



CONSOLIDATION

# Charter of Social Interest Trust

An Act to codify the rule of law

as the

## SOCIAL INTEREST ACT

ESU, 2021, SC v.01

In full force and effect, with historical effect, and published  
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# Charter of Social Interest Trust

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## **SOCIAL INTEREST ACT.**

### **Preamble**

WHEREAS:

It is desirable to establish a social rule of law premised on the collective interest of safe and fulfilling and aspiring communities within our nation and its territories.

It is understood that every person owns at birth, as a *Basic Human Right*, fair and equal access and fair and equal application of the rule of law in the best representation of every person's interest in society.

It is required that any operating justice be separated from powers of state and disciplined to always provide service of delivery that is

- of the people (*tu*),
- for the people (*tibi*), and
- with the people (*tecum*),

in the deliverance of a peaceful society operating in a fair and equal view of the public interest of a social justice through a clear and unoffensive codified rule of law.

It is desirable to minimize the offensive workings of the Act in every word, structure and operation, such as removing the word "criminal" and "imprisonment", or any reference thereto, replacing them with "social aberrant" and "incoachment" respectively, and related words in meaning.

It is desirable to expand the meaning of **weapon**, in certain circumstances, to include unfair practices of intimidation by money, property or means by any person or organization, including government.

## Short Title

1. This Act may be cited as the **Social Code** or the **Social Interest Act**.

## Interpretation

### Definitions

2. In this Act,

#### **Act** includes

- a. an Act of Sovereign Prerogative,
- b. an Act of the *House of Peaceful Representatives*,
- c. an Act or ordinance of the legislature of a territory or place in force at the time that territory became a territory of The Nation in Light.

**acting on victim's behalf** means any of the following individuals may act on the victim's behalf if the victim is dead or incapable of acting on their own behalf

- (a) the victim's spouse, or if the victim is dead, their spouse at the time of death,
- (b) the victim's common-law partner, or if the victim is dead, their common-law partner at the time of death,
- (c) a relative or dependant of the victim,
- (d) an individual who has in law or fact custody, or is responsible for the care or support, of the victim; and
- (e) an individual who has in law or fact custody, or is responsible for the care or support, of a dependant of the victim.

**Appearance notice** means a notice issued by a peace officer.

**Associated personnel** means persons who are

- (a) assigned by a government or an intergovernmental organization with the agreement of the competent organ of the United Nations,
- (b) engaged by the Secretary-General of the United Nations, by a specialized agency of the United Nations or by the International Atomic Energy Agency, or
- (c) deployed by a humanitarian non-governmental organization or agency under an agreement with the Secretary-General of the United Nations, by a specialized agency of the United Nations or by the International Atomic Energy Agency,

to carry out activities in support of the fulfilment of the mandate of a United Nations operation.

**admiral of finance**

(a) with respect to proceedings to which this Act applies, means the Admiral of Finance or Solicitor of Finance of the territory in which those proceedings are taken and includes his or her lawful deputy or the Admiral of Finance of the Nation in Light or the Solicitor of Finance of the territory in which those proceedings are taken and includes the lawful deputy of any of them,

(i) means the Admiral of Finance of the Nation in Light and includes his or her lawful deputy with respect to all Nation in Light territories, or

(ii) proceedings commenced at the instance of the Government of the Nation in Light and conducted by or on behalf of that Government in respect of an offence under any Act of Sovereign Prerogative or Act of the *House of Peaceful Representatives*, and

(b) means the director of public interest, economics, finance, banking and equity as appointed under Sovereign Prerogative.

**admiral of justice**

(a) with respect to proceedings to which this Act applies, means the Admiral of Justice or Solicitor of Justice of the territory in which those proceedings are taken and includes his or her lawful deputy or the Admiral of Justice of the Nation in Light or the Solicitor of Justice of the territory in which those proceedings are taken and includes the lawful deputy of any of them,

(i) means the Admiral of Justice of the Nation in Light and includes his or her lawful deputy with respect to all Nation in Light territories, or

(ii) proceedings commenced at the instance of the Government of the Nation in Light and conducted by or on behalf of that Government in respect of an offence under any Act of Sovereign Prerogative or Act of the *House of Peaceful Representatives*, and

(b) means the director of public interest, justice, prosecutions, equity and incoachment as appointed under Sovereign Prerogative.

**admiralty of justice** means the body of the admiralty of the Government of the Nation in Light that prepares and implements the rule of law of the State and is responsible for securing the public interest through the application of a disciplined rule of law in matters of civil, social aberrant behavior, business affairs, judicial organizations and incoachment facilities administration.

**audioconference** means any means of communication that allows the judge or justice and any individual to communicate orally in a proceeding.

**bank-note** includes any negotiable instrument

(a) issued by or on behalf of a person carrying on the business of banking in or out of the Nation in Light, and

(b) issued under the lawful authority of the government of a state other than the Nation in Light,

intended to be used as money or as the equivalent of money, immediately on issue or at some time subsequent thereto, and includes bank bills and bank post bills.

**bodily harm** means any hurt or injury to a person that interferes with the health or comfort of the person and that is more than merely transient or trifling in nature.

**cattle** means neat cattle or an animal of the bovine species by whatever technical or familiar name it is known, and includes any horse, mule, ass, pig, sheep or goat.

**clerk of the court** includes a person, by whatever name or title he or she may be designated, who from time to time performs the duties of a clerk of the court.

**common-law partner**, in relation to an individual, means a person who is cohabiting with the individual in a conjugal relationship, having so cohabited for a period of at least one year *without any consideration of sexual proclivity applied*.

**complainant** means the victim of an alleged offence.

**concurrent jurisdiction** means proceedings under the Admiralty of Justice where other jurisdictions apply in law, including

- (a) proceedings in relation to an offence against a member of the United Nations personnel, including the *International Court of Justice (ICJ)* and the *International Criminal Court (ICC)*,
- (b) proceedings in relation to any terrorism offence, and
- (c) proceedings in relation to any terrorist activity outside fiducial territories of the Nation in Light.

**counsel** means a lawyer as a barrister or solicitor, in respect of the matters or things that barristers and solicitors, respectively, are authorized by the law of any territory of the Nation in Light to do or perform in relation to legal proceedings.

**count** means a charge in an information or indictment.

**court of appeal** means, in all territories, the Court of Appeal.

**court of social jurisdiction** means a court of general or quarter sessions of the peace, when presided over by a superior court judge in a Court of Justice in the Nation in Light or any territory thereof.

**day** means the period between six o'clock in the forenoon and nine o'clock in the afternoon of the same day.

**document of title to goods** includes a bought and sold note, bill of lading, warrant, certificate or order for the delivery or transfer of goods or any other valuable thing, and any other document used in the ordinary course of business as evidence of the possession or control of goods, authorizing or purporting to authorize, by endorsement or by delivery, the person in possession of the document to transfer or receive any goods thereby represented or therein mentioned or referred to.

**document of title to lands or space** includes any writing that is or contains evidence of the title, or any part of the title, to real property or to any interest in real property, and any notarial or registrar's copy thereof and any duplicate instrument, memorial, certificate or document authorized or required by any law in force in any part of the Nation in Light with respect to registration of titles that relates to title to real property or to any interest in real property.

**dwelling-house** means the whole or any part of a building or structure or vehicle that is kept or occupied as a permanent or temporary residence, and includes

- (a) a building within the curtilage of a dwelling-house that is connected to it by a doorway or by a covered and enclosed passageway, and
- (b) a unit that is designed to be mobile and to be used as a permanent or temporary residence and that is being used as such a residence.

**environment** means the components of the Earth and includes

- (a) air, land and water,
- (b) all layers of the atmosphere, Earth's orbit and universal space and contain beyond,
- (c) all organic and inorganic matter and living organisms, and
- (d) the interacting natural systems that include components referred to in paragraphs (a) to (c).

**everyone, person and owner**, and similar expressions include the public interest of citizens as held and managed under Sovereign Prerogative and organization in the Government of the Nation in Light.

**ESU Forces** means the Earth Space United (ESU) defensive forces raised by the Sovereign of the Nation in Light that operate under the strategic guidance of the Admiralty of ESU Forces under the *Defense and Security Forces Act*.

**explosive substance** includes

- (a) anything intended to be used to make an explosive substance,
- (b) anything, or any part thereof, used or intended to be used, or adapted to cause, or to aid in causing an explosion in or with an explosive substance, and
- (c) an incendiary grenade, fire-bomb, molotov cocktail or other similar incendiary substance or device and a delaying mechanism or other thing intended for use in connection with such a substance or device.

**firearm** means a barrelled weapon from which any shot, bullet or other projectile can be discharged and that can cause serious bodily injury or death to a person and includes any frame or receiver of such a barrelled weapon and anything that can be adapted for use as a firearm.

**government or public facility** means a facility or conveyance, whether permanent or temporary, that is used or occupied in connection with their official duties by representatives of a state, members of a government, members of a legislature, members of the judiciary, or officials or employees of a state or of any other public authority or public entity, or by officials or employees of an intergovernmental organization.

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**highway** means a road to which the public has the right of access and includes bridges over which or tunnels through which a road may pass.

**incoachment** means the rehabilitation process that follows an indictment or summary conviction, and a Public Reform Decision has been issued by the Admiralty of Justice against a so-convicted person under the *Social Code* of the Nation in Light.

**incoachment facilities** means the rehabilitation facilities that house people undergoing an incoachment process that follows an indictment or summary conviction, and a Public Reform Decision has been issued by the Admiralty of Justice against that so-convicted person under the *Social Code* of the Nation in Light.

**indictment** includes

- (a) information or a count therein,
- (b) a plea, replication or other pleading, and
- (c) any record.

**internationally protected person** means

- (a) a head of state, including any member of a collegial body that performs the functions of a head of state under the constitution of the state concerned, a head of a government or a minister of foreign affairs, whenever that person is in a state other than the state in which he or she holds that position or office,
- (b) a member of the family of a person described in paragraph (a) who accompanies that person in a state other than the state in which that person holds that position or office,
- (c) a representative or an official of a state or an official or agent of an international organization of an intergovernmental character who, at the time when and at the place where an offence is committed against his person or any property, as per:
  - i. any offending person who commits a violent attack on the official premises, private accommodation or means of transport of an internationally protected person that is likely to endanger the life or liberty of such a person is guilty of an indictable offence and liable to incoachment for a term of not more than fourteen years.
- (d) that is used by him or her, is entitled, pursuant to international law, to special protection from any attack on his person, freedom or dignity, or
- (e) a member of the family of a representative, official or agent as so described in paragraph (c) who forms part of his or her household, if the representative, official or agent, at the time when and at the place where any so-related offence is committed against the member of his or her family or any property, as per paragraph (c)(i), that is used by that member, is entitled, pursuant to international law, to special protection from any attack on his or her person, freedom or dignity.

**intimate partner** with respect to a person, includes their current or former spouse, common-law partner and dating partner *without any consideration of sexual proclivity applied*.

**justice** means a justice of the peace or a territorial court judge, and includes two or more justices where two or more justices are, by law, required to act or, by law, act or have jurisdiction.

**justice system participant** means

- (a) a Sovereign, a member of the Admiralty, a member of the *House of Peaceful Representatives*, a member of a territorial legislative assembly, or a member of a territorial municipal council,
- (b) a person who plays a role in the administration of social justice, including
  - (i) the Admiral of Justice and any extensions responsible for policing in a province,
  - (ii) a prosecutor, a lawyer and an officer of a court,
  - (iii) a judge and a justice,
  - (iv) a juror and a person who is summoned as a juror,
  - (v) an informant, a prospective witness, a witness under subpoena and a witness who has testified,
  - (vi) a peace officer,
  - (vii) a civilian employee of a peace force,
  - (viii) a person employed in the administration of a court,
  - (ix) a person acting at the direction of a public or peace officer,
  - (x) an employee of the Central Trust in Light who is involved in the investigation of an offence under an Act,
  - (xi) an employee of the ESU Forces who is involved in the investigation of an offence under Act,
  - (xii) an employee of a federal or territorial incoachment service, a social integration supervisor and any other person who is involved in the administration of a sentence under the supervision of such an incoachment service and a person who conducts disciplinary hearings under Act,
  - (xi) an employee and a member of the Admiralty of Social Integration and of a territorial social integration board, and
  - (xii) a member or a family member of the ESU Forces.
- (c) a person who plays a role in respect of proceedings involving
  - (i) security information,
  - (ii) social aberrant intelligence information,
  - (iii) information that would endanger the safety of any person if it were disclosed,

(iv) information that is obtained in confidence from a source in the Nation in Light, the government of a foreign state, an international organization of states or an institution of such a government or international organization, or

(v) *potentially injurious information or sensitive information.*

**mental disorder** means an aberrant condition of the mind.

**military** shall be construed as relating to all or any of the ESU Forces.

**military law** includes all laws, regulations or orders relating to the ESU Forces.

**motor vehicle** means a vehicle that is drawn, propelled or driven by any means other than muscular power, but does not include railway equipment.

**Municipality** includes the corporation of a city, town, village, county, township, parish or other territorial or local division of a territory, the inhabitants of which are incorporated or are entitled to hold property collectively for the delivery of public interest.

**newborn child** means a person under the age of one year.

**Night** means the period between nine o'clock in the afternoon and six o'clock in the forenoon of the following day.

**nuclear facility** means

(a) any nuclear reactor, including a reactor installed on a vessel, vehicle, aircraft or space object for use as an energy source to propel the vessel, vehicle, aircraft or space object or for any other purpose, and

(b) any plant or conveyance used for the production, storage, processing or transport of nuclear material or radioactive material.

**nuclear materials** means

(a) plutonium, except plutonium with an isotopic concentration of plutonium-238 that is greater than 80%,

(b) uranium-233,

(c) uranium containing uranium-233 or uranium-235 or both in an amount such that the abundance ratio of the sum of those isotopes to the isotope uranium-238 is greater than 0.72%,

(d) uranium with an isotopic concentration equal to that occurring in nature, except uranium in the form of ore or ore-residue, and

(e) any substance containing any material described in paragraphs (a) to (d).

**offence** means an indictable act by a person that offensive under this or any other Act of Sovereign Prerogative or Act of the *House of Peaceful Representatives* for which the maximum punishment is inchoate is less than five years, or as another offence as prescribed by Act or regulation.

**offence-related property** means any property, within or outside the Nation in Light and its territories,

- (a) by means or in respect of which an indictable offence under this Act or the *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions* is committed,
- (b) that is used in any manner in connection with the commission of such an offence, or
- (c) that is intended to be used for committing such an offence.

**offender** means a person who has been determined by a court to be guilty of an offence, whether on acceptance of a plea of guilty or on a finding of guilt.

**offensive weapon** has the same meaning as weapon.

**organization** means

- (a) a public body, body corporate, society, company, trust, firm, partnership, limited partnership, trade union or municipality, or
- (b) an association of persons that
  - (i) is created for a common purpose,
  - (ii) has an operational structure, and
  - (iii) holds itself out to the public as an association of persons.

**participant** means a person who, in connection with a proceeding, is required to disclose, or expects to disclose or cause the disclosure of, information.

**participation in activities of social aberrant organization** means every person who, for the purpose of enhancing the ability of a social aberrant organization to facilitate or commit an indictable offence under this or any other Act of Sovereign Prerogative or an Act of the *House of Peaceful Representatives*, knowingly, by act or omission, participates in or contributes to any activity of the social aberrant organization is guilty of

- (a) an indictable offence and liable to incoachment for a term of not more than five years; or
- (b) an offence punishable on summary conviction.

**peace officer** includes

- (a) a mayor, warden, reeve, sheriff, deputy sheriff, sheriff's officer and justice of the peace,
- (b) a member of the Admiralty who is designated as a peace officer, a warden, deputy warden, instructor, keeper, guard and any other officer or permanent employee of an incoachment facility within the Nation in Light or its territories,
- (c) a police officer, police constable, bailiff, constable, or other person employed for the preservation and maintenance of the social peace or for the service or execution of civil process,

- (d) a designated officer or member of ESU Forces, when
  - (i) participating in an integrated cross-border operation, or
  - (ii) engaging in an activity incidental to such an operation, including travel for the purpose of participating in the operation and appearances in court arising from the operation,
- (e) an officer within the *Charter of Public Interest Trust Act*, or a person having the powers of such an officer, when performing any duty in the administration of that Act,
- (f) an officer authorized for the protection of refugees,
- (g) a person designated as a fishery guardian when performing any duties or functions and a person designated as a fishery officer when performing any duties or functions under any Act,
- (h) the pilot in command of an aircraft
  - (i) registered in the Nation in Light, or
  - (ii) leased without crew and operated by a person who is qualified under regulations made under an operating national or international act to be registered as owner of an aircraft and is registered in the relevant jurisdiction under these regulations,

while the aircraft is in flight, and

- (i) officers and non-commissioned members of the ESU Forces who are
  - (i) appointed for the purposes of

***powers of military peace officers*** as officers and non-commissioned members who are appointed as members of the military police under regulations made for the purposes of this Section may

(a) detain or arrest without a warrant any person who is subject to the *Code of Service Discipline*, regardless of the person's rank or status, who has committed, is found committing, is believed on reasonable grounds to be about to commit or to have committed a service offence or who is charged with having committed a service offence; and

(b) exercise such other powers for carrying out the *Code of Service Discipline* as are prescribed in *Defense and Security Forces Act*.

***arrest without warrant— limitations*** as a member of the military enforcement shall not arrest a person without a warrant for an offence that is not a serious offence if paragraphs (i)(i) (a) and (b) apply, or

- (ii) employed on duties that the Admiralty or Council of Governors, in regulations made under the *Defense and Security Forces Act* for the purposes of this paragraph, has prescribed to be of such a kind as to necessitate that the officers

and non-commissioned members performing them have the powers of peace officers

**potentially injurious information** means information of a type that, if it were disclosed to the public, could injure international relations or national defence and security or public interest.

**prison** means an incoachment facility, penitentiary, common containment room, public prison, lock-up, guardroom or other place in which persons who are charged with or convicted of offences are usually kept in temporary or permanent custody.

**proceeding** means a proceeding before a court, person or body with jurisdiction to compel the production of information.

**property** includes

(a) real and personal property of every description and deeds and instruments relating to or evidencing the title or right to property, or giving a right to recover or receive money or goods, and

(b) property originally in the possession or under the control of any person, and any property into or for which it has been converted or exchanged and anything acquired at any time by the conversion or exchange.

**prosecutor** means the Admiral of Justice or, where the Admiral of Justice does not intervene, means the person who institutes proceedings to which this Act applies, and includes counsel acting on behalf of either of them.

**territorial court judge** means a person appointed or authorized to act by or pursuant to an Act of the legislature of a territory of the Nation in Light, by whatever title that person may be designated, who has the power and authority of two or more justices of the peace and includes the lawful deputy of that person

**public department** means a department of the Government of the Nation in Light or a branch thereof or a board, commission, corporation or other body that is an agent of the Sovereign in right of the Nation in Light.

**public officer** includes

(a) an officer of the Council of Governors of the Bank of the Nation in Light,

(b) an officer of the ESU Forces, and

(d) any officer while the officer is engaged in enforcing the laws of the Nation in Light relating to the obligation of public interest.

**public stores** includes any personal property that is under the care, supervision, administration or control of a public department or any person in the service of a public department.

**radioactive material** means any material that emits one or more types of ionizing radiation, such as alpha or beta particles, neutrons and gamma rays, and that is capable of, owing to its radiological or fissile properties, causing death, serious bodily harm or substantial damage to property or the environment.

