amd 1988 No. 88 s 5 sch 2

**Fraudulent dealing with property by debtors**

s 530      amd 1988 No. 88 s 5 sch 2

**Concealment by officers of companies on reduction of capital**

s 531      amd 1988 No. 88 s 5 sch 2

**Falsification of books of companies**

s 532      amd 1988 No. 88 s 5 sch 2

**Mixing uncertified with certified articles**

s 533 amd 1988 No. 88 s 5 sch 2

**Intimidation of workers and employers**

s 534 amd 1915 6 Geo 5 No. 31 s 36; 1929 20 Geo 5 No. 28 s 119(1); 1932 23 Geo 5 No. 36 s 85(1); 1988 No. 88 s 5 sch 2

**Punishment of attempts to commit crimes**

s 536 amd 1922 13 Geo 5 No. 2 s 3(xvi); 1988 No. 88 s 5 sch 2

**Reduction of punishment**

s 538 amd 1988 No. 88 s 5 sch 2

**Attempts to procure commission of criminal acts**

s 539 amd 1900 64 Vic No. 7 s 1 sch  
sub 1989 No. 17 s 47

**Preparation to commit crimes with explosives etc.**

s 540 amd 1900 64 Vic No. 7 s 1 sch; 1986 No. 1 s 75; 1988 No. 88 s 5 sch 2

**Conspiracy to commit crime**

s 541 amd 1986 No. 1 s 76; 1988 No. 88 s 5 sch 2

**Conspiracy to commit other offences**

s 542 amd 1986 No. 1 s 77; 1988 No. 88 s 5 sch 2

**Other conspiracies**

s 543 amd 1986 No. 1 s 78; 1988 No. 88 s 5 sch 2

**Industrial disputes**

s 543A ins 1915 6 Geo 5 No. 31 s 37  
om 1929 20 Geo 5 No. 28 s 119(2)  
ins 1932 23 Geo 5 No. 36 s 85(2)

**Accessories after the fact to crimes**

s 544 amd 1988 No. 88 s 5 sch 2

**Accessories after the fact to misdemeanours and some other offences**

s 545 amd 1973 No. 88 s 11; 1988 No. 88 s 5 sch 2

**Arrest of persons found committing offences on aircraft**

s 547A ins 1964 No. 14 s 17

**Bail**

s 555 amd 1964 No. 14 s 18  
om 1980 No. 35 s 4(1) sch 1

**Forfeiture of recognizance before appointed day**

s 555A ins 1975 No. 27 s 20  
om 1980 No. 35 s 4(1) sch 1

**Summary convictions—time**

s 556 amd 1961 10 Eliz 2 No. 11 s 27

**Place of trial**

s 557 amd 1956 5 Eliz 2 No. 5 s 4; 1989 No. 17 s 48

**Change of place of trial**

s 559 amd 1977 No. 13 s 16; 1980 No. 35 s 4(1) sch 1; 1989 No. 17 s 49

**Ex officio informations**

s 561 amd 1956 5 Eliz 2 No. 5 s 5

**Arrest of person charged in ex officio information**

s 562 amd 1900 64 Vic No. 7 s 1 sch; 1980 No. 35 s 4(1) sch 1

**Particular indictments**

s 566 amd 1979 No. 2 s 6

**Joinder of charges**

s 567 amd 1971 No. 41 s 7  
sub 1976 No. 25 s 13

**Cases in which several charges may be joined**

s 568 amd 1945 9 Geo 6 No. 11 s 11; 1961 10 Eliz 2 No. 11 s 28; 1964 No. 14  
s 19; 1976 No. 25 s 14; 1979 No. 2 s 7; 1986 No. 1 s 79

**Indictment containing count of murder or manslaughter**

s 576 amd 1971 No. 41 s 7  
sub 1976 No. 25 s 15

**Charge of homicide of child**

s 577 amd 1971 No. 41 s 7

**Charge of offence of a sexual nature**

s 578 amd 1913 4 Geo 5 No. 25 s 2(v); 1976 No. 25 s 19 sch  
sub 1989 No. 17 s 50

**Stealing, false pretences, and cheating**

s 581 amd 1979 No. 2 s 8; 1986 No. 1 s 80

**Charge of stealing cattle**

s 588 amd 1986 No. 1 s 81

**Charges of stealing certain animals and of killing certain animals with intent to steal**

s 588A ins 1986 No. 1 s 82

**Right to be tried**

s 590 sub 1975 No. 27 s 21

**Notice of alibi**

s 590A ins 1975 No. 27 s 22  
amd 1986 No. 1 s 83

**Adjournment of trial**

s 592 sub 1975 No. 27 s 23

**Directions as to trial upon adjournment**

s 593 sub 1975 No. 27 s 24

**Enlargement of notices to witnesses on adjournment of trial**

**s 593A** ins 1975 No. 27 s 25  
 amd 1977 No. 13 s 17  
 sub 1980 No. 35 s 4(1) sch 1

**Effect of enlargement of recognizance**

**s 593B** ins 1975 No. 27 s 25  
 amd 1988 No. 13 s 18  
 om 1980 No. 35 s 4(1) sch 1

**Accused person to be called upon to plead to indictment**

**s 594** amd 1975 No. 27 s 26

**Presence in court and plea where accused person is a corporation**

**s 594A** ins 1978 No. 10 s 6

**Separate trials where 2 or more charges against the same person**

**s 597A** ins 1976 No. 25 s 16  
 amd 1980 No. 35 s 4(1) sch 1

**Pleas**

**s 598** amd 1976 No. 25 s 17

**Accused person to be informed of the person's right of challenge**

**s 608** om 1995 No. 42 s 76 sch 2

**Challenge to array**

**s 609** om 1995 No. 42 s 76 sch 2

**Challenges to individual jurors for cause**

**s 610** om 1995 No. 42 s 76 sch 2

**Time for challenging**

**s 611** om 1995 No. 42 s 76 sch 2

**Ascertainment of facts as to challenge**

**s 612** om 1995 No. 42 s 76 sch 2

**Want of understanding of accused person**

**s 613** amd 1961 10 Eliz 2 No. 11 s 29

**Jury to be sworn and informed of charge**

**s 614** om 1995 No. 42 s 76 sch 2

**Discharge of juror by court**

**s 615** om 1995 No. 42 s 76 sch 2

**Presence of accused**

**s 617** sub 1982 No. 34 s 2

**Evidence in defence**

**s 618** sub 1961 10 Eliz 2 No. 11 s 30; 1975 No. 27 s 27

**Prisoner and husband and wife of prisoner competent but not compellable witnesses**

**s 618A** ins 1961 10 Eliz 2 No. 11 s 31  
 om 1977 No. 47 s 3(7) sch 1 pt G

**Speeches by counsel**

s 619      amd 1975 No. 27 s 28

**Jury not to separate**

s 621      amd 1922 13 Geo 5 No. 2 s 3(xvii); 1971 No. 41 s 7; 1973 No. 53 s 2  
om 1995 No. 42 s 76 sch 2

**Confinement of jury**

s 622      amd 1976 No. 39 s 38  
om 1995 No. 42 s 76 sch 2

**View**

s 623      om 1995 No. 42 s 76 sch 2

**Discharge of jury**

s 626      om 1995 No. 42 s 76 sch 2

**Incapacity of Judge**

s 627      om 1995 No. 42 s 76 sch 2

**Incapacity and unavailability of juror**

s 628      amd 1976 No. 39 s 39  
sub 1982 No. 59 s 3  
om 1995 No. 42 s 76 sch 2