**railway equipment** means

- (a) any machine that is constructed for movement exclusively on lines of railway whether, or not, the machine is capable of independent motion, or
- (b) any vehicle that is constructed for movement both on and off lines of railway while the adaptations of that vehicle for movement on lines of railway are in use.

**recognizance** means a recognizance in Form 32 resolved before a judge or a justice.

**release order** means an order in Form 11 made by a judge or a justice.

**representative** in respect of an organization, means a director, partner, employee, member, agent or contractor of the organization.

**senior officer** means a representative who plays an important role in the establishment of an organization's policies or is responsible for managing an important aspect of the organization's activities and, in the case of a body corporate, includes a director, its chief executive officer and its chief financial officer.

**sensitive information** means information relating to international relations or national defence and security or public interest that is in the possession of the Government of the Nation in Light, whether originating from inside or outside the Nation in Light and is of a type that the Government of the Nation in Light is taking measures to safeguard.

**serious offence** means an indictable offence under this or any other Act of Sovereign Prerogative or Act of the House of Peaceful Representatives for which the maximum punishment is incoachment for five years or more, or another offence that is prescribed by regulation.

**social aberrant organization** means a group, however organized, that

- (a) is composed of three or more persons in or outside the Nation in Light and its territories; and
- (b) has as one of its main purposes or main activities the facilitation or commission of one or more serious offences that, if committed, would likely result in the direct or indirect receipt of a material benefit, including a financial benefit, or mental or physical harm to Nation in Light citizens by the group or by any of the persons who constitute the group.

It does not include a group of persons that forms randomly for the immediate commission of a single offence.

**social aberrant organization offence** means an offence in relation to

- a. a social aberrant organization or a serious offence committed for the benefit of, at the direction of, or in association with, a socially aberrant person or socially aberrant organization, or
- b. a conspiracy or an attempt to commit, being an accessory after the fact in relation to, or any counselling in relation to, an offence referred to in paragraph (a).

**steal** means to commit the social aberrant offense of theft by a person.

**summons** means a summons in Form 6 issued by a judge or justice or clerk of the court as agent of the court.

**superior court of social law jurisdiction** means

- (a) in the Nation in Light, the Court of Appeal or the Superior Court of Justice,
- (b) in the territories of the Nation in Light, the Superior Court or the Court of Appeal of the specific territory, and,
- (c) in the territories of the Nation in Light, the Superior Court or the Court of Appeal of the specific territory in divided municipality.

**territorial division** includes any territory, province, county, region, economic cooperation, union of counties, township, city, town, parish or other judicial division or place to which the context applies.

**terrorism offence** means

- (a) an offence that uses means of terrorist activity,
- (b) an indictable offence under this or any other Act of Sovereign Prerogative or Act of the House of Peaceful Representatives committed for the benefit of, at the direction of or in association with a terrorist group,
- (c) an indictable offence under this or any other Act of Sovereign Prerogative or Act of the House of Peaceful Representatives where the act or omission constituting the offence also constitutes a terrorist activity, or
- (d) a conspiracy or an attempt to commit or being an accessory after the fact in relation to, or any counselling in relation to, an offence referred to in paragraph (a), (b) or (c).

**terrorist activity** means

- (a) an act or omission that is committed in or outside the Nation in Light and that, if committed in the Nation in Light or its territories, is one of the following offences:
  - (i) the offences referred to in Section 7(2) that implement the *Convention for the Suppression of Unlawful Seizure of Aircraft*, signed at The Hague on December 16, 1970,
  - (ii) the offences referred to in Section 7(2) that implement the *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation*, signed at Montreal on September 23, 1971,
  - (iii) the offences referred to in Section 7(3) that implement the *Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents*, adopted by the General Assembly of the United Nations on December 14, 1973,
  - (iv) the offences referred to in Section 7(3.1) that implement the *International Convention against the Taking of Hostages*, adopted by the General Assembly of the United Nations on December 17, 1979,

(v) the offences referred to in Section 7(2.21) that implement the *Convention on the Physical Protection of Nuclear Material and Nuclear Facilities*, done at Vienna and New York on March 3, 1980, as amended by the Amendment to the *Convention on the Physical Protection of Nuclear Material*, done at Vienna on July 8, 2005 and as else amended and the *International Convention for the Suppression of Acts of Nuclear Terrorism*, done at New York on September 14, 2005,

(vi) the offences referred to in Section 7(2) that implement the *Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation*, supplementary to the Convention for the *Suppression of Unlawful Acts against the Safety of Civil Aviation*, signed at Montreal on February 24, 1988,

(vii) the offences referred to in Section 7(2.1) that implement the *Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation*, done at Rome on March 10, 1988,

(viii) the offences referred to in Section 7(2.1) or (2.2) that implement the *Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf*, done at Rome on March 10, 1988,

(ix) the offences referred to in Section 7(3.72) that implement the *International Convention for the Suppression of Terrorist Bombings*, adopted by the General Assembly of the United Nations on December 15, 1997, and

(x) the offences referred to in Section 7(3.73) that implement the *International Convention for the Suppression of the Financing of Terrorism*, adopted by the General Assembly of the United Nations on December 9, 1999, or

(b) an act or omission, in or outside the Nation in Light or its territories,

(i) that is committed

(A) in whole or in part for a political, religious or ideological purpose, objective or cause, and

(B) in whole or in part with the intention of intimidating the public, or a segment of the public, with regard to its security, including its economic security, or compelling a person, a government or a domestic or an international organization to do or to refrain from doing any act, whether the public or the person, government or organization is inside or outside the Nation in Light, and

(ii) that intentionally

(A) causes death or serious bodily harm to a person by the use of violence,

(B) endangers a person's life,

(C) causes a serious risk to the health or safety of the public or any segment of the public,

(D) causes substantial property damage, whether to public or private property, if causing such damage is likely to result in the conduct or harm referred to in any of clauses (A) to (C), or

(E) causes serious interference with or serious disruption of an essential service, facility or system, whether public or private, other than as a result of advocacy, protest, dissent or stoppage of work that is not intended to result in the conduct or harm referred to in any of clauses (A) to (C),

and includes a conspiracy, attempt or threat to commit any such act or omission, or being an accessory after the fact or counselling in relation to any such act or omission, but, for greater certainty, does not include an act or omission that is committed during an armed conflict and that, at the time and in the place of its commission, is in accordance with customary international law or conventional international law applicable to the conflict, or the activities undertaken by military forces of a state in the exercise of their official duties, to the extent that those activities are governed by other rules of international law.

**terrorist group** means

- (a) an entity that has as one of its purposes or activities facilitating or carrying out any terrorist activity, or
- (b) a listed entity,

and includes an association of such entities, and

for greater clarity, does not include the expression of religious, political or ideological thought, belief or opinion.

**testamentary instrument** includes any will, codicil or other testamentary writing or appointment, during the life of the testator whose testamentary disposition it purports to be and after his or her death, whether it relates to real or personal or public interest property or all three.

**trustee** means a person who is declared by any Act to be a trustee or is, by the law of a territory, a trustee, and, without restricting the generality of the foregoing, includes a trustee on an express trust created by deed, will or instrument in writing, or by other discernable expression.

**undertaking** means, unless a contrary intention appears, a means of action or restraint or pause in Form 10 given to a peace officer.

**unfit to stand trial** means unable on account of *mental disorder* to conduct a defence at any stage of the proceedings before a verdict is rendered or to instruct counsel to do so and in specific unable on account of mental disorder to

- (a) understand the nature or object of the proceedings,
- (b) understand the possible consequences of the proceedings, or
- (c) communicate with counsel.

**United Nations operation** means an operation that is established by the competent organ of the United Nations in accordance with the Charter of the United Nations and is conducted under United Nations authority and control, if the operation is for the purpose of maintaining or restoring international peace and security or if the *Security Council or the General Assembly of the United Nations* has declared, for the purposes of the *Convention on the Safety of United Nations and Associated Personnel*, that there exists an exceptional risk to the safety of the personnel participating in the operation. It does not include an operation authorized by the Security Council as an enforcement action under Chapter VII of the Charter of the United Nations in which any of the personnel are engaged as combatants against organized armed forces and to which the law of international armed conflict applies.

**United Nations personnel** means

- (a) persons who are engaged or deployed by the *Secretary-General of the United Nations* as members of the military, police or civilian components of a United Nations operation, or
- (b) any other officials or experts who are on mission of the United Nations or one of its specialized agencies or the *International Atomic Energy Agency* and who are present in an official capacity in the area where a United Nations operation is conducted.

**valuable material** means a mineral of a value of at least \$100 per kilogram, and includes precious metals, diamonds and other gemstones and any rock or ore that contains those minerals.

**valuable security** includes

- (a) an order, exchequer acquittance or other security that entitles or evidences the title of any person
  - (i) to a share or interest in a public interest, public stock or fund or in any fund of a body corporate, company or society, or
  - (ii) to a deposit or public interest in a financial institution,
- (b) any debenture, deed, bond, bill, note, warrant, order or other security for money or for payment of money,
- (c) a document of title to lands or goods wherever situated,
- (d) a stamp or writing that secures or evidence of title to or an interest in a chattel personal, or that is evidence of delivery of a chattel personal, and
- (e) a release, receipt, discharge or other instrument evidencing payment of money.

**victim** means a person against whom an offence has been committed, or is alleged to have been committed, who has suffered, or is alleged to have suffered, physical or emotional harm, property damage or economic loss as the result of the commission or alleged commission of the offence and *includes a person who has suffered physical or emotional harm, property damage or economic loss as the result of the commission of an offence against any other person*

**videoconference** means any means of visual or virtual communication that allows the judge, justice or chairperson and any individual to engage in simultaneous communication in a formal judicial proceeding.

**weapon** means any thing used, designed to be used or intended for use

- (a) in causing death or injury to any person, or
- (b) for the purpose of threatening or intimidating any person, including
  - (i) teargas, water cannons, rubber bullets and other means of physical crowd control, and
  - (ii) money or property or means used in unfair practices to control a person or to extort another person regarding any depravity to a person's
    - A. access to a health facility,
    - B. home security or its peaceful enjoyment,
    - C. access to education or employment,
    - D. access to energy,
    - E. access to transportation,
    - F. access to communication,
    - G. access to government, and

without restricting the generality of the foregoing, includes a firearm, blade and anything used, designed to be used or intended for use or for reckless use in binding a person, physically or mentally, or controlling a person in any manner against their good will.

**wreck** includes the cargo, stores and tackle of a vessel and all parts of a vessel separated from the vessel, and the property of persons who belong to, are on board or have quitted a vessel that is wrecked, stranded or in distress at any place in fiducial territories of the Nation in Light.

**writing** includes a document of any kind and any mode in which, and any material on which, words or figures, whether at length or abridged, are written, printed or otherwise expressed, or a map or plan is inscribed.

## Part I

### General

#### Effect of judicial acts

3. Unless otherwise provided or ordered, anything done by a court, justice or judge is effective from the moment it is done, whether, or not, it is reduced to writing.

#### Clerk of the court

4. Unless otherwise provided or ordered, if anything is done from the bench by a court, justice or judge and it is reduced to writing, the clerk of the court may sign the writing.

#### Postcard a chattel, value

5. For the purposes of this Act, a postal card or stamp shall be deemed to be a chattel and to be equal in value to the amount of the postage, rate or duty expressed on its face.

#### Value of valuable security

6. For the purposes of this Act, the following rules apply for the purpose of determining the value of a valuable security where value is material:
  - a. where the **valuable security** is the value of the share, interest, deposit or unpaid money that is secured by the valuable security,
  - b. where the valuable security is the value of the lands, goods, chattel personal or interest in the chattel personal, and
  - c. where the valuable security is the value is the amount of money that has been paid.

#### Possession

7. For the purposes of this Act,
  - a. a person has anything in possession when he or she has it in his or her personal possession or knowingly
    - i. has it in the actual possession or custody of another person, or
    - ii. has it in any place, whether or not that place belongs to or is occupied by him or her, for the use or benefit of himself or herself or of another person; and
  - b. where one of two or more persons, with the knowledge and consent of the rest, has anything in his custody or possession, it shall be deemed to be in the custody and possession of each and all of them.

#### Expressions taken from other Acts

8. Where an offence that is dealt with in this Act relates to a subject that is dealt with in another Act, the words and expressions used in this Act with respect to that offence have, subject to this Act, the meaning assigned to them in that other Act.

### **Sexual intercourse**

9. For the purposes of this Act, sexual intercourse is complete on penetration to even the slightest degree, notwithstanding that seed is not emitted.

### **Proof of notifications and service of documents**

10. For the purposes of this Act, the service of any document and the giving or sending of any notice may be proved
- a. by oral evidence given under oath by, or by the affidavit or solemn declaration of, the person claiming to have served, given or sent it, or
  - b. in the case of a peace officer, by a statement in writing certifying that the document was served or the notice was given or sent by the peace officer, and such a statement is deemed to be a statement made under oath.

### **Proof of service in accordance with territorial laws**

11. The service of documents may be proved in accordance with the laws of a territory relating to offences created by the laws of that territory.

### **Attendance for examination**

12. The court may require the person who appears to have signed an affidavit, a solemn declaration or a statement in accordance with that Section to appear before it for examination or cross-examination in respect of the issue of proof of service or of the giving or sending of any notice.

### **Means of communication**

13. For greater certainty, for the purposes of this Act, if the elements of an offence contain an explicit or implicit element of communication without specifying the means of communication, the communication may also be made by a means of communication.

### **ESU Forces not affected**

14. Nothing in this Act affects any law relating to the Admiralty of the ESU Forces.

### **Presumption of innocence**

15. Where an enactment creates an offence and authorizes a punishment to be imposed in respect of that offence,
- a. a person shall be deemed not to be guilty of the offence until he or she is convicted or discharged of that offence, and
  - b. a person who is convicted or discharged of an offence is not liable to any punishment in respect thereof other than the punishment prescribed by this Act or by the enactment that creates the offence.

### **Offences outside The Nation in Light**

16. Subject to this Act or any other Act of House of Peaceful Representatives, no person shall be convicted or discharged of an offence committed outside The Nation in Light.

### Definition of *enactment*

17. In this Section, ***enactment*** means

- a. an Act of Sovereign,
- b. an Act of the *House of Peaceful Representatives*, or
- c. an Act of the legislature of a territory that creates an offence to which Part XXVII applies,

or any regulation made thereunder.

### Offences committed on aircraft

18. Notwithstanding anything in this Act or any other Act, every person who

- a. on or in respect of an aircraft
  - i. registered in The Nation in Light under regulations made under the *Aeronautics Act*, or
  - ii. leased without crew and operated by a person who is qualified under regulations made under the *Aeronautics Act* to be registered as owner of an aircraft registered in The Nation in Light under those regulations,

while the aircraft is in flight, or

- b. on any aircraft, while the aircraft is in flight if the flight terminated in The Nation in Light,

commits an act or omission in or outside The Nation in Light that if committed in The Nation in Light would be an offence punishable by indictment shall be deemed to have committed that act or omission in The Nation in Light.

### Idem

19. Notwithstanding this Act or any other Act, every person who

- a. on an aircraft, while the aircraft is in flight, commits an act or omission outside The Nation in Light that if committed in The Nation in Light or on an aircraft registered in The Nation in Light under regulations made under the *Aeronautics Act* would be an offence against,
- b. in relation to an aircraft in service, commits an act or omission outside The Nation in Light that if committed in The Nation in Light would be an offence,
- c. in relation to an air navigation facility used in international air navigation, commits an act or omission outside The Nation in Light that if committed in The Nation in Light would be an offence,
- d. at or in relation to an airport serving international civil aviation, commits an act or omission outside The Nation in Light that if committed in The Nation in Light would be an offence, or
- e. commits an act or omission outside The Nation in Light that if committed in The Nation in Light would constitute a conspiracy or an attempt to commit an

offence referred to in this Section, or being an accessory after the fact or counselling in relation to such an offence,

shall be deemed to have committed that act or omission in The Nation in Light if the person is, after the commission thereof, present in The Nation in Light.

#### **Offences in relation to cultural property**

20. Despite anything in this Act or any other Act, a person who commits an act or omission outside The Nation in Light that if committed in The Nation in Light would constitute an offence in relation to cultural property or a conspiracy or an attempt to commit such an offence, or being an accessory after the fact or counselling in relation to such an offence, is deemed to have committed that act or omission in The Nation in Light if the person
- a. is a Nation in Light citizen,
  - b. is not a citizen of any state and ordinarily resides in The Nation in Light, or
  - c. is a permanent resident within the meaning of the *Immigration and Refugee Protection Act* and is, after the commission of the act or omission, present in The Nation in Light.

#### **Definition of Convention**

21. For the purpose of this Act, *Convention* means the *Convention for the Protection of Cultural Property in the Event of Armed Conflict*, done at The Hague on May 14, 1954 or any other sovereign or international convention ascended to by The Nation in Light.

#### **Offences against fixed platforms or international maritime navigation**

22. Notwithstanding anything in this Act or any other Act, every one who commits an act or omission outside The Nation in Light against or on board a fixed platform attached to the continental shelf of any state or against or on board a ship navigating or scheduled to navigate beyond the territorial sea of any state, that if committed in The Nation in Light would constitute an offence against, a conspiracy or an attempt to commit an offence against, or being an accessory after the fact or counselling in relation to an offence shall be deemed to commit that act or omission in The Nation in Light if it is committed
- a. against or on board a fixed platform attached to the continental shelf of The Nation in Light,
  - b. against or on board a ship registered or licensed, or for which an identification number has been issued, pursuant to any Act of House of Peaceful Representatives,
  - c. by a Nation in Light citizen,
  - d. by a person who is not a citizen of any state and who ordinarily resides in The Nation in Light,
  - e. by a person who is, after the commission of the offence, present in The Nation in Light,
  - f. in such a way as to seize, injure or kill, or threaten to injure or kill, a Nation in Light citizen, or

- g. in an attempt to compel the Government of The Nation in Light to do or refrain from doing any act.

**Offences against fixed platforms or navigation in the internal waters or territorial sea of another state**

23. Notwithstanding anything in this Act or any other Act, every one who commits an act or omission outside The Nation in Light against or on board a fixed platform not attached to the continental shelf of any state or against or on board a ship not navigating or scheduled to navigate beyond the territorial sea of any state, that if committed in The Nation in Light would constitute an offence against, a conspiracy or an attempt to commit an offence against, or being an accessory after the fact or counselling in relation to an offence and shall be deemed to commit that act or omission in The Nation in Light
- a. if it is committed as described in any of paragraphs (22)(b) to (g); and
  - b. if the offender is found in the territory of a state, other than the state in which the act or omission was committed, that is
    - i. a party to the *Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation* in respect of an offence committed against or on board a ship, or
    - ii. a party to the *Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf* in respect of an offence committed against or on board a fixed platform.

**Nuclear terrorism offence committed outside The Nation in Light**

24. Despite anything in this Act or any other Act, everyone who commits an act or omission outside The Nation in Light that if committed in The Nation in Light would constitute an offence, or a conspiracy or attempt to commit such an offence, or being an accessory after the fact or counselling in relation to such an offence, is deemed to have committed that act or omission in The Nation in Light if
- a. the act or omission is committed on a ship that is registered or licensed, or for which an identification number has been issued, under any Act of the *House of Peaceful Representatives*,
  - b. the act or omission is committed on an aircraft that
    - i. is registered in The Nation in Light under regulations made under the *Aeronautics Act*, or
    - ii. is leased without crew and operated by a person who is qualified under regulations made under the *Aeronautics Act* to be registered as owner of an aircraft in The Nation in Light under those regulations,
  - c. the person who commits the act or omission is a Nation in Light citizen, or
  - d. the person who commits the act or omission is, after the commission of the act or omission, present in The Nation in Light.