**Verdict on Sunday**

s 629      om 1995 No. 42 s 76 sch 2

**Plea of guilty during trial**

s 631A     ins 1989 No. 17 s 51

**Accomplices**

s 632      sub 1986 No. 1 s 84

**Evidence of blood relationship**

s 636      amd 1943 7 Geo 6 No. 14 s 24  
sub 1989 No. 17 s 52

**Evidence of authority**

s 638      amd 1986 No. 1 s 85

**Evidence on trial for defamation**

s 640      reloc (as 1889 53 Vic No. 12 s 36) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

**Evidence on certain charges of stealing money**

s 641      amd 1945 9 Geo 6 No. 11 s 12

**Admissions**

s 644      amd 1943 7 Geo 6 No. 14 s 25; 1961 10 Eliz 2 No. 11 s 32; 1986 No. 1  
s 86

**Accused person insane during trial**

s 645      amd 1984 No. 66 s 58

**Acquittal on ground of insanity**

s 647      amd 1984 No. 66 s 59

**Arrest of judgment**

**s 649** amd 1913 4 Geo 5 No. 23 s 2(2)

**Sentence**

**s 650** amd 1948 12 Geo 6 No. 48 s 11; 1961 10 Eliz 2 No. 11 s 33; 1980 No. 35  
s 4(1) sch 1  
sub 1989 No. 17 s 53  
amd 1992 No. 48 s 207 sch

**Outstanding charges may be taken into account in passing sentence**

**s 651** om 1922 13 Geo 5 No. 2 s 3(xviii)  
ins 1986 No. 1 s 87  
om 1992 No. 48 s 207 sch

**Recording Sentence of Death**

**s 652** om 1922 13 Geo 5 No. 2 s 3(xviii)

**Pregnant Women**

**s 653** om 1922 13 Geo 5 No. 2 s 3(xviii)

**Solitary Confinement**

**s 654** om 1986 No. 1 s 88

**Whipping**

**s 655** om 1986 No. 1 s 88

**Conditional Suspension of Punishment on First Conviction**

**s 656** amd 1943 7 Geo 6 No. 14 s 26; 1948 12 Geo 6 No. 48 s 12; 1971 No. 41  
s 8; 1988 No. 88 s 5 sch 2  
om 1992 No. 48 s 207 sch

**Discharge of Offender in certain Cases**

**s 657** om 1992 No. 48 s 207 sch

**Power to permit release of certain persons charged**

**s 657A** ins 1975 No. 27 s 29  
om 1992 No. 48 s 207 sch

**Assessment of Value of Property: Appropriation of Fines dependent on Value**

**s 658** om 1992 No. 48 s 207 sch

**CHAPTER 64A—HABITUAL CRIMINALS**

**ch hdg** ins 1914 5 Geo 5 No. 22 s 2(2)  
om 1992 No. 48 s 197(1)

**Judge may Declare Convicted Person an Habitual Criminal**

**s 659A** ins 1914 5 Geo 5 No. 22 ss 2(2), 3  
amd 1945 9 Geo 6 No. 11 s 13; 1961 10 Eliz 2 No. 11 s 34; 1988 No. 88  
s 5 sch 2  
om 1992 No. 48 s 197(1)