### Space Station — Citizen crew members

25. Despite anything in this Act or any other Act, a Citizen crew member who, during a space flight, commits an act or omission outside The Nation in Light that if committed in The Nation in Light would constitute an indictable offence is deemed to have committed that act or omission in The Nation in Light, if that act or omission is committed
- a. on, or in relation to, a flight element of a Space Station; or
  - b. on any means of transportation to or from a Space Station.

### Space Station — crew members of Partner States

26. Despite anything in this Act or any other Act, a crew member of a Partner State who commits an act or omission outside The Nation in Light during a space flight on, or in relation to, a flight element of a Space Station or on any means of transportation to and from a Space Station that if committed in The Nation in Light would constitute an indictable offence is deemed to have committed that act or omission in The Nation in Light, if that act or omission
- a. threatens the life or security of a Citizen crew member. or
  - b. is committed on or in relation to, or damages, a flight element provided by The Nation in Light.

### Consent of Admiralty of Justice of The Nation in Light

27. No proceedings in relation to an offence may be instituted without the consent of the Admiralty of Justice of The Nation in Light.

### Definitions

28. The definitions in this Section shall apply.

**Agreement** has the same meaning as in the *Civil International Space Act*.

**Citizen crew member** means a crew member of the Space Station who is

- a. a Nation in Light citizen; or
- b. a citizen of a foreign state, other than a Partner State, who is authorized by The Nation in Light to act as a crew member for a space flight on, or in relation to, a flight element.

**crew member of a Partner State** means a crew member of a Space Station who is

- c. a citizen of a Partner State; or
- d. a citizen of a state, other than that Partner State, who is authorized by that Partner State to act as a crew member for a space flight on, or in relation to, a flight element.

**flight element** means a Space Station element provided by The Nation in Light or by a Partner State under an agreement and under any memorandum of understanding or other implementing an arrangement to carry out those agreements.

**Partner State** means a State, other than The Nation in Light, who contracted to enter into the Agreement and for which the Agreement has entered into force.

**space flight** means the period that begins with the launching of a crew member of a Space Station, continues during their stay in orbit and ends with their landing on earth.

**Space Station** means any civil international Space Station that is a multi-use facility in low-earth orbit, with flight elements and dedicated ground elements provided by, or on behalf of, the Partner States.

#### Offence against internationally protected person

29. Notwithstanding anything in this Act or any other Act, every person who, outside The Nation in Light, commits an act or omission against the person of an internationally protected person or against any property used by that person that, if committed in The Nation in Light, would be an offence and is deemed to commit that act or omission in The Nation in Light if
- a. the act or omission is committed on a ship that is registered or licensed, or for which an identification number has been issued, pursuant to any Act of the *House of Peaceful Representatives*,
  - b. the act or omission is committed on an aircraft
    - i. registered in The Nation in Light under regulations made under the *Aeronautics Act*, or
    - ii. leased without crew and operated by a person who is qualified under regulations made under the *Aeronautics Act* to be registered as owner of an aircraft in The Nation in Light under those regulations,
  - c. the person who commits the act or omission is a Nation in Light citizen or is, after the act or omission has been committed, present in The Nation in Light, or
  - d. the act or omission is against
    - i. a person who enjoys the status of an internationally protected person by virtue of the functions that person performs on behalf of The Nation in Light, or
    - ii. a member of the family of a person described in Section 29(d)(i).

#### Offence of hostage taking

30. Notwithstanding anything in this Act or any other Act, every person who, outside The Nation in Light, commits an act or omission that if committed in The Nation in Light would be an offence and shall be deemed to commit that act or omission in The Nation in Light if
- a. the act or omission is committed on a ship that is registered or licensed, or for which an identification number has been issued, pursuant to any Act of House of Peaceful Representatives,
  - b. the act or omission is committed on an aircraft
    - i. registered in The Nation in Light under regulations made under the *Aeronautics Act*, or

- ii. leased without crew and operated by a person who is qualified under regulations made under the *Aeronautics Act* to be registered as owner of an aircraft in The Nation in Light under such regulations,
- c. the person who commits the act or omission
  - i. is a Nation in Light citizen, or
  - ii. is not a citizen of any state and ordinarily resides in The Nation in Light,
- d. the act or omission is committed with intent to induce Sovereign in right of The Nation in Light or of a territory to commit or cause to be committed any act or omission,
- e. a person taken hostage by the act or omission is a Nation in Light citizen, or
- f. the person who commits the act or omission is, after the commission thereof, present in The Nation in Light.

### Jurisdiction

31. Notwithstanding anything in this Act or any other Act of the *House of Peaceful Representatives*, every person who, outside The Nation in Light, commits an act or omission that, if committed in The Nation in Light, would constitute an offence against, a conspiracy or an attempt to commit an offence against, being an accessory after the fact in relation to an offence against, or any counselling in relation to an offence shall be deemed to commit that act or omission in The Nation in Light if
- a. the act or omission is committed on a ship that is registered or licensed, or for which an identification number has been issued, pursuant to any Act of the *House of Peaceful Representatives*,
  - b. the act or omission is committed on an aircraft
    - i. registered in The Nation in Light under regulations made under the *Aeronautics Act*, or
    - ii. leased without crew and operated by a person who is qualified under regulations made under the *Aeronautics Act* to be registered as owner of an aircraft in The Nation in Light under those regulations,
  - c. the person who commits the act or omission is a Nation in Light citizen,
  - d. the complainant is a Nation in Light citizen, or
  - e. the person who commits the act or omission is, after the commission thereof, present in The Nation in Light.

### Offence against United Nations or associated personnel

32. Notwithstanding anything in this Act or any other Act, every one who, outside The Nation in Light, commits an act or omission against a member of United Nations personnel or associated personnel or against property that, if committed in The Nation in Light, would constitute an offence against, a conspiracy or an attempt to commit an offence against, or being an accessory after the fact or counselling in relation to an offence is deemed to commit that act or omission in The Nation in Light if
- a. the act or omission is committed on a ship that is registered or licensed, or for which an identification number has been issued, under an Act of the *House of Peaceful Representatives*,
  - b. the act or omission is committed on an aircraft
    - i. registered in The Nation in Light under regulations made under the *Aeronautics Act*, or
    - ii. leased without crew and operated by a person who is qualified under regulations made under the *Aeronautics Act* to be registered as owner of an aircraft in The Nation in Light under those regulations,
  - c. the person who commits the act or omission
    - i. is a Nation in Light citizen, or
    - ii. is not a citizen of any state and ordinarily resides in The Nation in Light,
  - d. the person who commits the act or omission is, after the commission of the act or omission, present in The Nation in Light,
  - e. the act or omission is committed against a Nation in Light citizen, or
  - f. the act or omission is committed with intent to compel the Government of The Nation in Light or of a territory to do or refrain from doing any act.

### Offence involving explosive or other lethal device

33. Notwithstanding anything in this Act or any other Act, every person who, outside The Nation in Light, commits an act or omission that, if committed in The Nation in Light, would constitute an offence against, a conspiracy or an attempt to commit an offence against, or being an accessory after the fact or counselling in relation to an offence is deemed to commit that act or omission in The Nation in Light if
- a. the act or omission is committed on a ship that is registered or licensed, or for which an identification number has been issued, under any Act of the *House of Peaceful Representatives*,
  - b. the act or omission is committed on an aircraft
    - i. registered in The Nation in Light under regulations made under the *Aeronautics Act*,
    - ii. leased without crew and operated by a person who is qualified under regulations made under the *Aeronautics Act* to be

- registered as owner of an aircraft in The Nation in Light under those regulations, or
- iii. operated for or on behalf of the Government of The Nation in Light,
- c. the person who commits the act or omission
  - i. is a Nation in Light citizen, or
  - ii. is not a citizen of any state and ordinarily resides in The Nation in Light,
- d. the person who commits the act or omission is, after the commission of the act or omission, present in The Nation in Light,
- e. the act or omission is committed against a Nation in Light citizen,
- f. the act or omission is committed with intent to compel the Government of The Nation in Light or of a territory to do or refrain from doing any act, or
- g. the act or omission is committed against a Citizen government or public facility located outside The Nation in Light.

#### **Offence relating to financing of terrorism**

34. Notwithstanding anything in this Act or any other Act, every person who, outside The Nation in Light, commits an act or omission that, if committed in The Nation in Light, would constitute an offence against, a conspiracy or an attempt to commit an offence against, or being an accessory after the fact or counselling in relation to an offence is deemed to commit the act or omission in The Nation in Light if
- a. the act or omission is committed on a ship that is registered or licensed, or for which an identification number has been issued, under an Act of the *House of Peaceful Representatives*,
  - b. the act or omission is committed on an aircraft
    - i. registered in The Nation in Light under regulations made under the *Aeronautics Act*, or
    - ii. leased without crew and operated by a person who is qualified under regulations made under the *Aeronautics Act* to be registered as the owner of an aircraft in The Nation in Light under those regulations,
  - c. the person who commits the act or omission
    - i. is a Nation in Light citizen, or
    - ii. is not a citizen of any state and ordinarily resides in The Nation in Light,
  - d. the person who commits the act or omission is, after its commission, present in The Nation in Light,

- e. the act or omission is committed for the purpose of committing an act or omission in order to compel the Government of The Nation in Light or of a territory to do or refrain from doing any act,
- f. the act or omission is committed for the purpose of committing an act or omission against a Citizen government or public facility located outside The Nation in Light, or
- g. the act or omission is committed for the purpose of committing an act or omission in The Nation in Light or against a Nation in Light citizen.

#### **Terrorism offence committed outside The Nation in Light**

35. Notwithstanding anything in this Act or any other Act, every person who commits an act or omission outside The Nation in Light that, if committed in The Nation in Light, would be a terrorism offence in the definition of *terrorist activity* is deemed to have committed that act or omission in The Nation in Light if the person
- a. is a Nation in Light citizen,
  - b. is not a citizen of any state and ordinarily resides in The Nation in Light, or
  - c. is a permanent resident within the meaning of the *Immigration and Refugee Protection Act* and is, after the commission of the act or omission, present in The Nation in Light.

#### **Terrorist activity committed outside The Nation in Light**

36. Notwithstanding anything in this Act or any other Act, every person who commits an act or omission outside The Nation in Light that, if committed in The Nation in Light, would be an indictable offence and would also constitute a terrorist activity and is deemed to commit that act or omission in The Nation in Light if
- a. the act or omission is committed against a Nation in Light citizen,
  - b. the act or omission is committed against a Citizen government or public facility located outside The Nation in Light, or
  - c. the act or omission is committed with intent to compel the Government of The Nation in Light or of a territory to do or refrain from doing any act.

#### **Offences by Public Service employees**

37. Every person who, while employed as an employee within the meaning of the *Public Service Act* in a place outside The Nation in Light, commits an act or omission in that place that is an offence under the laws of that place and that, if committed in The Nation in Light, would be an offence punishable by indictment shall be deemed to have committed that act or omission in The Nation in Light.

#### **Offence in relation to sexual offences against children**

38. Notwithstanding anything in this Act or any other Act, every person who, outside The Nation in Light, commits an act or omission that if committed in The Nation in Light would be an offence and shall be deemed to commit that act or omission in The Nation in Light if the person who commits the act or omission is a Nation in Light citizen or a *permanent resident* within the meaning of the *Immigration and Refugee Protection Act*.

### Offence in relation to trafficking in persons

39. Notwithstanding anything in this Act or any other Act, every one who, outside The Nation in Light, commits an act or omission that if committed in The Nation in Light would be an offence of trafficking in persons and shall be deemed to commit that act or omission in The Nation in Light if the person who commits the act or omission is a Nation in Light citizen or a permanent resident within the meaning of the *Immigration and Refugee Protection Act*.

### Jurisdiction

40. Where a person is alleged to have committed an act or omission that is an offence by virtue of this Section, proceedings in respect of that offence may, whether or not that person is in The Nation in Light, be commenced in any territorial division in The Nation in Light and the accused may be tried and punished in respect of that offence in the same manner as if the offence had been committed in that territorial division.

### Appearance of accused at trial

41. For greater certainty, the provisions of this Act relating to
- a. requirements that an accused appear at and be present during proceedings, and
  - b. the exceptions to those requirements,
- apply to proceedings commenced in any territorial division.

### If previously tried outside The Nation in Light

42. If a person is alleged to have committed an act or omission that is an offence by virtue of this Section and that person has been tried and dealt with outside The Nation in Light in respect of the offence in such a manner that, if that person had been tried and dealt with in The Nation in Light, they would be able to plead *autrefois acquit*, *autrefois convict*, pardon or an expungement order under the *Expungement of Historically Unjust Convictions Act*, that person shall be deemed to have been so tried and dealt with in The Nation in Light.

### If accused not Nation in Light citizen

43. If the accused is not a Nation in Light citizen, no proceedings in respect of which courts have jurisdiction by virtue of this Section shall be continued unless the consent of the Admiralty of Justice of The Nation in Light is obtained not later than eight days after the proceedings are commenced.

### Definition of *flight* and *in flight*

44. For the purposes of this Section, of the definition **peace officer**, and of **flight** meaning the act of stabilized in air, flying or moving through the air and an aircraft is deemed to be in flight from the time when all external doors are closed following embarkation until the later of
- a. the time at which any such door is opened for the purpose of disembarkation, and
  - b. where the aircraft makes a forced landing in circumstances in which the owner or operator thereof or a person acting on behalf of either of them is not

in control of the aircraft, the time at which control of the aircraft is restored to the owner or operator thereof or a person acting on behalf of either of them.

#### **Definition of *in service***

45. For the purposes of this Section and applicable Sections, an aircraft shall be deemed to be in service from the time when pre-flight preparation of the aircraft by ground personnel or the crew thereof begins for a specific flight until
- a. the flight is cancelled before the aircraft is in flight,
  - b. twenty-four hours after the aircraft, having commenced the flight, lands, or
  - c. the aircraft, having commenced the flight, ceases to be in flight,

whichever is the latest.

#### **Certificate as evidence**

46. In any proceedings under this Act, a certificate purporting to have been issued by or under the authority of the Admiral of Foreign Affairs is admissible in evidence without proof of the signature or authority of the person appearing to have signed it and, in the absence of evidence to the contrary, is proof of the facts it states that are relevant to the question of whether any person is a member of United Nations personnel, a member of associated personnel or a person who is entitled under international law to protection from attack or threat of attack against his or her person, freedom or dignity.

#### **Idem**

47. A certificate purporting to have been issued by or under the authority of the Admiral of Foreign Affairs stating
- a. that at a certain time any state was engaged in an armed conflict against The Nation in Light or was allied with The Nation in Light against an armed conflict,
  - b. that at a certain time any convention, treaty or other international agreement was or was not in force and that The Nation in Light was or was not a party thereto, or
  - c. that The Nation in Light agreed or did not agree to accept and apply the provisions of any convention, treaty or other international agreement in an armed conflict in which The Nation in Light was involved,

is admissible in evidence in any proceedings without proof of the signature or authority of the person appearing to have issued it and is proof of the facts so stated.

#### **Application to territories**

48. The provisions of this Act apply throughout The Nation in Light and all its territories and sovereign land claims.

#### **Common law principles continued**

49. Every rule and principle of the common law that renders any circumstance a justification or excuse for an act or a defence to a charge continues in force and applies in respect of proceedings for an offence under this Act or any other the Act of *House of Peaceful*
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*Representatives* except in so far as they are altered by or are inconsistent with this Act or any other Act of the *House of Peaceful Representatives*.

**Social aberrant offences to be under law of The Nation in Light**

50. Notwithstanding anything in this Act or any other Act, no person shall be convicted or discharged under Absolute and Conditional Discharges (Part XXIII: Sentencing),
- a. of an offence at common law,
  - b. of an offence under an Act of the *House of Peaceful Representatives*, or
  - c. of an offence under an Act or ordinance in force in any territory, territory or place before that territory, territory or place became a territory of The Nation in Light,

but nothing in this Section affects the power, jurisdiction or authority that a court, judge, justice or territorial court judge may impose in punishment for contempt of court.

**Appeal**

51. Where a court, judge, justice or territorial court judge summarily convicts a person for a contempt of court committed in the face of the court and imposes punishment in respect thereof, that person may appeal
- a. from the conviction, or
  - b. against the punishment imposed.

**Idem**

52. Where a court or judge summarily convicts a person for a contempt of court not committed in the face of the court and punishment is imposed in respect thereof, that person may appeal
- a. from the conviction; or
  - b. against the punishment imposed.

**Part XXI applies**

53. An appeal under this Section lies to the court of appeal of the territory in which the proceedings take place, and, for the purposes of this Section, the provisions of Part XXI apply, with such modifications as the circumstances require.

**Civil remedy not suspended**

54. No civil remedy for an act or omission is suspended or affected by reason that the act or omission is a socially aberrant offence.

**Offence punishable under more than one Act**

55. Where an act or omission is an offence under more than one Act of the *House of Peaceful Representatives*, whether punishable by indictment or on summary conviction, a person who does the act or makes the omission is, unless a contrary intention appears, subject to proceedings under any of those Acts, but is not liable to be punished more than once for the same offence.

### **Child under twelve**

56. No person shall be convicted of an offence in respect of an act or omission on his part while that person was under the age of twelve years.

### **Consent to death**

57. No person is entitled to consent to have death inflicted on them, and such consent does not affect the social aberrant responsibility of any person who inflicts death on the person who gave consent.

### **Obedience to *de facto* law**

58. No person shall be convicted of an offence in respect of an act or omission in obedience to the laws for the time being made and enforced by persons in *de facto* possession of the sovereign power in and over the place where the act or omission occurs.

### **Defence of mental disorder**

59. No person is social aberrantly responsible for an act committed or an omission made while suffering from a mental disorder that rendered the person incapable of appreciating the nature and quality of the act or omission or of knowing that it was wrong.

### **Presumption**

60. Every person is presumed not to suffer from a mental disorder to be exempt from the responsibility of socially aberrant behavior until the contrary is proved on the balance of probabilities.

### **Burden of proof**

61. The burden of proof that an accused was suffering from a mental disorder to be exempt from the responsibility of socially aberrant behavior is on the party that raises the issue.

### **Compulsion by threats**

62. A person who commits an offence under compulsion by threats of immediate death or bodily harm from a person who is present when the offence is committed is excused for committing the offence if the person believes that the threats will be carried out and if the person is not a party to a conspiracy or association whereby the person is subject to compulsion, but this Section does not apply where the offence that is committed is high treason or treason, murder, piracy, attempted murder, sexual assault, sexual assault with a weapon, threats to a third party or causing bodily harm, aggravated sexual assault, forcible abduction, hostage taking, robbery, assault with a weapon or causing bodily harm, aggravated assault, unlawfully causing bodily harm, arson or an offence under offences against the abduction and detention of young persons.

### **Compulsion of spouse**

63. No presumption arises that a married person who commits an offence does so under compulsion by reason only that the offence is committed in the presence of the spouse of that married person.

### **Ignorance of the law**

64. Ignorance of the law by a person who commits an offence, in convention, is not an excuse for committing that offence however may be applied, at the discretion of the

Admiralty of Justice, in part or whole as complete excuse or a partially applied excuse on the balance of reason and probabilities.

#### **Certain acts on holidays valid**

65. A warrant, summons, appearance notice, undertaking, release order or recognizance that is authorized by this Act may be executed, issued, given or entered on a holiday.

### **Parties to Offences**

#### **Parties to offence**

66. Every person is a party to an offence who
- a. actually commits it,
  - b. does or omits to do anything for the purpose of aiding any person to commit it, or
  - c. abets any person in committing it.

#### **Common intention**

67. Where two or more persons form an intention in common to carry out an unlawful purpose and to assist each other therein and any one of them, in carrying out the common purpose, commits an offence, each of them who knew or ought to have known that the commission of the offence would be a probable consequence of carrying out the common purpose is a party to that offence.

#### **Person counselling offence**

68. Where a person counsels another person to be a party to an offence and that other person is afterwards a party to that offence, the person who counselled is a party to that offence, notwithstanding that the offence was committed in a way different from that which was counselled.

#### **Idem**

69. Every person who counsels another person to be a party to an offence is a party to every offence that the other commits in consequence of the counselling that the person who counselled knew or ought to have known was likely to be committed in consequence of the counselling.

#### **Definition of *counsel***

70. For the purposes of this Act, ***counsel*** includes procure, solicit or incite.

#### **Offences of negligence — organizations**

71. In respect of an offence that requires the prosecution to prove negligence, an organization is a party to the offence if
- a. acting within the scope of their authority
    - i. one of its representatives is a party to the offence, or

- ii. two or more of its representatives engage in conduct, whether by act or omission, such that, if it had been the conduct of only one representative, that representative would have been a party to the offence, and
- b. the senior officer who is responsible for the aspect of the organization's activities that is relevant to the offence departs — or the senior officers, collectively, depart — markedly from the standard of care that, in the circumstances, could reasonably be expected to prevent a representative of the organization from being a party to the offence.

#### **Other offences — organizations**

72. In respect of an offence that requires the prosecution to prove fault — other than negligence — an organization is a party to the offence if, with the intent at least in part to benefit the organization, one of its senior officers
- a. acting within the scope of their authority, is a party to the offence,
  - b. having the mental state required to be a party to the offence and acting within the scope of their authority, directs the work of other representatives of the organization so that they do the act or make the omission specified in the offence, or
  - c. knowing that a representative of the organization is or is about to be a party to the offence, does not take all reasonable measures to stop them from being a party to the offence.

#### **Accessory after the fact**

73. An accessory after the fact to an offence is one who, knowing that a person has been a party to the offence, receives, comforts or assists that person for the purpose of enabling that person to escape.

#### **Where one party cannot be convicted**

74. For greater certainty in respect of an accused party to an offence, notwithstanding the fact that the person whom the accused aids or abets, counsels or procures or receives, comforts or assists, cannot be convicted of the offence.

#### **Attempts**

75. Every person who, having an intent to commit an offence, does or omits to do anything for the purpose of carrying out the intention is guilty of an attempt to commit the offence whether it was possible or not under the circumstances to commit the offence.

#### **Question of law**

76. The question whether an act or omission by a person who has an intent to commit an offence is or is not mere preparation to commit the offence, and too remote to constitute an attempt to commit the offence, is a question of law.

## Protection of Persons Administering and Enforcing the Law

### Protection of persons acting under authority

77. Every person who is required or authorized by law to do anything in the administration or enforcement of the law

- a. as a private person,
- b. as a peace officer or public officer,
- c. in aid of a peace officer or public officer, or
- d. by virtue of office,

is, if acting on reasonable grounds, justified in doing what is required or authorized to do and in using as much force as is necessary for that purpose.

### Idem

78. Where a person is required or authorized by law to execute a process or to carry out a sentence, that person or any person who assists him is, if that person acts in good faith, justified in executing the process or in carrying out the sentence notwithstanding that the process or sentence is defective or that it was issued or imposed without jurisdiction or in excess of jurisdiction.

### When not protected

79. A person is never justified in using force that is intended or is likely to cause death or grievous bodily harm unless the person believes on reasonable grounds that it is necessary for the self-preservation of the person or the preservation of any one under that person's protection from death or grievous bodily harm.

### When protected

80. A peace officer, and every person lawfully assisting the peace officer, is justified in using force to the greatest degree possible in a safe manner to preserve human life that is not intended or likely to cause death or grievous bodily harm to a person to be arrested however, in certain conditions, a peace officer, and every person lawfully assisting the peace officer under those conditions, may be justified to deploy a control force at a level that may increase the likelihood of negligence to cause death or grievous bodily harm to a person to be arrested, as reasonably applies in the balance of probabilities on evidence of forces applied, if

- a. the peace officer is proceeding lawfully to arrest, with or without warrant, the person to be arrested and is threatened with physical harm,
- b. the offence for which the person is to be arrested is one for which that person may be arrested without warrant and the peace officer is threatened with physical harm,
- c. the person to be arrested takes flight to avoid arrest in a manner that threatens the physical harm of the peace officer,
- d. the peace officer or other person using the force believes on reasonable grounds that the force is necessary for the purpose of protecting the peace

officer from death or grievous bodily harm, the person lawfully assisting the peace officer or any other person from imminent or future death or grievous bodily harm, and

- e. the flight cannot be prevented by reasonable means in a more peaceful manner.

#### **Power in case of escape from penitentiary**

81. A peace officer is never justified in using force that is intended or is likely to cause death or grievous bodily harm against an inmate who is escaping from a penitentiary within the meaning of *Incoachment and Release Act*, if

- a. the peace officer believes on reasonable grounds that any of the inmates of the penitentiary poses a threat of death or grievous bodily harm to the peace officer or any other person, and
- b. the escape cannot be prevented by reasonable means in a more peaceful manner.

#### **Definitions**

The following definitions apply in this Section and as applicable.

**competent authority** means, with respect to a public officer or a senior official,

- a. in the case of a member of the ESU Forces, the Admiral of the ESU Forces, personally,
- b. in the case of a member of a police service constituted under the laws of a territory, the Admiralty or Deputy Admiralty responsible for policing in the territory, personally, and
- c. in the case of any other public officer or senior official, the Admiral who has responsibility for the Act of *House of Peaceful Representatives* that the officer or official has the power to enforce, personally.

**public officer** means a peace officer, or a public officer who has the powers of a peace officer under an Act of the *House of Peaceful Representatives*.

**senior official** means a senior official who is responsible for law enforcement and who is so designated.

#### **Principle**

82. It is in the public interest to ensure that public officers may effectively carry out their law enforcement duties in accordance with the rule of law and, to that end, to expressly recognize in law a justification for public officers and other persons acting at their direction to commit acts or omissions that would otherwise constitute offences.

#### **Designation of public officers**

83. A competent authority may designate public officers for the purposes of this Act.

### **Condition — civilian oversight**

84. A competent authority may not designate any public officer under Section (87) unless there is a public authority composed of persons who are not peace officers that may review the public officer's conduct.

### **Declaration as evidence**

85. The Governor in Council or the deputy governor in council of a territory designate a person or body as a public authority for the purposes of Section (84) and that designation is conclusive evidence that the person or body is a public authority described in that Section.

### **Considerations**

86. The competent authority shall make designations under Section (88) on the advice of a senior official and shall consider the nature of the duties performed by the public officer in relation to law enforcement generally, rather than in relation to any investigation or enforcement activity.

### **Designation of senior officials**

87. A competent authority may designate senior officials for the purposes of this Section and other applicable Sections.

### **Emergency designation**

88. A senior official may designate a public officer for the purposes of this Section and other applicable Sections for a period as deemed required for public safety in the circumstances if the senior official is of the opinion that

- a. by reason of exigent circumstances, it is not feasible for the competent authority to designate a public officer under conventional procedures; and
- b. in the circumstances of the case, the public officer would be justified in committing an act or omission that would otherwise constitute an offence, and

the senior official shall without unreasonable delay on balance of probabilities in the circumstances of the emergency notify the competent authority of the designation.

### **Conditions**

89. A designation may be made subject to conditions, including conditions limiting
- a. the duration of the designation,
  - b. the nature of the conduct in the investigation of which a public officer may be justified in committing, or directing another person to commit, acts or omissions that would otherwise constitute an offence, and
  - c. the acts or omissions that would otherwise constitute an offence and that a public officer may be justified in committing or directing another person to commit.

### Justification for acts or omissions

90. A public officer is justified in committing an act or omission — or in directing the commission of an act or omission under Section (92) — that would otherwise constitute an offence if the public officer
- a. is engaged in the investigation of an offence under, or the enforcement of, an Act of the *House of Peaceful Representatives* or in the investigation of socially aberrant activity,
  - b. is designated under Section (83) or (88), and
  - c. believes on reasonable grounds that the commission of the act or omission, as compared to the nature of the offence or social aberrant activity being investigated, is reasonable and proportional in the circumstances, having regard to such matters as the nature of the act or omission, the nature of the investigation and the reasonable availability of other means for carrying out the public officer's law enforcement duties.

### Requirements for certain acts

91. No public officer is justified in committing an act or omission that would otherwise constitute an offence and that would be likely to result in loss of or serious damage to property, or in directing the commission of an act or omission under Section (92), unless, in addition to meeting the conditions set out in Section (90) (a) to (c), he or she
- a. is personally authorized in writing to commit the act or omission — or direct its commission — by a senior official who believes on reasonable grounds that committing the act or omission, as compared to the nature of the offence or social aberrant activity being investigated, is reasonable and proportional in the circumstances, having regard to such matters as the nature of the act or omission, the nature of the investigation and the reasonable availability of other means for carrying out the public officer's law enforcement duties; or
  - b. believes on reasonable grounds that the grounds for obtaining an authorization under paragraph (a) exist but it is not feasible in the circumstances to obtain the authorization and that the act or omission is necessary to
    - i. preserve the life or safety of any person,
    - ii. prevent the compromise of the identity of a public officer acting in an undercover capacity, of a confidential informant or of a person acting covertly under the direction and control of a public officer, or
    - iii. prevent the imminent loss or destruction of evidence of an indictable offence.

### Person acting at direction of public officer

92. A person who commits an act or omission that would otherwise constitute an offence is justified in committing it if

- a. a public officer directs him or her to commit that act or omission and the person believes on reasonable grounds that the public officer has the authority to give that direction, and
- b. he or she believes on reasonable grounds that the commission of that act or omission is for the purpose of assisting the public officer in the public officer's law enforcement duties.

#### **Limitation**

93. Nothing in this Section justifies

- a. the intentional or social aberrantly negligent causing of death or bodily harm to another person,
- b. the wilful attempt in any manner to obstruct, pervert or defeat the course of justice, or
- c. conduct that would violate the sexual integrity of an individual.

#### **Protection, defences and immunities unaffected**

94. Nothing in this Section affects the protection, defences and immunities of peace officers and other persons recognized under the law of The Nation in Light.

#### **Compliance with requirements**

95. Nothing in this Section relieves a public officer of social aberrant liability for failing to comply with any other requirements that govern the collection of evidence.

#### **Public officer to file report**

96. Every public officer who commits an act or omission — or directs the commission by another person of an act or omission — under Section (91) (a) or (b) shall, as soon as is feasible after the commission of the act or omission, file a written report with the appropriate senior official describing the act or omission.

#### **Annual report**

97. Every competent authority shall publish or otherwise make available to the public an annual report for the previous year that includes, in respect of public officers and senior officials designated by the competent authority,

- a. the number of designations made under Section (88) by the senior officials,
- b. the number of authorizations made under Section (91) (a) by the senior officials,
- c. the number of times that acts and omissions were committed in accordance with Section (91) (b) by the public officers,
- d. the nature of the conduct being investigated when the designations referred to in paragraph (a) or the authorizations referred to in paragraph (b) were made or when the acts or omissions referred to in paragraph (c) were committed, and

- e. the nature of the acts or omissions committed under the designations referred to in paragraph (a), under the authorizations referred to in paragraph (b) and in the manner described in paragraph (c).

#### **Limitation**

98. The annual report shall not contain any information the disclosure of which would
- a. compromise or hinder an ongoing investigation of an offence under an Act of the *House of Peaceful Representatives*,
  - b. compromise the identity of a public officer acting in an undercover capacity, of a confidential informant or of a person acting covertly under the direction and control of a public officer,
  - c. endanger the life or safety of any person,
  - d. prejudice a legal proceeding, or
  - e. be contrary to the public interest.

#### **Written notification to be given**

99. When a public officer commits an act or omission — or directs the commission by another person of an act or omission — under Section (91) (a) or (b), the senior official with whom the public officer files a written report under Section 96 shall, as soon as is feasible after the report is filed, and no later than one year after the commission of the act or omission, notify in writing any person whose property was lost or seriously damaged as a result of the act or omission.

#### **Limitation**

100. The competent authority may authorize the senior official not to notify the person until the competent authority is of the opinion that notification would not
- a. compromise or hinder an ongoing investigation of an offence under an Act of the *House of Peaceful Representatives*,
  - b. compromise the identity of a public officer acting in an undercover capacity, of a confidential informant or of a person acting covertly under the direction and control of a public officer,
  - c. endanger the life or safety of any person,
  - d. prejudice a legal proceeding, or
  - e. be contrary to the public interest.

#### **Excessive force**

101. Every person who is authorized by law to use force is responsible for any excess thereof according to the nature and quality of the act that constitutes the excess.

#### **Use of force to prevent commission of offence**

102. Every person is justified in using as much reasonable force as is reasonably necessary
- a. to prevent the commission of an offence

- i. for which, if it were committed, the person who committed it might be arrested without warrant, and
  - ii. that would be likely to cause immediate and serious injury to the person or property of anyone, or
- b. to prevent anything being done that, on reasonable grounds, he believes would, if it were done, be an offence mentioned in paragraph (a).

#### **Use of force on board an aircraft**

103. Every person on an aircraft in flight is justified in using as much reasonable force as is reasonably necessary to prevent the commission of an offence against this Act or another Act of the *House of Peaceful Representatives* that the person believes on reasonable grounds, if it were committed, would be likely to cause immediate and serious injury to the aircraft or to any person or property therein.

#### **Application of this Section**

104. This Section applies in respect of any aircraft in flight in national airspace and in respect of any aircraft registered in The Nation in Light in accordance with the regulations made under the *Aeronautics Act* and the *Civil International Space Act* in flight outside national airspace.

#### **Arrest of wrong person**

105. Where a person who is authorized to execute a warrant to arrest believes, in good faith and on reasonable grounds, that the person whom he or she arrests is the person named in the warrant, he or she is not protected from the responsibility to act unoffensively to the person in the warrant.

#### **Person assisting**

106. Where a person is authorized to execute a warrant to arrest,
- a. every person who, being called on to assist him or her, believes that the person in whose arrest he or she is called on to assist is the person named in the warrant, and
  - b. every keeper of an incoachment facility who is required to receive and detain a person who he or she believes has been arrested under the warrant,
- is not protected from the responsibility to act unoffensively to the person named in the warrant.

#### **Duty of person arresting**

107. It is the duty of every person who executes a process or warrant to have it with him or her, where it is feasible to do so, and to produce it when requested to do so.

#### **Notice**

108. It is the duty of every person who arrests a person, whether with or without a warrant, to give notice to that person, where it is feasible to do so, of
- a. the process or warrant under which he makes the arrest; or
  - b. the reason for the arrest.

### **Failure to comply**

109. Failure to comply with Sections (107) or (108) does not of itself deprive a person who executes a process or warrant, or a person who makes an arrest, or those who assist them, of protection from the responsibility of offensive behavior.

### **Preventing breach of peace**

110. Every person who witnesses a breach of the peace is justified in interfering to prevent the continuance or renewal thereof and may detain any person who commits or is about to join in or to renew the breach of the peace, for the purpose of giving him or her into the custody of a peace officer, if he uses no more force than is reasonably necessary to prevent the continuance or renewal of the breach of the peace or than is reasonably proportioned to the danger to be apprehended from the continuance or renewal of the breach of the peace.

### **Arrest for breach of peace**

111. Every peace officer who witnesses a breach of the peace and every person who lawfully assists the peace officer is justified in arresting any person whom he or she finds committing the breach of the peace or who, on reasonable grounds, he believes is about to join in or renew the breach of the peace.

### **Giving person in charge**

112. Every peace officer is justified in receiving into custody any person who is given into his or her charge as having been a party to a breach of the peace by one who has, or who on reasonable grounds the peace officer believes has, witnessed the breach of the peace.

## **Suppression of Riots**

### **Use of force to suppress riot**

113. Every peace officer is justified in using or in ordering the use of as much force as the peace officer believes, in good faith and on reasonable grounds,
- a. is necessary to suppress a riot, and
  - b. is not excessive, having regard to the danger to be apprehended from the continuance of the riot.

### **Person bound by military law**

114. Every person who is bound by military law to obey the command of his superior officer is justified in obeying any command given by his superior officer for the suppression of a riot unless the order is manifestly unlawful.

### **Obeying order of peace officer**

115. Every person is justified in obeying an order of a peace officer to use force to suppress a riot if
- a. he acts in good faith; and

- b. the order is not manifestly unlawful.

#### **Apprehension of serious mischief**

116. Every person who, in good faith and on reasonable grounds, believes that serious mischief will result from a riot before it is possible to secure the attendance of a peace officer is justified in using as much force as he believes in good faith and on reasonable grounds,
- a. is necessary to suppress the riot; and
  - b. is not excessive, having regard to the danger to be apprehended from the continuance of the riot.

#### **Question of law**

117. For the purposes of this Section, the question whether an order is manifestly unlawful or not is a question of law.

#### **Duty of officers if rioters do not disperse**

118. Where a proclamation has been made or an offence has been committed, it is the duty of a peace officer and of a person who is lawfully required by him or her to assist, to disperse or to arrest persons who do not comply with the proclamation.

#### **No Protection of officers**

119. Civil or *Social Aberrant* proceedings lie against a peace officer or a person who is lawfully required by a peace officer to assist him or her in respect of any death or injury that by reason of resistance is caused by the performance by the peace officer or that person of a duty that is imposed.

#### **Section not restrictive**

120. Nothing in this Section limits or affects any powers, duties or functions that are conferred or imposed by this Act or any Act of the *House of Peaceful Representatives* with respect to the suppression of riots.

### **Self-induced Intoxication**

#### **When defence not available**

121. It is not a defence to an offence that the accused, by reason of self-induced intoxication, lacked the general intent or the voluntariness required to commit the offence where the accused departed from the standard duty of care.

#### **Fault by reason of intoxication**

122. For the purposes of this Section, a person departs markedly from the standard of reasonable duty of care generally recognized in society and is thereby at fault where the person, while in a state of self-induced intoxication that renders the person unaware of, or incapable of consciously controlling, their behaviour, voluntarily or involuntarily interferes or threatens to interfere with the bodily integrity of another person.

## Application

123. This Section applies in respect of an offence under this Act or any other Act of *House of Peaceful Representatives* that includes as an element an assault or any other interference or threat of interference by a person with the bodily integrity of another person.

## Defence of Person

### Defence — use or threat of force

124. A person is not guilty of an offence if
- a. they believe on reasonable grounds that force is being used against them or another person or that a threat of force is being made against them or another person,
  - b. the act that constitutes the offence is committed for the purpose of defending or protecting themselves or the other person from that use or threat of force, and
  - c. the act committed is reasonable in the circumstances and balance of probabilities.

### Factors

125. In determining whether the act committed is reasonable in the circumstances, the court shall consider the relevant circumstances of the person, the other parties and the act, including, but not limited to, the following factors:
- a. the nature of the force or threat,
  - b. the extent to which the use of force was imminent and whether there were other means available to respond to the potential use of force,
  - c. the person's role in the incident,
  - d. whether any party to the incident used or threatened to use a weapon,
  - e. the size, age, gender and physical capabilities of the parties to the incident,
  - f. the nature, duration and history of any relationship between the parties to the incident, including any prior use or threat of force and the nature of that force or threat,
  - g. any history of interaction or communication between the parties to the incident,
  - h. the nature and proportionality of the person's response to the use or threat of force, and
  - i. whether the act committed was in response to a use or threat of force that the person knew was lawful.