**Reformatory Prisons**

**s 659B** ins 1914 5 Geo 5 No. 22 ss 2(2), 4  
om 1988 No. 88 s 5 sch 2

**Prisons Act and Code to apply**

**s 659C** ins 1914 5 Geo 5 No. 22 ss 2(2), 5  
om 1988 No. 88 s 5 sch 2

**Detention of Habitual Criminals**

**s 659D** ins 1914 5 Geo 5 No. 22 ss 2(2), 6  
amd 1988 No. 88 s 5 sch 2  
om 1992 No. 48 s 197(1)

**Alcoholic Liquor Prohibited**

**s 659E** ins 1914 5 Geo 5 No. 22 ss 2(2), 7  
om 1988 No. 88 s 5 sch 2

**Prisoners to be Employed**

**s 659F** ins 1914 5 Geo 5 No. 22 ss 2(2), 8  
om 1988 No. 88 s 5 sch 2

**Discharge**

**s 659G** ins 1914 5 Geo 5 No. 22 ss 2(2), 9  
om 1992 No. 48 s 197(1)

**Conditions under which Offender may be Arrested**

**s 659H** ins 1914 5 Geo 5 No. 22 ss 2(2), 10  
amd 1988 No. 88 s 5 sch 2  
om 1992 No. 48 s 197(1)

**Regulations**

**s 659I** ins 1914 5 Geo 5 No. 22 ss 2(2), 11  
om 1988 No. 88 s 5 sch 2

**Costs in cases of defamation**

**s 661** amd 1995 No. 37 s 459(2) sch 3 pt 1 div 2  
reloc (as 1889 53 Vic No. 12 s 37) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

**CHAPTER 65A—COMPENSATION FOR INJURY**

**ch hdg** ins 1968 No. 44 s 4  
om 1995 No. 54 s 45 sch 2

**Interpretation**

**s 663A** ins 1968 No. 44 s 4  
def “**Minister**” amd 1990 No. 80 s 3 sch 1  
def “**prescribed amount**” ins 1975 No. 27 s 30  
amd 1984 No. 28 s 3  
om 1995 No. 54 s 45 sch 2

**Particular prescribed amounts**

**s 663AA** ins 1984 No. 28 s 4  
om 1995 No. 54 s 45 sch 2

**Court may order payment for compensation**

**s 663B** ins 1968 No. 44 s 4  
amd 1975 No. 27 s 31; 1984 No. 28 s 5  
om 1995 No. 54 s 45 sch 2

**Further matters for consideration by court in determining amount of order**

**s 663BA** ins 1984 No. 28 s 6  
om 1995 No. 54 s 45 sch 2

**Governor in Council may approve ex gratia payment where offender convicted**

**s 663C** ins 1968 No. 44 s 4  
amd 1975 No. 27 s 32  
om 1995 No. 54 s 45 sch 2

**Governor in Council may approve ex gratia payment in other cases**

**s 663D** ins 1968 No. 44 s 4  
amd 1975 No. 27 s 33  
om 1995 No. 54 s 45 sch 2

**General**

**s 663E** ins 1968 No. 44 s 4  
om 1995 No. 54 s 45 sch 2

**Execution of Sentence of Death**

**s 664** om 1922 13 Geo 5 No. 2 s 3(xix)

**Commutation of Capital Sentence**

**s 665** om 1922 13 Geo 5 No. 2 s 3(xix)

**Whipping**

**s 666** om 1986 No. 1 s 89

**CHAPTER 66—EXECUTION OF SENTENCE**

**ch hdg** om 1995 No. 37 s 459(2) sch 3 pt 1 div 2

**Levy of fine and costs on conviction for defamation**

**s 667** reloc (as 1889 53 Vic No. 12 s 38) 1995 No. 37 s 459(2) sch 3 pt 1 div

**Definitions**

**s 668** om 1913 4 Geo 5 No. 23 s 2(1)  
ins 1913 4 Geo 5 No. 23 ss 3–4  
amd 1961 10 Eliz 2 No. 11 s 35; 1992 No. 48 s 207 sch  
def “**Court**” sub 1991 No. 68 s 111 sch 2  
def “**sentence**” amd 1989 No. 17 s 54

**Court of Appeal**

**s 668A** ins 1913 4 Geo 5 No. 23 ss 3, 5  
amd 1986 No. 1 s 90  
om 1991 No. 68 s 111 sch 2

**Reservation of points of law**

**s 668B** ins 1913 4 Geo 5 No. 23 ss 3, 6  
amd 1980 No. 35 s 4(1) sch 1

**Appeal from arrest of judgment**

**s 668C** ins 1913 4 Geo 5 No. 23 ss 3, 7

**Right of appeal**

**s 668D** ins 1913 4 Geo 5 No. 23 ss 3, 8

**Determination of appeal in ordinary cases**

s 668E ins 1913 4 Geo 5 No. 23 ss 3, 9

**Powers of Court in special cases**

s 668F ins 1913 4 Geo 5 No. 23 ss 3, 10

**Power to grant new trial**

s 669 om 1913 4 Geo 5 No. 23 s 2(1)  
ins 1913 4 Geo 5 No. 23 ss 3, 11

**Appeal by Attorney-General**

s 669A ins 1939 3 Geo 6 No. 28 s 4  
sub 1975 No. 27 s 34  
amd 1989 No. 17 s 55; 1993 No. 68 s 11