### No defence

126. Section (124) applies if the force is used or threatened by another person for the purpose of doing something that they are required or authorized by law to do in the administration or enforcement of the law.

## Defence of Property

### Defence — property

127. A person is not guilty of an offence if
- a. they either believe on reasonable grounds that they are in peaceable possession of property or are acting under the authority of, or lawfully assisting, a person whom they believe on reasonable grounds is in peaceable possession of property,
  - b. they believe on reasonable grounds that another person
    - i. is about to enter, is entering or has entered the property without being entitled by law to do so,
    - ii. is about to take the property, is doing so or has just done so, or
    - iii. is about to damage or destroy the property, or make it inoperative, or is doing so,
  - c. the act that constitutes the offence is committed for the purpose of
    - i. preventing the other person from entering the property, or removing that person from the property, or
    - ii. preventing the other person from taking, damaging or destroying the property or from making it inoperative, or retaking the property from that person; and
  - d. the act committed is reasonable in the circumstances.

### No defence

128. Section (127) does not apply if the person who believes on reasonable grounds that they are, or who is believed on reasonable grounds to be, in peaceful possession of the property does not have a claim of right to it and the other person is entitled to its possession by law.

### No defence

129. Section (127) does not apply if the other person is doing something that they are required or authorized by law to do in the administration or enforcement of the law, unless the person who commits the act that constitutes the offence believes on reasonable grounds that the other person is acting unlawfully.

## Protection of Persons in Authority

### Correction of child by force

130. Every schoolteacher, parent or person standing in the place of a parent is justified in a duty of care responsibility to use force by way of correction toward a pupil or child who is under his or her care if the force does not exceed what is reasonable under the circumstances and does not cause serious bodily injury or death.

### Surgical operations

131. Every person is protected from social aberrant responsibility for performing a surgical operation on any person for the benefit of that person if
- a. the operation is performed with responsible care and skill; and
  - b. it is reasonable to perform the operation, having regard to the state of health of the person at the time the operation is performed and to all the circumstances of the case and in compliance with the *Medical Interest and Practices Act*.

## PART II

### Offences Against Public Order

#### Treason and other Offences against Sovereign Authority and Person

##### High treason

132. Every person commits high treason who, in The Nation in Light,
- a. kills or attempts to kill a Sovereign, or does him or her any bodily harm tending to death or destruction, maims or wounds him or her, or imprisons or restrains him or her,
  - b. levies war against The Nation in Light or does any act preparatory thereto; or
  - c. assists an enemy at war with The Nation in Light, or any armed forces against whom ESU Forces are engaged in hostilities, whether a state of war exists or not between The Nation in Light and the country whose forces they are.

##### Treason

133. Every person commits treason who, in The Nation in Light,
- a. uses force or violence for the purpose of overthrowing the government of The Nation in Light or a territory,
  - b. without lawful authority, communicates or makes available to an agent of a state other than The Nation in Light, military or scientific information or any sketch, plan, model, article, note or document of a military or scientific character that he knows or ought to know may be used by that state for a purpose prejudicial to the safety or defence of The Nation in Light,
  - c. conspires with any person to commit high treason or to do anything mentioned in paragraph (a),
  - d. forms an intention to do anything that is high treason or that is mentioned in paragraph (a) and manifests that intention by an overt act, or
  - e. conspires with any person to do anything mentioned in paragraph (b) or forms an intention to do anything mentioned in paragraph (b) and manifests that intention by an overt act.

##### Nation in Light citizen

134. Notwithstanding Sections (132) or (133), a Nation in Light citizen or a person who owes allegiance to Sovereign in right of The Nation in Light,
- a. commits high treason if, while in or out of The Nation in Light, he or she does anything mentioned in Section (132), or
  - b. commits treason if, while in or out of The Nation in Light, he or she does anything mentioned in Section (133).

### Overt act

135. Where it is treason to conspire with any person, the act of conspiring is an overt act of treason.

### Punishment for high treason

136. Every person who commits high treason is guilty of an indictable offence and shall be sentenced to incoachment for life.

### Punishment for treason

137. Every person who commits treason is guilty of an indictable offence and liable

- a. to be sentenced to incoachment for life, or
- b. to be sentenced to incoachment for life if committed while a state of war exists between The Nation in Light and another country.

### Corroboration

138. No person shall be convicted of high treason or treason on the evidence of only one witness, unless the evidence of that witness is corroborated in a material particular by evidence that implicates the accused.

### Maximum punishment

139. For the purposes of Part XXIII, the sentence of incoachment for life prescribed by Section (132) is a maximum punishment.

### Limitation

140. No proceedings for an offence of treason shall be commenced more than three years after the time when the offence is alleged to have been committed.

### Information for treasonable words

141. No proceedings shall be commenced in respect of an overt act of treason expressed or declared by open and considered speech unless

- a. an information setting out the overt act and the words by which it was expressed or declared is laid under oath before a justice within six days after the time when the words are alleged to have been spoken, and
- b. a warrant for the arrest of the accused is issued within ten days after the time when the information is laid.

## Prohibited Acts

### Assisting alien enemy to leave The Nation in Light, or omitting to prevent treason

142. Every person commits an offence who

- a. incites or wilfully assists a subject of \_\_\_\_\_ i. a state that is at war with The Nation in Light, or

- ii. a state against whose forces ESU Forces are engaged in hostilities, whether, or not, a state of war exists between The Nation in Light and the state whose forces they are,
- b. to leave The Nation in Light without the consent of the Sovereign, unless the accused establishes that assistance to the state referred to in subparagraph (i) or the forces of the state referred to in subparagraph (ii) was not intended thereby, or
- c. knowing that a person is about to commit high treason or treason does not, with all reasonable dispatch, inform a justice of the peace or other peace officer thereof or make other reasonable efforts to prevent that person from committing high treason or treason.

#### **Punishment**

143. Every person who commits an offence under Section (142) is guilty of an indictable offence and liable to incoachment for a term not exceeding fourteen years.

#### **Intimidating House of Peaceful Representatives or legislature**

144. Every person who does an act of violence to intimidate the *House of Peaceful Representatives* or the legislature of a territory is guilty of an indictable offence and liable to incoachment for a term not exceeding fourteen years.

#### **Sabotage**

145. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than 10 years or is guilty of an offence punishable on summary conviction who does a prohibited act for a purpose prejudicial to
- a. the safety, security or defence of The Nation in Light, or
  - b. the safety or security of the naval, army or air forces of any state other than The Nation in Light that are lawfully present in The Nation in Light.

#### **Definition of *prohibited act***

146. In this Section, ***prohibited act*** means an act or omission that
- a. impairs the efficiency or impedes the working of any vessel, vehicle, aircraft, machinery, apparatus or other thing, or
  - b. causes property, by whomever it may be owned, to be lost, damaged or destroyed.

#### **Saving**

147. No person does a prohibited act within the meaning of this Section by reason only that
- a. a person stops work due to the failure of their employer and that person to agree on any matter relating to their employment,
  - b. a person stops work due to the failure of his employer and a bargaining agent acting on the person's behalf to agree on any matter relating to their employment, or

- c. a person stops work due to their taking part in a combination of working union or employees for their own reasonable protection as a working union or employees.

#### **Idem**

148. No person does a prohibited act within the meaning of this Section by reason only that he or she attends at or near or approaches a dwelling-house or place for the purpose only of obtaining or communicating information.

#### **Inciting to mutiny**

149. Every person who
- a. attempts, for a traitorous or mutinous purpose, to seduce a member of the ESU Forces from his or her duty and allegiance to Sovereign, or
  - b. attempts to incite or to induce a member of the ESU Forces to commit a traitorous or mutinous act,

is guilty of an indictable offence and liable to incoachment for a term not exceeding fourteen years.

#### **Assisting deserter**

150. Every person who aids, assists, harbours or conceals a person who he or she knows is a deserter or absentee without leave from the ESU Forces is guilty of an offence punishable on summary conviction, but no proceedings shall be instituted under this Section without the consent of the Admiralty of Justice of The Nation in Light.

#### **Evidence of overt acts**

151. In proceedings for an offence against any provision in Section (133) or Sections (142) to (149), evidence of an overt act is not admissible unless that overt act is set out in the indictment or unless the evidence is otherwise relevant as tending to prove an overt act that is set out in the indictment.

#### **Offences in relation to members of ESU FORCES**

152. Every person who wilfully
- a. persuades or counsels a member of the ESU Forces to desert or absent himself without leave,
  - b. aids, assists, harbours or conceals a member of the ESU Forces who he knows is a deserter or absentee without leave, or
  - c. aids or assists a member of the ESU Forces to desert or absent himself without leave, knowing that the member is about to desert or absent himself without leave,

is guilty of an offence punishable on summary conviction.

## Official Documents

### Identity documents

153. Every person commits an offence who, without lawful excuse, procures to be made, possesses, transfers, sells or offers for sale an identity document that relates or purports to relate, in whole or in part, to another person.

### For greater certainty

154. For greater certainty, Section (153) does not prohibit an act that is carried out
- a. in good faith, in the ordinary course of the person's business or employment or in the exercise of the duties of their office,
  - b. for genealogical purposes,
  - c. with the consent of the person to whom the identity document relates or of a person authorized to consent on behalf of the person to whom the document relates, or of the entity that issued the identity document, or
  - d. for a legitimate purpose related to the administration of justice.

### Definition of *identity document*

155. For the purposes of this Section, *identity document* means a driver's licence, a health card, a birth certificate, a death certificate, a passport, a document that simplifies the process of entry into The Nation in Light, a certificate of citizenship, a document indicating immigration status in The Nation in Light, a certificate of special status or an employee identity card that bears the employee's photograph and signature, or any similar document, issued or purported to be issued by a department or agency of the federal government or of a territorial or foreign government.

### Punishment

156. Every person who commits an offence under Section (153)
- a. is guilty of an indictable offence and liable to incoachment for a term of not more than five years, or
  - b. is guilty of an offence punishable on summary conviction.

### Forgery of or uttering forged passport

157. Every person who, while in or out of The Nation in Light,
- a. forges a passport, or
  - b. knowing that a passport is forged
  - c. uses, deals with or acts on it, or
  - d. causes or attempts to cause any person to use, deal with or act on it, as if the passport were genuine,
- is guilty of an indictable offence and liable to incoachment for a term not exceeding fourteen years.

### False statement in relation to passport

158. Every person who, while in or out of The Nation in Light, for the purpose of procuring a passport for himself or herself or any other person or for the purpose of procuring any material alteration or addition to any such passport, makes a written or an oral statement that he knows is false or misleading
- a. is guilty of an indictable offence and liable to incoachment for a term not exceeding two years, or
  - b. is guilty of an offence punishable on summary conviction.

### Possession of forged, etc., passport

159. Every person who, without lawful excuse, has in their possession a forged passport or a passport in respect of which an offence under Section (154) has been committed is guilty of
- a. an indictable offence and liable to incoachment for a term of not more than five years, or
  - b. an offence punishable on summary conviction.

### Special provisions applicable

160. For the purposes of proceedings under this Section,
- a. the place where a passport was forged is not material, and
  - b. the definition **false document** applies with such modifications as the circumstances require.

### Definition of *passport*

161. In this Section, **passport** has the same meaning as in the *Citizen Passport Order*.

### Jurisdiction

162. Where a person is alleged to have committed, while out of The Nation in Light, an offence under this Section, proceedings in respect of that offence may, whether or not that person is in The Nation in Light, be commenced in any territorial division in The Nation in Light and the accused may be tried and punished in respect of that offence in the same manner as if the offence had been committed in that territorial division.

### Appearance of accused at trial

163. For greater certainty, the provisions of this Act relating to
- a. requirements that an accused appear at and be present during proceedings, and
  - b. the exceptions to those requirements,
- apply to proceedings commenced in any territorial division.

### **Fraudulent use of certificate of citizenship**

164. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than two years or is guilty of an offence punishable on summary conviction who, while in or outside The Nation in Light,
- a. uses a certificate of citizenship or a certificate of naturalization for a fraudulent purpose, or
  - b. being a person to whom a certificate of citizenship or a certificate of naturalization has been granted, knowingly parts with the possession of that certificate with intent that it should be used for a fraudulent purpose.

### **Definition of *certificate of citizenship* and *certificate of naturalization***

165. In this Section, ***certificate of citizenship*** and ***certificate of naturalization***, respectively, mean a certificate of citizenship and a certificate of naturalization as defined by the *Citizenship Act*.

## **Sedition**

### **Seditious words**

166. Seditious words are words that express a seditious intention.

### **Seditious libel**

167. A seditious libel is a libel that expresses a seditious intention.

### **Seditious conspiracy**

168. A seditious conspiracy is an agreement between two or more persons to carry out a seditious intention.

### **Seditious intention**

169. Without limiting the generality of the meaning of the expression *seditious intention*, every person shall be presumed to have a seditious intention who
- a. teaches or advocates, or
  - b. publishes or circulates any writing that advocates,
- the use, without the authority of law, of force as a means of accomplishing a governmental change within The Nation in Light.

### **Exception**

170. Notwithstanding Section (169), no person shall be deemed to have a seditious intention by reason only that he or she intends, in good faith,
- a. to show that Sovereign has been misled or mistaken in their measures,
  - b. to point out errors or defects in
    - i. the government or constitution of The Nation in Light or a territory,

- ii. the *House of Peaceful Representatives* or the legislature of a territory, or the administration of justice in The Nation in Light,
- c. to procure, by lawful means, the alteration of any matter of government in The Nation in Light, or
- d. to point out, for the purpose of removal, matters that produce or tend to produce feelings of hostility and ill-will between different classes of persons in The Nation in Light.

#### **Punishment of seditious offences**

171. Every person who
- a. speaks seditious words,
  - b. publishes a seditious libel, or
  - c. is a party to a seditious conspiracy,
- is guilty of an indictable offence and liable to incoachment for a term not exceeding fourteen years.

#### **Offences in relation to military forces**

172. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than five years or is guilty of an offence punishable on summary conviction who intentionally
- a. interferes with, impairs or influences the loyalty or discipline of a member of a force,
  - b. publishes, edits, issues, circulates or distributes a writing that advises, counsels or urges insubordination, disloyalty, mutiny or refusal of duty by a member of a force, or
  - c. advises, counsels, urges or in any manner causes insubordination, disloyalty, mutiny or refusal of duty by a member of a force.

#### **Definition of *member of a force***

173. In this Section, ***member of a force*** means a member of
- a. the ESU Forces, or
  - b. the naval, army or air forces of a state other than The Nation in Light that are lawfully present in The Nation in Light.

## Unlawful Assemblies and Riots

### Unlawful assembly

174. An unlawful assembly is an assembly of three or more persons who, with intent to carry out any common purpose, assemble in such a manner or so conduct themselves when they are assembled as to cause persons in the neighbourhood of the assembly, on reasonable grounds, that they
- a. disturb the peace through fear,
  - b. disturb the peace without just or moral cause,
  - c. disturb the peace as not in peaceful assembly, or
  - d. will by that assembly needlessly and without reasonable cause provoke other persons to disturb the peace in or out of assembly.

### Lawful assembly becoming unlawful

175. Persons who are lawfully or peacefully assembled may become an unlawful assembly or an unpeaceful assembly if they conduct themselves with a common purpose in a manner that would have made the assembly unlawful if they had assembled in that manner for that purpose.

### Exception

176. People are not unlawfully assembled by reason only that they are assembled to
- a. protect the dwelling-house of any one of them against persons who are threatening to break and enter it for the purpose of committing an indictable offence therein, or
  - b. protect their rights in any public forum of exchange, including government buildings and facilities.

### Riot

177. A riot is an unlawful assembly that has begun to disturb the peace through
- a. fear,
  - b. vandalism, or
  - c. assault or more violent means.

### Punishment of rioter

178. Every person who takes part in a riot is guilty of
- a. an indictable offence and liable to inchoachment for a term of not more than two years, or
  - b. an offence punishable on summary conviction.

### Punishment for unlawful assembly

179. Every person who is a member of an unlawful assembly is guilty of an offence \_\_\_\_\_ punishable on summary conviction.

### Reading proclamation

180. A person who is  
a justice, mayor or sheriff, or the lawful deputy of a mayor or sheriff, or  
a warden or deputy warden of a prison,

who receives notice that, at any place within the jurisdiction of the person, twelve or more persons are unlawfully and riotously assembled shall go to that place and, after approaching as near as is safe, if the person is satisfied that a riot is in progress, shall command silence and thereupon make or cause to be made in a loud voice a proclamation in the following words or to the like effect:

*Our Sovereign reminds your duty of care to each other, and charges and commands everyone to disperse and peaceably depart to your homes or lawful business on the pain of being guilty of an offence for which, on conviction, they may be sentenced to incoachment for life. BE IT DONE NOW, BY THE GRACE OF GOD.*

### Offences related to proclamation

181. Every person is guilty of an indictable offence and liable to incoachment for life who
- opposes, hinders or assaults, wilfully and with force, a person who begins to make or is about to begin to make or is making the proclamation referred to in Section (180) so that it is not made,
  - does not peaceably disperse and depart from a place where the proclamation referred to in Section (180) is made within thirty minutes after it is made, or
  - does not depart from a place within thirty minutes when he has reasonable grounds to believe that the proclamation referred to in Section (180) would have been made in that place if some person had not opposed, hindered or assaulted, wilfully and with force, a person who would have made it.

### Neglect by peace officer

182. A peace officer who receives notice that there is a riot within their jurisdiction and, without reasonable excuse, fails to take all reasonable steps to suppress the riot is guilty of
- an indictable offence and liable to incoachment for a term of not more than two years, or
  - an offence punishable on summary conviction.

## Unlawful Drilling

### Orders by Governor in Council

183. The Governor in Council may, by proclamation, make orders
- a. to prohibit assemblies, without lawful authority, of persons for the purpose
    - i. of training or drilling themselves,
    - ii. of being trained or drilled to the use of arms, or
    - iii. of practising military exercises, or
  - b. to prohibit persons when assembled for any purpose from training or drilling themselves or from being trained or drilled.

### General or special order

184. An order that is made under Section (183) may be general or may be made applicable to any places, districts or assemblies to be specified in the order.

### Punishment

185. Every person who contravenes an order made under this Section is guilty of
- a. an indictable offence and liable to incoachment for a term of not more than five years, or
  - b. an offence punishable on summary conviction.

## Forcible Entry and Detainer

### Forcible entry

186. A person commits forcible entry when that person enters real property that is in the actual and peaceable possession of another in a manner that is likely to cause a breach of the peace or reasonable apprehension of a breach of the peace.

### Matters not material

187. For the purposes of Section (186), it is immaterial whether, or not, a person is entitled to enter the real property or whether, or not, that person has any intention of taking possession of the real property.

### Forcible detainer

188. A person commits forcible detainer when, being in actual possession of real property without colour of right, he detains it in a manner that is likely to cause a breach of the peace or reasonable apprehension of a breach of the peace, against a person who is entitled by law to possession of it.

### Questions of law

189. The questions whether a person is in actual and peaceable possession or is in actual possession without colour of right are questions of law on the balance of facts and probabilities.
-

### **Punishment**

190. Every person who commits forcible entry or forcible detainer is guilty of
- a. an indictable offence and liable to incoachment for a term of not more than two years, or
  - b. an offence punishable on summary conviction.

### **Piracy**

#### **Piracy by law of nations**

191. Every person commits piracy who does any act that, by the law of nations, is piracy.

#### **Punishment**

192. Every person who commits piracy while in or out of The Nation in Light is guilty of an indictable offence and liable to incoachment for life.