**Revesting and restitution of property on conviction**

s 670 om 1913 4 Geo 5 No. 23 s 2(1)  
ins 1913 4 Geo 5 No. 23 ss 3, 12  
amd 1986 No. 1 s 91; 1992 No. 48 s 207 sch

**Time for appealing**

s 671 om 1913 4 Geo 5 No. 23 s 2(1)  
ins 1913 4 Geo 5 No. 23 ss 3, 13  
amd 1922 13 Geo 5 No. 2 s 3(xx); 1986 No. 1 s 92

**Judge's notes and report to be furnished on appeal**

s 671A ins 1913 4 Geo 5 No. 23 ss 3, 14

**Supplemental powers**

s 671B ins 1913 4 Geo 5 No. 23 ss 3, 15

**Legal Assistance to Appellant**

s 671C ins 1913 4 Geo 5 No. 23 ss 3, 16  
om 1974 No. 3 s 3(1)(b)

**Right of appellant to be present**

s 671D ins 1913 4 Geo 5 No. 23 ss 3, 17

**Appeals permitted in writing**

s 671E ins 1913 4 Geo 5 No. 23 ss 3, 18

**Costs of appeal**

s 671F ins 1913 4 Geo 5 No. 23 ss 3, 19  
amd 1975 No. 27 s 35

**Grant of bail to appellant and custody when attending Court**

s 671G ins 1913 4 Geo 5 No. 23 ss 3, 20  
amd 1980 No. 35 s 4(1) sch 1; 1986 No. 1 s 93; 1988 No. 88 s 5 sch 2

**Duties of registrar**

s 671H ins 1913 4 Geo 5 No. 23 ss 3, 21  
amd 1961 10 Eliz 2 No. 11 s 36; 1975 No. 27 s 36

**Documents, exhibits etc.**

s 671J ins 1913 4 Geo 5 No. 23 ss 3, 22

**Recording of trial proceedings**

**s 671K** ins 1913 4 Geo 5 No. 23 ss 3, 23  
sub 1986 No. 1 s 94

**Powers exercisable by a Judge**

**s 671L** ins 1913 4 Geo 5 No. 23 ss 3, 24  
amd 1980 No. 35 s 4(1) sch 1

**Appeals from the decisions of the Court**

**s 672** om 1913 4 Geo 5 No. 23 s 2(1)  
ins 1913 4 Geo 5 No. 23 ss 3, 25  
amd 1980 No. 35 s 4(1) sch 1

**Pardoning power preserved**

**s 672A** ins 1913 4 Geo 5 No. 23 ss 3, 26  
amd 1922 13 Geo 5 No. 2 s 3(xxi)

**Appeals from summary convictions**

**s 673** sub 1975 No. 27 s 37

**Appeal from Summary Convictions to District Court**

**s 674** om 1975 No. 27 s 38

**Conditional remission of sentence by Governor**

**s 675** amd 1988 No. 88 s 5 sch 2

**Summary Jurisdiction of Justices in case of Indictable Offences committed by Children not more than Twelve Years of Age**

**s 678** amd 1971 No. 41 s 7; 1986 No. 1 s 95  
om 1992 No. 44 s 235 sch 3

**Search warrant**

**s 679** amd 1943 7 Geo 6 No. 14 s 27; 1964 No. 14 s 20

**Search of aircraft**

**s 679A** ins 1964 No. 14 s 21

**Powers of police officers in respect of offences relating to certain animals**

**s 679B** ins 1973 No. 88 s 12  
amd 1986 No. 1 s 96

**Power of search on arrest**

**s 680A** ins 1943 7 Geo 6 No. 14 s 28

**Restitution of Property**

**s 685** om 1992 No. 48 s 207 sch

**Orders for restitution and compensation**

**s 685A** ins 1975 No. 27 s 39  
amd 1988 No. 88 s 5 sch 2; 1989 No. 17 s 56(a); 1989 No. 17 s 56(b)  
(never proclaimed into force and om 1994 No. 87 s 4(1) sch 3 pt 2)  
om 1992 No. 48 s 207 sch

**Orders for delivery of certain property**

**s 685B** ins 1986 No. 1 s 97

**Information by leave of the Court by private prosecutors****s 686** amd R1 (see RA s 39)**Effect of judgment for prosecutor an demurrer****s 692 hdg** amd 1908 8 Edw 7 No. 18 s 5 sch 3**Power to protect victim of violence by prohibiting publication of information about proceedings****s 695A** ins 1995 No. 54 s 45 sch 2**Court may direct certain persons to be prosecuted for perjury****s 697** amd 1980 No. 35 s 4(1) sch 1**Committal of fraudulent debtors****s 698** amd 1900 64 Vic No. 7 s 1 sch; 1980 No. 35 s 4(1) sch 1**Custody of girls under 18****prov hdg** amd 1913 4 Geo 5 No. 25 s 2(vi); 1974 No. 57 s 8 sch**s 701** amd 1913 4 Geo 5 No. 25 s 2(vi); 1943 7 Geo 6 No. 14 s 29; 1974 No. 57 s 8 sch**Limitation of Proceeding****s 703** om 1974 No. 75 s 4 sch**Copies of depositions to be allowed to persons committed for trial****s 705** amd 1980 No. 35 s 4(1) sch 1**Forms of criminal proceedings****s 707** amd 1913 4 Geo 5 No. 23 s 2(3); 1980 No. 35 s 4(1) sch 1; 1989 No. 17 s 57  
sub 1995 No. 58 s 4 sch 1

## **11 Transitional and savings provisions for Criminal Code**

**Section 2 of the Criminal Code Amendment Act of 1922 provides—****Abolition of capital punishment**

**2.** The sentence of punishment by death shall no longer be pronounced or recorded, and the punishment of death shall no longer be inflicted.

**Section 3 of the Criminal Code Amendment Act 1968 provides—**

### **Application of Act**

**3.** This Act does not apply in respect of compensation for injury suffered before the commencement of this Act.

**Sections 9–10 of the Criminal Code and the Offenders Probation and Parole Act Amendment Act 1971 provides—**

### **References in Acts (other than this Act) to Wilful Murder**

**9.** A reference in any Act (other than this Act), or in any instrument made under any such Act, to—

- (a) “wilful murder”;
- (b) “wilful murder or murder”;
- (c) “wilful murder and murder”;
- (d) “wilful murder, murder”,

shall, unless the context is such that it would be inappropriate or the contrary intention appears, be read as a reference to “murder” and the Act or instrument shall have effect accordingly.

### **Transitional**

**10.(1)** Where a person is charged on indictment with an offence against section 301 of *The Criminal Code* before the commencement of this Act and the trial on the indictment is continued after that commencement, the trial shall be continued, and punishment shall be imposed and enforced upon a conviction in the proceedings, as if this Act had not been passed.

**(2)** Where before the commencement of this Act a person has committed an offence against section 301 of *The Criminal Code* in respect of which he has not been charged on indictment before that commencement, he may be charged under section 302 of *The Criminal Code* as amended by this Part of this Act in respect of the act or omission constituting the offence as if at the time of doing the act or making the omission constituting the offence as

if at the time of doing the act or making the omission the said section 302 as so amended had been of force and effect.