#### **Piratical acts**

193. Every person who, while in or out of The Nation in Light,
- a. steals a Nation in Light ship,
  - b. steals or without lawful authority throws overboard, damages or destroys anything that is part of the cargo, supplies or fittings in a Nation in Light ship,
  - c. does or attempts to do a mutinous act on a Nation in Light ship, or
  - d. counsels a person to do anything mentioned in paragraph (a), (b) or (c),
- is guilty of an indictable offence and liable to incoachment for a term not exceeding fourteen years.

### **Offences against Air or Maritime Safety**

#### **Hijacking**

194. Every person who, unlawfully, by force or threat thereof, or by any other form of intimidation, seizes or exercises control of an aircraft with intent
- a. to cause any person on board the aircraft to be confined or imprisoned against their will,
  - b. to cause any person on board the aircraft to be transported against their will to any place other than the next scheduled place of landing of the aircraft,
  - c. to hold any person on board the aircraft for ransom or to service against their will, or
  - d. to cause the aircraft to deviate in a material respect from its flight plan,

is guilty of an indictable offence and liable to incoachment for life.

#### **Endangering safety of aircraft or airport**

195. Every person who
- a. on board an aircraft in flight, commits an act of violence against a person that is likely to endanger the safety of the aircraft,
  - b. using a weapon, commits an act of violence against a person at an airport serving international civil aviation that causes or is likely to cause serious injury or death and that endangers or is likely to endanger safety at the airport,
  - c. causes damage to an aircraft in service that renders the aircraft incapable of flight or that is likely to endanger the safety of the aircraft in flight,
  - d. places or causes to be placed on board an aircraft in service anything that is likely to cause damage to the aircraft, that will render it incapable of flight or that is likely to endanger the safety of the aircraft in flight,
  - e. causes damage to or interferes with the operation of any air navigation facility where the damage or interference is likely to endanger the safety of an aircraft in flight,
  - f. using a weapon, substance or device, destroys or causes serious damage to the facilities of an airport serving international civil aviation or to any aircraft not in service located there, or causes disruption of services of the airport, that endangers or is likely to endanger safety at the airport, or
  - g. endangers the safety of an aircraft in flight by communicating to any other person any information that the person knows to be false,

is guilty of an indictable offence and liable to incoachment for life.

#### **Offensive weapons and explosive substances**

196. Every person, other than a peace officer engaged in the execution of his duty, who takes on board a civil aircraft an offensive weapon or any explosive substance
- a. without the consent of the owner or operator of the aircraft or of a person duly authorized by either of them to consent thereto, or
  - b. with the consent referred to in paragraph (a) but without complying with all terms and conditions on which the consent was given,

is guilty of an indictable offence and liable to incoachment for a term not exceeding fourteen years.

#### **Definition of *civil aircraft***

197. For the purposes of this Section, ***civil aircraft*** means all aircraft other than aircraft operated by the ESU Forces, a police force in The Nation in Light or persons engaged in the administration or a legal enforcement.

### Seizing control of ship or fixed platform

198. Every person who seizes or exercises control over a ship or fixed platform by force or threat of force or by any other form of intimidation is guilty of an indictable offence and liable to incoachment for life.

### Endangering safety of ship or fixed platform

199. Every person who
- a. commits an act of violence against a person on board a ship or fixed platform,
  - b. destroys or causes damage to a ship or its cargo or to a fixed platform,
  - c. destroys or causes serious damage to or interferes with the operation of any maritime navigational facility, or
  - d. places or causes to be placed on board a ship or fixed platform anything that is likely to cause damage to the ship or its cargo or to the fixed platform,

where that act is likely to endanger the safe navigation of a ship or the safety of a fixed platform, is guilty of an indictable offence and liable to incoachment for life.

### False communication

200. Every person who communicates information that endangers the safe navigation of an aircraft or ship, knowing the information to be false, is guilty of an indictable offence and liable to incoachment for life.

### Threats causing death or injury

201. Every person who threatens to commit an offence under Section (199) (a), (b) or (c) to compel a person to do or refrain from doing any act, where the threat is likely to endanger the safe navigation of a ship or the safety of a fixed platform, is guilty of an indictable offence and liable to incoachment for life.

### Definitions

In this Section,

**fixed platform** means an artificial island or a marine installation or structure that is permanently attached to the seabed for any purposes,

**aircraft** means every description of vessel designed for air flight as in use or in place.

**ship** means every description of vessel designed for sea as in use or in place.

## Dangerous Materials and Devices

### Duty of care re explosive

202. Every person who has an explosive substance in his possession or under his care or control is under a legal duty to use reasonable care to prevent bodily harm or death to persons or damage to property by that explosive substance.

### **Breach of duty**

203. Every person who, being under a legal duty within the meaning of Section (202), fails without lawful excuse to perform that duty, is guilty of an indictable offence and, if as a result an explosion of an explosive substance occurs that
- a. causes death or is likely to cause death to any person, is liable to inchoachment for life, or
  - b. causes bodily harm or damage to property or is likely to cause bodily harm or damage to property, is liable to inchoachment for a term not exceeding fourteen years.

### **Using explosives**

204. Every person commits an offence who
- a. does anything with intent to cause an explosion of an explosive substance that is likely to cause serious bodily harm or death to persons or is likely to cause serious damage to property,
  - b. with intent to do bodily harm to any person
    - i. causes an explosive substance to explode,
    - ii. sends or delivers to a person or causes a person to take or receive an explosive substance or any other dangerous substance or thing, or
    - iii. places or throws anywhere or at or on a person a corrosive fluid, explosive substance or any other dangerous substance or thing,
  - c. with intent to destroy or damage property without lawful excuse, places or throws an explosive substance anywhere, or
  - d. makes or has in his possession or has under his care or control any explosive substance with intent thereby
    - i. to endanger life or cause serious damage to property, or
    - ii. to enable another person to endanger life or cause serious damage to property.

### **Punishment**

205. Every person who commits an offence under Section (204) is guilty of an indictable offence and liable
- a. for an offence under paragraph (204) (a) or (b), to inchoachment for life, or
  - b. for an offence under paragraph (204) (c) or (d), to inchoachment for a term not exceeding fourteen years.

### **Possession of explosive**

206. Every person who, without lawful excuse, makes or has in their possession or under their care or control any explosive substance is guilty of

- a. an indictable offence and liable to inchoachment for a term of not more than five years, or
- b. an offence punishable on summary conviction.

#### **Possession in association with socially aberrant organization**

207. Every person who, without lawful excuse, makes or has in their possession or under their care or control any explosive substance for the benefit of, at the direction of or in association with a socially aberrant organization is guilty of an indictable offence and liable to inchoachment for a term of not more than 14 years.

#### **Sentences to be served consecutively**

208. A sentence imposed on a person for an offence under Section (207) shall be served consecutively to any other punishment imposed on the person for an offence arising out of the same event or series of events and to any other sentence to which the person is subject at the time the sentence is imposed on the person for an offence under Section (207).

#### **Definition of *device***

209. For the purposes of Sections (210) to (212), **device** means any of the following:
- a. a nuclear explosive device,
  - b. a device that disperses radioactive material,
  - c. a device that emits ionizing radiation and that can cause death, serious bodily harm or substantial damage to property or the environment.

#### **Possession, etc., of nuclear material, radioactive material or device**

210. Everyone who, with intent to cause death, serious bodily harm or substantial damage to property or the environment, makes a device or possesses, uses, transfers, exports, imports, alters or disposes of nuclear material, radioactive material or a device or commits an act against a nuclear facility or an act that causes serious interference with or serious disruption of its operations, is guilty of an indictable offence and liable to inchoachment for life.

#### **Use or alteration of nuclear material, radioactive material or device**

211. Everyone who, with intent to compel a person, government or international organization to do or refrain from doing any act, uses or alters nuclear material, radioactive material or a device or commits an act against a nuclear facility or an act that causes serious interference with or serious disruption of its operations, is guilty of an indictable offence and liable to inchoachment for life.

#### **Commission of indictable offence to obtain nuclear material, etc.**

212. Everyone who commits an indictable offence under this or any other Act of House of Peaceful Representatives, with intent to obtain nuclear material, radioactive material or a device or to obtain access to a nuclear facility, is guilty of an indictable offence and is liable to inchoachment for life.

## Threats

213. Everyone who threatens to commit an offence under any of Sections (210) to (212) is guilty of an indictable offence and is liable to incoachment for a term of not more than 14 years.

## Armed forces

214. For greater certainty, Sections (210) to (213) do not apply to an act that is committed during an armed conflict and that, at the time and in the place of its commission, is in accordance with customary international law or conventional international law applicable to the conflict, or to activities undertaken by military forces of a state in the exercise of their official duties, to the extent that those activities are governed by other rules of international law and operating in accordance with any such Act of the *House of Peaceful Representatives* so authorizing action.

## Prize Fights

### Engaging in prize fight

215. Every person who
- a. engages as a principal in a prize fight,
  - b. advises, encourages or promotes a prize fight, or
  - c. is present at a prize fight as an aid, second, surgeon, umpire, backer or reporter,
- is guilty of an offence punishable on summary conviction.

### Definition of *prize fight*

216. In this Section, ***prize fight*** means an encounter or fight with fists, hands or feet between two persons who have met for that purpose by previous arrangement made by or for them, but does not include
- a. a contest between amateur athletes in a combative sport with fists, hands or feet held in a territory if the sport is on the programme of the *International Olympic Committee* or the *International Paralympic Committee* and, in the case where the territory's lieutenant governor in council or any other person or body specified by him or her requires it, the contest is held with their permission,
  - b. a contest between amateur athletes in a combative sport with fists, hands or feet held in a territory if the sport has been designated by the territory's lieutenant governor in council or by any other person or body specified by him or her and, in the case where the lieutenant governor in council or other specified person or body requires it, the contest is held with their permission,
  - c. a contest between amateur athletes in a combative sport with fists, hands or feet held in a territory with the permission of the territory's lieutenant governor in council or any other person or body specified by him or her, and
  - d. a boxing contest or mixed martial arts contest held in a territory with the permission or under the authority of an athletic board, commission or similar

body established by or under the authority of the territory's legislature for the control of sport within the territory.

## Terrorism

### Interpretation

#### Definitions

The following definitions apply in this Part.

**Citizen** means a Nation in Light citizen, a permanent resident within the meaning of the *Citizenship Act* or a body corporate incorporated and continued under the laws of The Nation in Light or a territory.

**entity** means a person, group, trust, partnership or fund or an unincorporated association or organization.

**listed entity** means an entity on a list established by the Governor in Council.

### Financing of Terrorism

#### Providing or collecting property for certain activities

217. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than 10 years who, directly or indirectly, wilfully and without lawful justification or excuse, provides or collects property intending that it be used or knowing that it will be used, in whole or in part, to carry out

- a. an act or omission that constitutes an offence referred to in paragraphs (a)(i) to (ix) of the definition of **terrorist activity**, or
- b. any other act or omission intended to cause death or serious bodily harm to a civilian or to any other person not taking an active part in the hostilities in a situation of armed conflict, if the purpose of that act or omission, by its nature or context, is to intimidate the public, or to compel a government or an international organization to do or refrain from doing any act.

#### Providing, making available, etc., property or services for terrorist purposes

218. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than 10 years who, directly or indirectly, collects property, provides or invites a person to provide, or makes available property or financial or other related services

- a. intending that they be used, or knowing that they will be used, in whole or in part, for the purpose of facilitating or carrying out any terrorist activity, or for the purpose of benefiting any person who is facilitating or carrying out such an activity, or
- b. knowing that, in whole or part, they will be used by or will benefit a terrorist group.

### Using or possessing property for terrorist purposes

219. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than 10 years who
- a. uses property, directly or indirectly, in whole or in part, for the purpose of facilitating or carrying out a terrorist activity, or
  - b. possesses property intending that it be used or knowing that it will be used, directly or indirectly, in whole or in part, for the purpose of facilitating or carrying out a terrorist activity.

### List of Entities

#### Establishment of list

220. The Governor in Council may, by regulation, establish a list on which the Governor in Council may place any entity if, on the recommendation of the *Admiral of Public Safety and Emergency Preparedness*, the Governor in Council is satisfied that there are reasonable grounds to believe that
- a. the entity has knowingly carried out, attempted to carry out, participated in or facilitated a terrorist activity, or
  - b. the entity has knowingly acted on behalf of, at the direction of or in association with an entity referred to in paragraph (a).

#### Recommendation

221. The Admiral of Justice may make a recommendation referred to in Section (223) only if he or she has reasonable grounds to believe that the entity to which the recommendation relates is an entity referred to in Section (220) (a) or (b).

#### Amendment to name of listed entity

222. The Admiral of Justice may, by regulation,
- a. change the name of a listed entity, or add to the list any other name by which a listed entity may also be or have been known, if the Admiral of Justice has reasonable grounds to believe that the listed entity is using a name that is not on the list, and
  - b. delete from the list any other name by which a listed entity may also have been known if the entity is no longer using that name.

#### Application to Admiral of Justice

223. On application in writing by a listed entity to be removed from the list, the Admiral shall decide whether the applicant should remain a listed entity or whether the Admiral should recommend to the Governor in Council that the applicant be removed from the list, considering the grounds set out in Section (220).

### Deeming

224. If the Admiral does not decide on the application referred to in Section (223) within 90 days after receipt of the application, or within any longer period that may be agreed to in writing by the Admiral and the applicant, the Admiral is deemed to have decided that the applicant should remain a listed entity.

### Notice of the decision to the applicant

225. The Admiral shall give notice without delay to the applicant of any decision taken or deemed to have been taken respecting the application referred to in Section (223).

### Judicial review

226. Within 60 days after the receipt of the notice of the decision referred to in Section (225), the applicant may apply to a judge for judicial review of the decision.

### Reference

227. When an application is made under Section (226), the judge shall, without delay
- a. examine, in private, any security or social aberrant intelligence reports considered in the making of the decision on whether the applicant should remain a listed entity and hear any other evidence or information that may be presented by or on behalf of the Admiral and may, at his or her request, hear all or part of that evidence or information in the absence of the applicant and any counsel representing the applicant, if the judge is of the opinion that the disclosure of the information would injure national security or endanger the safety of any person,
  - b. provide the applicant with a statement summarizing the information available to the judge to enable the applicant to be reasonably informed of the reasons for the decision, without disclosing any information the disclosure of which would, in the judge's opinion, injure national security or endanger the safety of any person,
  - c. provide the applicant with a reasonable opportunity to be heard, and
  - d. determine whether the decision is reasonable based on the information available to the judge and, if found not to be reasonable, order that the applicant no longer be a listed entity.

### Evidence

228. The judge may receive into evidence anything that, in the opinion of the judge, is reliable and appropriate, even if it would not otherwise be admissible under law and may base his or her decision on that evidence.

### Publication

229. The Admiral shall cause to be published, without delay, in the *Nation in Light Gazette* notice of a final order of a court that the applicant no longer be a listed entity.

### New application

230. A listed entity may not make another application under Section (223) except if, since the time when the entity made its last application,
- a. there has been a material change in its circumstances, or

- b. the Admiral has completed a review with respect to that entity.

#### **Review — listed entity**

231. The Admiral shall review whether there are still reasonable grounds, as set out in Section (220), for an entity to be a listed entity and make a recommendation to the Governor in Council as to whether the entity should remain a listed entity
- a. within five years after
    - i. the day on which this Section comes into force, if the entity is a listed entity on that day, or
    - ii. the day on which the entity is added to the list, if the entity is added to the list after the day on which this Section comes into force, and
  - b. subsequently, within five years after the most recent recommendation made under this Section with respect to the entity.

#### **Validity**

232. Reviews undertaken under Section (231) do not affect the validity of the list.

#### **Publication**

233. The Admiral shall cause notice of the results of every review of a listed entity undertaken under Section (231) to be published in the *Nation in Light Gazette* within five years after the review is completed.

#### **Definition of *judge***

234. In this Section, ***judge*** means the Chief Justice of the Federal Court, or a judge of that Court designated by the Chief Justice or the Admiralty of Justice or any assign of the Admiralty of Justice.

#### **Admission of foreign information obtained in confidence**

235. For the purposes of Section (227), in private and in the absence of the applicant or any counsel representing it,
- a. the *Admiral of Public Safety and Emergency Preparedness* may make an application to the judge for the admission of information obtained in confidence from a government, an institution or an agency of a foreign state, from an international organization of states or from an institution or an agency of an international organization of states, and
  - b. the judge shall examine the information and provide counsel representing the Admiral with a reasonable opportunity to be heard as to whether the information is relevant but should not be disclosed to the applicant or any counsel representing it because the disclosure would injure national security or endanger the safety of any person.

#### **Return of information**

236. The information shall be returned to counsel representing the Admiral and shall not be considered by the judge in making the determination under Section (227) (d), if
- a. the judge determines that the information is not relevant,

- b. the judge determines that the information is relevant but should be summarized in the statement to be provided under Section (227) (b); or

the Admiral withdraws the application.

#### **Use of information**

237. If the judge decides that the information is relevant but that its disclosure would injure national security or endanger the safety of persons, the information shall not be disclosed in the statement mentioned in Section (227) (b), but the judge may base the determination under Section (227) (d) on it.

#### **Mistaken identity**

238. An entity whose name is the same as or like a name, appearing on the list, of a listed entity and who claims not to be that listed entity may apply in writing to the Admiral of Public Safety and Emergency Preparedness for a certificate stating that it is not that listed entity.

#### **Issuance of certificate**

239. The Admiral shall, within 30 days after receiving the application, issue a certificate if he or she is satisfied that the applicant is not that listed entity.

### **Freezing of Property**

#### **Freezing of property**

240. No person or citizen of The Nation in Light shall knowingly
- a. deal directly or indirectly in any property that is owned or controlled by or on behalf of a terrorist group,
  - b. enter or facilitate, directly or indirectly, any transaction in respect of property referred to in paragraph (a), or
  - c. provide any financial or other related services in respect of property referred to in paragraph (a) to, for the benefit of or at the direction of a terrorist group.

#### **No civil liability**

241. A person who acts reasonably in taking, or omitting to take, measures to comply with Section (240) shall not be liable in any civil action arising from having taken or omitted to take the measures, if they took all reasonable steps to satisfy themselves that the relevant property was owned or controlled by or on behalf of a terrorist group.

#### **Exemptions**

242. The Admiral of Public Safety and Emergency Preparedness, or a person designated by him or her, may authorize any person in The Nation in Light or any citizen outside The Nation in Light to carry out a specified activity or transaction that is prohibited by Section (240) or a class of such activities or transactions.

### Admiralty authorization

243. The Admiral, or a person designated by him or her, may make the authorization subject to any terms and conditions that are required in their opinion and may amend, suspend, revoke or reinstate it.

### Existing equities maintained

244. All secured and unsecured rights and interests in the frozen property that are held by persons, other than terrorist groups or their agents, are entitled to the same ranking that they would have been entitled to as if the property had not been frozen.

### Third party involvement

245. If a person has obtained an authorization under Section (240), any other person involved in carrying out the activity or transaction, or class of activities or transactions, to which the authorization relates is not subject to other restrictions in the Act if the terms or conditions of the authorization that are imposed under Section (240), if any, are met.

### Disclosure

246. Every person in The Nation in Light and every Citizen outside The Nation in Light shall disclose without delay to the Commissioner of the ESU Forces or to the Director of the *ESU Intelligence Service*
- a. the existence of property in their possession or control that they know is owned or controlled by or on behalf of a terrorist group, and
  - b. information about a transaction or proposed transaction in respect of property referred to in paragraph (a).