**Section 19 of the Justices Act and the Criminal Code Amendment Act 1977 provides—**

### **Notes to sections of Code deemed to be headings**

**19.** Where, in the form in which a section inserted by way of amendment in *The Criminal Code* was enacted, there appears a note in and at the beginning of the section it shall be deemed that such note is and was enacted as a heading appearing immediately above the section in and at the beginning of which it appears.

**Section 3 the Regulatory Offences Act 1985 provides—**

### **Act not to alter The Criminal Code**

**3.** Subject to the provisions of section 10, Nothing in this Act shall be construed to alter the provisions of The Criminal Code.

**Section 16 the Criminal Code and Another Act Amendment Act 1990 provides—**

### **Transitional**

**16.(1)** Subject to subsection (2), a person who before the commencement of this Act commits—

- (a) an offence defined in sections 208 (1) or (3) of *The Criminal Code* as it exists immediately before the commencement; or
- (b) an offence defined in section 209 or 535 of *The Criminal Code* constituted by an attempt to commit an offence defined in paragraph (a);

cannot thereafter be convicted of the offence unless it is committed in respect of a person not an adult within the meaning of *The Criminal Code*

(3) A person who, before the commencement of this Act commits an offence defined in section 211 of *The Criminal Code* as it existed immediately before the commencement, cannot thereafter be convicted of the offence.

(4) A provision of this section stating that a person cannot be convicted after the commencement of this Act of an offence defined in a specified section of *The Criminal Code* committed before the commencement does not have the effect that such a person cannot be charged convicted and punished for an offence defined in some other section of *The Criminal Code* where the circumstances in question constitute an offence defined in that other section.

## **12 Provisions that have not commenced and are not incorporated into reprint**

The following provisions are not incorporated in this reprint because they had not commenced before the reprint date (see reprints Act 1992, s 5(c)).

**Criminal Code [1995] No. 37 ss 459(4) sch 3 pt 2 div 2, 459(6) sch 3 pt 3 div 2 reads as follows—**

## **PART 2—AMENDMENT OF CERTAIN LAWS ABOUT THE LEGISLATIVE ASSEMBLY**

### *Division 2—Amendment of Criminal Code*

#### **1. Section 55(1), ‘Legislative’—**

*omit.*

#### **2. Section 55(1), ‘misdemeanour’—**

*omit, insert—*

‘crime’.

**3. Section 55(2)—**

*omit.*

**4. Section 55, as amended—**

*relocate to Legislative Assembly Act 1867, in part 5, as section 19.*

**5. Section 56(1), ‘Legislative’—**

*omit.*

**6. Section 56(1), ‘misdemeanour’—**

*omit, insert—*

‘crime’.

**7. Section 56(2)—**

*omit.*

**8. Section 56, as amended—**

*relocate to Legislative Assembly Act 1867, in part 5, as section 20.*

**9. Section 56B—**

*relocate to Legislative Assembly Act 1867, in part 5, as section 21.*

**10. Section 57(1), ‘Legislative’—**

*omit.*

**11. Section 57(2) and (3)—**

*omit.*

**12. Section 57, as amended—**

*relocate to Legislative Assembly Act 1867, in part 5, as section 22.*

**13. Section 58, ‘Legislative’—**

*omit.*

**14. Section 58, ‘misdemeanour’—**

*omit, insert—*

*‘crime’.*

**15. Section 58, as amended—**

*relocate to Legislative Assembly Act 1867, in part 5, as section 23.*

## **PART 3—AMENDMENT OF CERTAIN LAWS ABOUT THE GOVERNMENT OF QUEENSLAND**

### *Division 2—Amendment of Criminal Code*

**1. Section 54(1), ‘misdemeanour’—**

*omit, insert—*

*‘crime’.*

**2. Section 54(2)—**

*omit.*

**3. Section 54, as amended—**

*relocate to Constitution (Office of Governor) Act 1987, in part 3, as*

section 14.

**Jury Act 1995 No. 42 s 76 sch 2 reads as follows—**

**1.** Schedule 1, sections 608 to 612, 614, 615, 621 to 623 and 626 to 629—

*omit.*