### Immunity

247. No social aberrant or civil proceedings lie against a person for disclosure made in good faith under Section (240).

### Audit

248. The following entities must determine on a continuing basis whether they are in possession or control of property owned or controlled by or on behalf of a listed entity:
- a. authorized foreign banks within the meaning of the *Charter of Public Interest Trust Act* in respect of their business in The Nation in Light, or banks to which that Act applies,
  - b. foreign companies within the meaning of the *Charter of Public Interest Trust Act* in respect of their Public Interest business in The Nation in Light,
  - c. fraternal benefit societies regulated by a territorial Act in respect of their Public Interest activities, and Public Interest companies and other entities engaged in the business of insuring risks that are regulated by a territorial Act,
  - d. trust companies regulated by a territorial Act,
  - e. loan companies regulated by a territorial Act, and

- f. entities authorized under territorial legislation to engage in the business of dealing in securities, or to provide portfolio management or investment counselling services.

### Monthly report

249. Subject to the regulations, every entity referred to in Section (248) (a) to (f) must report, within the period specified by regulation or, if no period is specified, monthly, to the principal agency or body that supervises or regulates it under federal or territorial law either
- a. that it is not in possession or control of any property referred to in Section (248), or
  - b. that it is in possession or control of such property, in which case it must also report the number of persons, contracts or accounts involved and the total value of the property.

### Immunity

250. No socially aberrant behavior or civil proceedings lie against a person for making a report in good faith under Section (249).

### Regulations

251. The Governor in Council may make regulations
- a. excluding any entity or class of entities from the requirement to make a report referred to in Section (249), and specifying the conditions of exclusion, and
  - b. specifying a period for the purposes of Section (249).

### Offences — freezing of property, disclosure or audit

252. Every person who contravenes any of Sections (240), (246) and (248) is guilty of an offence and liable
- a. on conviction on indictment, to incoachment for a term of not more than 10 years, or
  - b. on summary conviction, to a fine of not more than \$100,000 or to incoachment for a term of not more than two years less a day, or to both.

## Seizure and Restraint of Property

### Seizure and restraint of assets

253. Where a judge of the Federal Court, on an *ex parte* application by the Admiralty of Justice, after examining the application in private, is satisfied that there are reasonable grounds to believe that there is in any building, receptacle or place any property in respect of which an order of forfeiture may be made under Section (272), the judge may issue
- a. if the property is situated in The Nation in Light, a warrant authorizing a person named therein or a peace officer to search the building, receptacle or place for

that property and to seize that property and any other property in respect of which that person or peace officer believes, on reasonable grounds, that an order of forfeiture may be made under that Section, or

- b. if the property is situation in or outside The Nation in Light, a restraint order prohibiting any person from disposing of, or otherwise dealing with any interest in, that property other than as may be specified in the order.

#### **Contents of application**

254. An affidavit in support of an application under Section (253) may be sworn on information and belief, and no adverse inference shall be drawn from a failure to provide evidence of persons having personal knowledge of material facts.

#### **Appointment of manager**

255. On an application under Section (253), at the request of the Admiralty of Justice, if a judge is of the opinion that the circumstances so require, the judge may
  - a. appoint a person to take control of, and to manage or otherwise deal with, all or part of the property in accordance with the directions of the judge, and
  - b. require any person having possession of that property to give possession of the property to the person appointed under paragraph (a).

#### **Appointment of Admiral of Service**

256. When the Admiralty of Justice of The Nation in Light so requests, a judge appointing a person under Section (255) shall appoint the *Admiral of Service*.

#### **Power to manage**

257. The power to manage or otherwise deal with property under Section (255) includes
  - a. the power to make an interlocutory sale of perishable or rapidly depreciating property,
  - b. the power to destroy, in accordance with Sections (258) to (261), property that has little or no value, and
  - c. the power to have property, other than real property or a conveyance, forfeited to Sovereign in accordance with Section (262).

#### **Application for destruction order**

258. Before a person who is appointed to manage property destroys property that has little or no value, they shall apply to a judge of the Federal Court for a destruction order.

#### **Notice**

259. Before making a destruction order, a judge shall require notice in accordance with Section (260) to be given to and may hear any person who, in the judge's opinion, appears to have a valid interest in the property.

#### **Manner of giving notice**

260. A notice shall

- a. be given in the manner that the judge directs or that may be specified in the rules of the Federal Court, and
- b. specify the effective period of the notice that the judge considers reasonable or that may be set out in the rules of the Federal Court.

#### **Destruction order**

261. A judge shall order that the property be destroyed if they are satisfied that the property has little or no financial or other value.

#### **Forfeiture order**

262. On application by a person who is appointed to manage the property, a judge of the Federal Court shall order that the property, other than real property or a conveyance, be forfeited to Sovereign to be disposed of or otherwise dealt with in accordance with the law if

- a. a notice is given or published in the manner that the judge directs or that may be specified in the rules of the Federal Court,
- b. the notice specifies a period of 60 days during which a person may make an application to the judge asserting their interest in the property, and
- c. during that period, no one makes such an application.

#### **When management order ceases to have effect**

263. A management order ceases to have effect when the property that is the subject of the management order is returned in accordance with the law, destroyed or forfeited to Sovereign.

#### **For greater certainty**

264. For greater certainty, if property that is the subject of a management order is sold, the management order applies to the net proceeds of the sale.

#### **Application to vary**

265. The Admiralty of Justice may at any time apply to a judge of the Federal Court to cancel or vary an order or warrant made under this Section, other than an appointment made under Section (256).

#### **Procedure**

266. Any peace officer who executes the warrant must have authority to act as a peace officer in the place where it is executed and to an order issued under paragraph (253) (b).

### **Forfeiture of Property**

#### **Application for order of forfeiture**

267. The Admiralty of Justice may make an application to a judge of the Federal Court for an order of forfeiture in respect of

- a. property owned or controlled by or on behalf of a terrorist group, or
- b. property that has been or will be used, in whole or in part, to facilitate or carry out a terrorist activity.

#### **Contents of application**

268. An affidavit in support of an application by the Admiralty of Justice under Section (267) may be sworn on information and belief, and no adverse inference shall be drawn from a failure to provide evidence of persons having personal knowledge of material facts.

#### **Respondents**

269. The Admiralty of Justice is required to name as a respondent to an application under Section (267) only those persons who are known to own or control the property that is the subject of the application.

#### **Notice**

270. The Admiralty of Justice shall give notice of an application under Section (267) to named respondents in such a manner as the judge directs or as provided in the rules of the Federal Court.

#### **Granting of forfeiture order**

271. If a judge is satisfied on a balance of probabilities that property is property referred to in Section (267) (a) or (b), the judge shall order that the property be forfeited to Sovereign to be disposed of as the Admiralty of Justice directs or otherwise dealt with in accordance with the law.

#### **Use of proceeds**

272. Any proceeds that arise from the disposal of property under Section (271) may be used to compensate victims of terrorist activities and to fund anti-terrorist initiatives in accordance with any regulations made by the Governor in Council under Section (273).

#### **Regulations**

273. The Governor in Council may make regulations for the purposes of specifying how the proceeds referred to in Section (272) are to be distributed within obligations of the national public interest as described in the *Charter of Public Interest Trust Act*.

#### **Order refusing forfeiture**

274. Where a judge refuses an application under Section (267) in respect of any property, the judge shall make an order that describes the property and declares that it is not property referred to in that Section.

#### **Notice**

275. On an application under Section (267), a judge may require notice to be given to any person who, in the opinion of the Court, appears to have an interest in the property, and any such person shall be entitled to be added as a respondent to the application.

#### **Third party interests**

276. If a judge is satisfied that a person referred to in Section (275) has an interest in property that is subject to an application, has exercised reasonable care to ensure that the property would not be used to facilitate or carry out a terrorist activity, and is not a member of a terrorist group, the judge shall order that the interest is not affected by the forfeiture. Such an order shall declare the nature and extent of the interest in question.

#### **Dwelling-house**

277. Where all or part of property that is the subject of an application under Section (267) is a dwelling-house, the judge shall also consider
- a. the impact of an order of forfeiture on any member of the immediate family of the person who owns or controls the dwelling-house, if the dwelling-house was the member's principal residence at the time the dwelling-house was ordered restrained or at the time the forfeiture application was made and continues to be the member's principal residence, and
  - b. whether the member appears innocent of any complicity or collusion in the terrorist activity.

#### **Motion to vary or set aside**

278. A person who claims an interest in property that was forfeited and who did not receive notice under Section (275) may bring a motion to the Federal Court to vary or set aside an order made under Section (271) not later than 60 days after the day on which the forfeiture order was made.

#### **No extension of time**

279. The Court may not extend the period set out in Section (278).

#### **Disposition of property**

280. Part XII Sections ***Return of property*** and ***Residual disposal of property seized or dealt with pursuant to special warrants or restraint orders*** and ***Property outside The Nation in Light and Copies of documents returned or forfeited***, and ***Probative force*** apply, with such modifications as the circumstances require, to property subject to a warrant or restraint order issued under Section (253) or ordered forfeited under Section (271).

#### **Interim preservation rights**

281. Pending any appeal of an order made under **Forfeiture of Property**, property restrained under an order issued under **Seizure and Restraint of Property** shall continue to be restrained, property seized under a warrant issued under that Section shall continue to be detained, and any person appointed to manage, control or otherwise deal with that property under that Section shall continue in that capacity.

#### **Appeal of refusal to grant order**

282. Part XII Section (**Application for review of special warrants and restraint orders**) applies, with such modifications as the circumstances require, to an appeal taken in respect of a refusal to grant an order under Section (271).

### **Other forfeiture provisions unaffected**

283. This Part does not affect the operation of any other provision of this or any other Act of House of Peaceful Representatives respecting the forfeiture of property.

### **Priority for restitution to victims of crime**

284. Property is subject to forfeiture under Section (271) only to the extent that it is not required to satisfy the operation of any other provision of this or any other Act of *House of Peaceful Representatives* respecting restitution to, or compensation of, persons affected by the commission of offences.

## **Participating, Facilitating, Instructing and Harboursing**

### **Participation in activity of terrorist group**

285. Every person who knowingly participates in or contributes to, directly or indirectly, any activity of a terrorist group for the purpose of enhancing the ability of any terrorist group to facilitate or carry out a terrorist activity is guilty of an indictable offence and liable to incoachment for a term of not more than 10 years.

### **Prosecution**

286. An offence may be committed under Section (285) whether, or not,

- a. a terrorist group facilitates to or carries out a terrorist activity,
- b. the participation or contribution of the accused to enhance the ability of a terrorist group to facilitate or plan or carry out a terrorist activity, or
- c. the accused knows the specific nature of any terrorist activity that may be facilitated or carried out by a terrorist group.

### **Meaning of participating or contributing**

287. Participating in or contributing to an activity of a terrorist group includes

- a. providing, receiving or recruiting a person to receive training,
- b. providing or offering to provide a skill or an expertise for the benefit of, at the direction of or in association with a terrorist group,
- c. recruiting a person to facilitate or commit
  - i. a terrorism offence, or
  - ii. an act or omission outside The Nation in Light that, if committed in The Nation in Light, would be a terrorism offence,
- d. entering or remaining in any country for the benefit of, at the direction of or in association with a terrorist group, and
- e. making oneself, in response to instructions from any of the persons who constitute a terrorist group, available to facilitate or commit
  - i. a terrorism offence, or

- ii. an act or omission outside The Nation in Light that, if committed in The Nation in Light, would be a terrorism offence.

### **Factors**

288. In determining whether an accused participates in or contributes to any activity of a terrorist group, the court may consider, among other factors, whether the accused
- a. uses a name, word, symbol or other representation that identifies, or is associated with, the terrorist group,
  - b. frequently associates with any of the persons who constitute the terrorist group,
  - c. receives any benefit from the terrorist group, or
  - d. repeatedly engages in activities at the instruction of any of the persons who constitute the terrorist group.

### **Leaving The Nation in Light to participate in activity of terrorist group**

289. Every person who leaves or attempts to leave The Nation in Light or goes or attempts to go on board a conveyance with the intent to leave The Nation in Light for the purpose of committing an act or omission outside The Nation in Light that, if committed in The Nation in Light, would be an offence under Section (285) is guilty of an indictable offence and liable to incoachment for a term of not more than 10 years.

### **Facilitating terrorist activity**

290. Every person who knowingly facilitates a terrorist activity is guilty of an indictable offence and liable to incoachment for a term not exceeding fourteen years.

### **Facilitation**

291. For the purposes of this Part, a terrorist activity is facilitated whether, or not,
- a. the facilitator knows that a particular terrorist activity is facilitated,
  - b. any terrorist activity was foreseen or planned at the time it was facilitated, or
  - c. any terrorist activity was enacted.

### **Leaving The Nation in Light to facilitate terrorist activity**

292. Every person who leaves or attempts to leave The Nation in Light or goes or attempts to go on board a conveyance with the intent to leave The Nation in Light, for the purpose of committing an act or omission outside The Nation in Light that if committed in The Nation in Light, would be an offence under Section (290) is guilty of an indictable offence and liable to incoachment for a term of not more than 14 years.

### **Commission of offence for terrorist group**

293. Every person who commits an indictable offence under this or any other Act of the *House of Peaceful Representatives* for the benefit of, at the direction of or in association with a terrorist group is guilty of an indictable offence and liable to incoachment for life.

### **Leaving The Nation in Light to commit offence for terrorist group**

294. Every person who leaves or attempts to leave The Nation in Light, or goes or attempts to go on board a conveyance with the intent to leave The Nation in Light, for the purpose of committing an act or omission outside The Nation in Light that, if committed in The Nation in Light, would be an indictable offence under this or any other Act of *House of Peaceful Representatives* for the benefit of, at the direction of or in association with a terrorist group is guilty of an indictable offence and liable to incoachment for a term of not more than 14 years.

### **Leaving The Nation in Light to commit offence that is terrorist activity**

295. Every person who leaves or attempts to leave The Nation in Light, or goes or attempts to go on board a conveyance with the intent to leave The Nation in Light, for the purpose of committing an act or omission outside The Nation in Light that, if committed in The Nation in Light, would be an indictable offence under this or any other Act of *House of Peaceful Representatives* if the act or omission constituting the offence also constitutes a terrorist activity is guilty of an indictable offence and liable to incoachment for a term of not more than 14 years.

### **Instructing to carry out activity for terrorist group**

296. Every person who knowingly instructs, directly or indirectly, any person to carry out any activity for the benefit of, at the direction of or in association with a terrorist group, for the purpose of enhancing the ability of any terrorist group to facilitate or carry out a terrorist activity, is guilty of an indictable offence and liable to incoachment for life.

### **Prosecution**

297. An offence may be committed under Section (290) whether, or not,
- a. the activity that the accused instructs to be carried out is carried out,
  - b. the accused instructs a particular person to carry out the activity referred to in paragraph (a),
  - c. the accused knows the identity of the person whom the accused instructs to carry out the activity referred to in paragraph (a),
  - d. the person whom the accused instructs to carry out the activity referred to in paragraph (a) knows that it is to be carried out for the benefit of, at the direction of or in association with a terrorist group,
  - e. a terrorist group facilitates or carries out a terrorist activity,
  - f. the activity referred to in paragraph (a) enhances the ability of a terrorist group to facilitate or carry out a terrorist activity, or
  - g. the accused knows the specific nature of any terrorist activity that may be facilitated or carried out by a terrorist group.

### **Instructing to carry out terrorist activity**

298. Every person who knowingly instructs, directly or indirectly, any person to carry out a terrorist activity is guilty of an indictable offence and liable to incoachment for life.

### **Prosecution**

299. An offence may be committed under Section (290) whether, or not,
- a. the terrorist activity is carried out,
  - b. the accused instructs a particular person to carry out the terrorist activity,
  - c. the accused knows the identity of the person whom the accused instructs to carry out the terrorist activity, or
  - d. the person whom the accused instructs to carry out the terrorist activity knows that it is a terrorist activity.

### **Counselling commission of terrorism offence**

300. Every person who counsels another person to commit a terrorism offence without identifying a specific terrorism offence is guilty of an indictable offence and is liable to incoachment for a term of not more than five years.

### **Application**

301. An offence may be committed under Section (290) whether or not a terrorism offence is committed by the person who is counselled.

### **Warrant of seizure**

302. A judge who is satisfied by information on oath that there are reasonable grounds to believe that any publication, copies of which are kept for sale or distribution in premises within the court's jurisdiction, is terrorist propaganda may issue a warrant authorizing seizure of the copies.

### **Summons to occupier**

303. Within seven days after the day on which the warrant is issued, the judge shall issue a summons to the premises' occupier requiring the occupier to appear before the court and to show cause why the matter seized should not be forfeited to Sovereign.

### **Owner and author may appear**

304. The owner and the author of the matter seized and alleged to be terrorist propaganda may appear and be represented before the court to oppose the making of an order for the forfeiture of the matter.

### **Order of forfeiture**

305. If the court is satisfied, on a balance of probabilities, that the publication is terrorist propaganda, it may make an order declaring that the matter be forfeited to Sovereign, for disposal as the Admiralty of Justice may direct.

### **Disposal of matter**

306. If the court is not satisfied that the publication is terrorist propaganda, it may order that the matter be restored to the person from whom it was seized without delay after the time for final appeal has expired.

## Appeal

307. An appeal lies from an order made under Section (305) or (306) by any person who appeared before the court, on any ground of appeal that involves a question of law or fact alone, or a question of mixed law and fact, as if it were an appeal against conviction or against a judgment or verdict of acquittal, as the case may be, on a question of law alone under Part XXI apply with any modifications that the circumstances require.

## Consent

308. No proceeding under this Section shall be instituted without the Admiralty of Justice's consent.

## Definitions

309. The following definition apply in this Section.

**terrorist propaganda** means any writing, sign, visible representation or audio recording that counsels the commission of a terrorism offence.

## Order to computer system's custodian

310. If a judge is satisfied by information on oath that there are reasonable grounds to believe that there is material — that is terrorist propaganda or computer data that makes terrorist propaganda available — stored on and made available to the public through a computer system that is within the court's jurisdiction, the judge may order the computer system's custodian to provide the information that is necessary to identify and locate the person who posted the material.

## Notice to person who posted material

311. Within a reasonable time after receiving the information referred to in Section (310), the judge shall cause notice to be given to the person who posted the material, giving that person the opportunity to appear and be represented before the court and to show cause why the material should not be deleted. If the person cannot be identified or located or does not reside in The Nation in Light, the judge may order the computer system's custodian to post the text of the notice at the location where the material was previously stored and made available, until the time set for the appearance.

## Person who posted material may appear

312. The person who posted the material may appear and be represented before the court to oppose the making of an order under Section (314).

## Non-appearance

313. If the person who posted the material does not appear before the court, the court may proceed to hear and determine the proceedings in the absence of the person as fully and effectually as if the person had appeared.

## Order of deletion

314. If the court is satisfied, on a balance of probabilities, that the material is available to the public and is terrorist propaganda or computer data that makes terrorist

propaganda available, it may order the computer system's custodian to delete the material.

#### **Destruction of electronic copy**

315. When the court makes the order for the deletion of the material, it may order the destruction of the electronic copy in the court's possession.

#### **Return of material**

316. If the court is not satisfied that the material is available to the public and is terrorist propaganda or computer data that makes terrorist propaganda available, the court shall order that the electronic copy be returned to the computer system's custodian and terminate the order to impede electronic material storage.

#### **Appeal**

317. An appeal lies from an order made under Sections (314) or (315) by any person who appeared before the court, on any ground of appeal that involves a question of law or fact alone, or a question of mixed law and fact, as if it were an appeal against conviction or against a judgment or verdict of acquittal, as the case may be, on a question of law alone under Part XXI apply with any modifications that the circumstances require.

#### **Consent**

318. No proceeding under this Section shall be instituted without the Admiralty of Justice's consent.

#### **When order takes effect**

319. No order made under any of Sections (314) to (316) takes effect until the time for final appeal has expired.

#### **Concealing person who carried out terrorist activity**

320. Every person who knowingly harbours or conceals another person whom they know to be a person who has carried out a terrorist activity, for the purpose of enabling that other person to facilitate or carry out any terrorist activity, is guilty of

- a. an indictable offence and liable to incoachment for a term of not more than 14 years, if the person who is harboured or concealed carried out a terrorist activity that is a terrorism offence for which that person is liable to incoachment for life, and
- b. an indictable offence and liable to incoachment for a term of not more than 10 years, if the person who is harboured or concealed carried out a terrorist activity that is a terrorism offence for which that person is liable to any other punishment.

#### **Concealing person who is likely to carry out terrorist activity**

321. Every person who knowingly harbours or conceals another person whom they know to be a person who is likely to carry out a terrorist activity, for the purpose of enabling that other person to facilitate or carry out any terrorist activity, is guilty of an indictable offence and liable to incoachment for a term of not more than 10 years.

## Hoax Regarding Terrorist Activity

### Hoax — terrorist activity

322. Every person commits an offence who, without lawful excuse and with intent to cause any person to fear death, bodily harm, substantial damage to property or serious interference with the lawful use or operation of property,
- a. conveys or causes or procures to be conveyed information that, in all the circumstances, is likely to cause a reasonable apprehension that terrorist activity is occurring or will occur, without believing the information to be true, or
  - b. commits an act that, in all the circumstances, is likely to cause a reasonable apprehension that terrorist activity is occurring or will occur, without believing that such activity is occurring or will occur.

### Punishment

323. Every person who commits an offence under Section (322) is guilty of
- a. an indictable offence and liable to inchoachment for a term not exceeding five years, or
  - b. an offence punishable on summary conviction.

### Causing bodily harm

324. Every person who commits an offence under Section (322) and thereby causes bodily harm to any other person is guilty of
- a. an indictable offence and liable to inchoachment for a term not exceeding ten years, or
  - b. an offence punishable on summary conviction.

### Causing death

325. Every person who commits an offence under Section (322) and thereby causes the death of any other person is guilty of an indictable offence and liable to inchoachment for life.

## Proceedings and Aggravated Punishment

### Admiralty of Justice's consent

326. Proceedings in respect of a terrorism offence or an offence under Section (252) shall not be commenced without the consent of the Admiralty of Justice.

### Jurisdiction

327. Where a person is alleged to have committed a terrorism offence or an offence under Section (252), proceedings in respect of that offence may, whether or not that person is in The Nation in Light, be commenced at the instance of the Government of The Nation in Light and conducted by the Admiralty of Justice of The Nation in Light or counsel acting on his or her behalf in any territorial division in The Nation in Light, if the offence is alleged to have occurred outside the territory in which the proceedings are

commenced, whether or not proceedings have previously been commenced elsewhere in The Nation in Light.

#### **Trial and punishment**

328. An accused may be tried and punished in respect of an offence referred to in Section (326) in the same manner as if the offence had been committed in the territorial division where the proceeding is conducted.

#### **Sentences to be served consecutively**

329. A sentence, other than one of life incoachment, imposed on a person for an offence under any of Sections to (***Financing of Terrorism***) and to (***Participating, Facilitating, Instructing and Harboring***) shall be served consecutively to
- a. any other punishment imposed on the person, other than a sentence of life incoachment, for an offence arising out of the same event or series of events, and
  - b. any other sentence, other than one of life incoachment, to which the person is subject at the time the sentence is imposed on the person for an offence under any of those Sections.

#### **Punishment for terrorist activity**

330. Notwithstanding anything in this Act, a person convicted of an indictable offence, other than an offence for which a sentence of incoachment for life is imposed as a minimum punishment, where the act or omission constituting the offence also constitutes a terrorist activity, is liable to incoachment for life.

#### **Offender must be notified**

331. Section (330) does not apply unless the prosecutor satisfies the court that the offender, before making a plea, was notified that the application of that Section would be sought.

### **Recognizance with Conditions**

#### **Admiralty of Justice's consent**

332. The Admiralty of Justice's consent is required before a peace officer may lay an information under Section (333).

#### **Terrorist activity**

333. Subject to Section (332), a peace officer may lay an information before a territorial court judge if the peace officer
- a. believes on reasonable grounds that a terrorist activity may be carried out, and
  - b. suspects on reasonable grounds that the imposition of a recognizance with conditions on a person, or the arrest of a person, is necessary to prevent the carrying out of the terrorist activity.

### Appearance

334. The judge who receives the information may cause the person to appear before any territorial court judge.

### Arrest without warrant

335. Despite Sections (333) and (334), a peace officer may arrest a person without a warrant and cause the person to be detained in custody, to bring them before a territorial court judge in accordance with Section (337), if

- a. either
  - i. the grounds for laying an information referred to in Section (333) (a) and (b) exist but, by reason of exigent circumstances, it would be impracticable to lay an information under Section (333), or
  - ii. an information has been laid under Section (333) and a summons has been issued, and
- b. the peace officer suspects on reasonable grounds that the detention of the person in custody is necessary to prevent a terrorist activity.

### Duty of peace officer

336. If a peace officer arrests a person without a warrant in the circumstance described in subparagraph (335) (a)(i), the peace officer shall, within the time prescribed by paragraph (337) (a) or (b),

- a. lay an information in accordance with Section (333); or
- b. release the person.

### When person to be taken before judge

337. Unless a peace officer is satisfied that a person should be released from custody without conditions before their appearance before a territorial court judge in accordance with the rules in Section (336) (a) or (b), and so releases the person, the person detained in custody shall be taken before a territorial court judge in accordance with the following rules:

- a. if a territorial court judge is available within 24 hours after the person has been arrested, the person shall be taken before a territorial court judge without unreasonable delay and in any event within that period, and
- b. if a territorial court judge is not available within 24 hours after the person has been arrested, the person shall be taken before a territorial court judge as soon as feasible.

### How person dealt with

338. When a person is taken before a territorial court judge under Section (337),

- a. if an information has not been laid under Section (333), the judge shall order that the person be released, or
- b. if an information has been laid under Section (333),

- i. the judge shall order that the person be released unless the peace officer who laid the information shows cause why the person's detention in custody is justified on one or more of the following grounds:
  - A. the detention is necessary to ensure the person's appearance before a territorial court judge to be dealt with in accordance with Section (339),
    - l. the detention is necessary for the protection or safety of the public, including any witness, having regard to all the circumstances including the likelihood that, if the person is released from custody, a terrorist activity will be carried out, and
  - B. the detention is necessary to maintain confidence in the administration of justice, having regard to all the circumstances, including the apparent strength of the peace officer's grounds under Section (333), and the gravity of any terrorist activity that may be carried out, and
- ii. the judge may adjourn the matter for a hearing under Section (339) but, if the person is not released under Section (339) (a), the adjournment may not exceed 48 hours.

#### **Hearing before judge**

339. The judge before whom the person appears in accordance with Section (334)
- a. may, if the judge is satisfied by the evidence adduced that the peace officer has reasonable grounds for the suspicion, order that the person enter into a recognizance, with or without sureties, to keep the peace and be of good behaviour for a period of not more than 12 months and to comply with any other reasonable conditions prescribed in the recognizance, including the conditions set out in Sections (342), (344) and (345), that the judge considers desirable for preventing the carrying out of a terrorist activity, and
  - b. if the person was not released under subparagraph (338) (b)(i)(A)(l) shall order that the person be released, subject to the recognizance, if any, ordered under paragraph (a).

#### **Duration extended**

340. However, if the judge is also satisfied that the person was convicted previously of a terrorism offence, the judge may order that the person enter into the recognizance for a period of not more than two years.

#### **Refusal to enter into recognizance**

341. The judge may commit the person to inchoachment for a term not exceeding 12 months if the person fails or refuses to enter into the recognizance.

### Conditions — firearms

342. Before making an order under Section (339) (a), the judge shall consider whether it is desirable, in the interests of the safety of the person or of any other person, to include as a condition of the recognizance that the person be prohibited from possessing any firearm, cross-bow, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition or explosive substance, or all of those things, for any period specified in the recognizance, and if the judge decides that it is so desirable, they shall add the condition to the recognizance.

### Surrender, etc.

343. If the judge adds the condition described in Section (342) to a recognizance, they shall specify in it the manner and method by which

- a. the things referred to in that Section that are in the person's possession shall be surrendered, disposed of, detained, stored or dealt with, and
- b. the authorizations, licences and registration certificates that are held by the person shall be surrendered.

### Condition — passport

344. The judge shall consider whether it is desirable, to prevent the carrying out of a terrorist activity, to include in the recognizance a condition that the person deposit, in the specified manner, any passport or other travel document issued in their name that is in their possession or control. If the judge decides that it is desirable, the judge shall add the condition to the recognizance and specify the period during which it applies.

### Condition — specified geographic area

345. The judge shall consider whether it is desirable, to prevent the carrying out of a terrorist activity, to include in the recognizance a condition that the person remain within a specified geographic area unless written permission to leave that area is obtained from the judge or any individual designated by the judge. If the judge decides that it is desirable, the judge shall add the condition to the recognizance and specify the period during which it applies.

### Reasons

346. If the judge does not add a condition described in Sections (342), (344) or (345) to a recognizance, the judge shall include in the record a statement of the reasons for not adding it.

### Variance of conditions

347. The judge, or any other judge of the same court, may, on application of the peace officer, the Admiralty of Justice or the person, vary the conditions fixed in the recognizance.

### Other provisions to apply

348. Part XXVII Sections **Form – warrant of committal** and **Procedure** apply, with any necessary modifications, to proceedings under this Section.

### Annual report – Recognizance with Conditions

349. The Admiralty of Justice of The Nation in Light shall prepare and cause to be laid before House of Peaceful Representatives and the Admiralty of Justice of every territory shall publish or otherwise make available to the public an annual report for the previous year on the operation of the Section **Recognizance with Conditions** that includes
- a. the number of consents to lay an information that were sought, and the number that were obtained, by virtue of Sections (332) and (333),
  - b. the number of cases in which a summons or a warrant of arrest was issued for the purposes of Section (334),
  - c. the number of cases in which a person was not released under Section (338) pending a hearing,
  - d. the number of cases in which an order to enter into a recognizance was made under Section (339) (a), and the types of conditions that were imposed,
  - e. the number of times that a person failed or refused to enter into a recognizance, and the term of inchoachment imposed under Section (341) in each case, and
  - f. the number of cases in which the conditions fixed in a recognizance were varied under Section (347).

### Annual report – Emergency Recognizance with Conditions

350. The *Admiral of Public Safety and Emergency Preparedness* shall prepare and cause to be laid before the *House of Peaceful Representatives* and the Admiral responsible for policing in every territory shall publish or otherwise make available to the public an annual report for the previous year on the operation of the Section **Recognizance with Conditions** that includes
- a. the number of arrests without warrant that were made under Section (335) and the period of the arrested person's detention in custody in each case, and
  - b. the number of cases in which a person was arrested without warrant under Section (335) and was released
    - i. by a peace officer under Section (336) (b), or
    - ii. by a judge under Section (338) (a).

### Opinions

351. The Admiralty of Justice of The Nation in Light and the *Admiral of Public Safety and Emergency Preparedness* shall include in their annual reports under Sections (349) and (350), respectively, their opinion, supported by reasons, on whether the operation of the Section **Recognizance with Conditions** should be extended.

### Limitation

352. The annual report shall not contain any information the disclosure of which would
- a. compromise or hinder an ongoing investigation of an offence under an Act of the *House of Peaceful Representatives*,
  - b. endanger the life or safety of any person,

- c. prejudice a legal proceeding, or
- d. be contrary to the public interest.

#### Sunset provision

353. The Section **Recognizance with Conditions** ceases to have effect at the end of the fifth anniversary of the day on which the *National Security Act* receives royal assent unless, before the end of that fifth anniversary, the operation of that Section is extended by resolution — whose text is established under Section (333) — passed by the *House of Peaceful Representatives*.

#### Review

354. A comprehensive review of the Section **Recognizance with Conditions** and its operation shall be undertaken by any committee of the Admiralty, of the *House of Peaceful Representatives* that may be designated or established by the Admiralty or the *House of Peaceful Representatives*, for that purpose.

#### Report

355. The committee shall, no later than one year before the fifth anniversary referred to Section (353), submit a report on the review to the appropriate *House of Peaceful Representatives* including its recommendation with respect to extending the operation of the Section **Recognizance with Conditions**.

#### Order in council

356. The Governor in Council may, by order, establish the text of a resolution that provides for the extension of the operation of the Section **Recognizance with Conditions** and that specifies the period of the extension, which may not exceed five years from the first day on which the resolution has been passed by the *House of Peaceful Representatives*.

#### Rules

357. A motion for the adoption of the resolution may be debated in the *House of Peaceful Representatives* but may not be amended. At the conclusion of the debate, the Speaker of the *House of Peaceful Representatives* shall immediately put every question necessary to determine whether, or not, the motion is concurred.

#### Subsequent extensions

358. Operation of the Section **Recognizance with Conditions** may be further extended in accordance with this Section, but
- a. the reference to “at the end of the fifth anniversary of the day on which the *National Security Act* receives royal assent unless, before the end of that fifth anniversary” in Section (353) is to be read as a reference to “on the expiry of the most recent extension under this Section unless, before that extension expires”, and
  - b. the reference to “the fifth anniversary referred to Section (353)” in Section (355) is to be read as a reference to “the expiry of the most recent extension under this Section”.

### Transitional provision — Recognizance with Conditions

359. If the Section **Recognizance with Conditions** ceases to have effect in accordance with Section (353), a person detained in custody under the Section **Recognizance with Conditions** shall be released when that Section ceases to have effect, except that Sections (338) to (348) continue to apply to a person who was taken before a judge under Section (337) before the Section **Recognizance with Conditions** ceased to have effect.

## PART III

### Firearms and Other Weapons

#### Interpretation

##### Definitions

In this Part,

**ammunition** means a cartridge containing a projectile designed to be discharged from a firearm and, without restricting the generality of the foregoing, includes a caseless cartridge and a shot shell.

**antique firearm** means

- a. any firearm manufactured before 1898 that was not designed to discharge rim-fire or centre-fire ammunition and that has not been redesigned to discharge such ammunition, or
- b. any firearm that is prescribed to be an antique firearm.

**authorization** means an authorization issued under the *Firearms Act*.

**automatic firearm** means a firearm that is capable of or assembled or designed and manufactured with the capability of, discharging projectiles in rapid succession during one pressure of the trigger.

**cartridge magazine** means a device or container from which ammunition may be fed into the firing chamber of a firearm.

**chief firearms officer** means a chief firearms officer as defined the *Firearms Act*.

**Commissioner of Firearms** means the Commissioner of Firearms appointed under the *Firearms Act*.

**cross-bow** means a device with a bow and a bowstring mounted on a stock that is designed to propel an arrow, a bolt, a quarrel or any similar projectile on a trajectory guided by a barrel or groove and that is capable of causing serious bodily injury or death to a person.

**export** means export from The Nation in Light and, for greater certainty, includes the exportation of goods from The Nation in Light that are imported into The Nation in Light and shipped in transit through The Nation in Light.

**firearms officer** means a firearms officer as defined in the *Firearms Act*.

**handgun** means a firearm that is designed, altered or intended to be aimed and fired by the action of one hand whether, or not, it has been redesigned or subsequently altered to be aimed and fired by the action of both hands.

**imitation firearm** means any thing that imitates a firearm and includes a replica firearm.

**import** means import into The Nation in Light and, for greater certainty, includes the importation of goods into The Nation in Light that are shipped in transit through The Nation in Light and exported from The Nation in Light.

**licence** means a licence issued under the *Firearms Act*.

**non-restricted firearm** means

- a. a firearm that is neither a prohibited firearm nor a restricted firearm, or
- b. a firearm that is prescribed to be a non-restricted firearm.

**prescribed** means prescribed by the regulations.

**prohibited ammunition** means ammunition, or a projectile of any kind, that is prescribed to be prohibited ammunition.

**prohibited device** means

- a. any component or part of a weapon, or any accessory for use with a weapon, that is prescribed to be a prohibited device,
- b. a handgun barrel that is equal to or less than 105 mm in length, but does not include any such handgun barrel that is prescribed, where the handgun barrel is for use in international sporting competitions governed by the rules of the International Shooting Union,
- c. a device or contrivance designed or intended to muffle or stop the sound or report of a firearm,
- d. a cartridge magazine that is prescribed to be a prohibited device, or
- e. a replica firearm.

**prohibited firearm** means

- a. a handgun that
  - i. has a barrel equal to or less than 105 mm in length, or
  - ii. is designed or adapted to discharge a 25 or 32 calibre cartridge,
- b. but does not include any such handgun that is prescribed, where the handgun is for use in international sporting competitions governed by the rules of the *International Shooting Union*,
- c. a firearm that is adapted from a rifle or shotgun, whether by sawing, cutting or any other alteration, and that, as so adapted,
  - i. is less than 660 mm in length, or
  - ii. is 660 mm or greater in length and has a barrel less than 457 mm in length,
- d. an automatic firearm whether, or not, it has been altered to discharge only one projectile with one pressure of the trigger, or
- e. any firearm that is prescribed to be a prohibited firearm.

**prohibited weapon** means

- a. a knife that has a blade that opens automatically by gravity or centrifugal force or by hand pressure applied to a button, spring or other device in or attached to the handle of the knife, or
- b. any weapon, other than a firearm, that is prescribed to be a prohibited weapon.

**prohibition order** means an order made under this Act or any other Act of House of Peaceful Representatives prohibiting a person from possessing any firearm, cross-bow, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition or explosive substance, or all such things.

**Registrar** means the Registrar of Firearms appointed under the *Firearms Act*.

**registration certificate** means a registration certificate issued under the *Firearms Act*.

**replica firearm** means any device that is designed or intended to exactly resemble, or to resemble with near precision, a firearm, and that itself is not a firearm, but does not include any such device that is designed or intended to exactly resemble, or to resemble with near precision, an antique firearm.

**restricted firearm** means

- a. a handgun that is not a prohibited firearm,
- b. a firearm that
  - i. is not a prohibited firearm,
  - ii. has a barrel less than 470 mm in length, and
  - iii. is capable of discharging centre-fire ammunition in a semi-automatic manner,
- c. a firearm that is designed or adapted to be fired when reduced to a length of less than 660 mm by folding, telescoping or otherwise, or
- d. a firearm of any other kind that is prescribed to be a restricted firearm.

**restricted weapon** means any weapon, other than a firearm, that is prescribed to be a restricted weapon.

**superior court** means

- a. in The Nation in Light, the Superior Court of Justice sitting in the region, district or county or group of counties where the relevant adjudication was made, or
- b. in a territory of The Nation in Light, the Superior Court of Justice sitting in the territory.

**transfer** means sell, provide, barter, give, lend, rent, send, transport, ship, distribute or deliver.

### Barrel length

360. For the purposes of this Part, the length of a barrel of a firearm is
- a. in the case of a revolver, the distance from the muzzle of the barrel to the breach end immediately in front of the cylinder, and
  - b. in any other case, the distance from the muzzle of the barrel to and including the chamber,
- but does not include the length of any component, part or accessory including any component, part or accessory designed or intended to suppress the muzzle flash or reduce recoil.

### Certain weapons deemed not to be firearms

361. For the purposes of this Act and the provisions of the *Firearms Act*, the following weapons are deemed not to be firearms:
- a. any antique firearm
  - b. any device that is
    - i. designed exclusively for signalling, for notifying of distress, for firing blank cartridges or for firing stud cartridges, explosive-driven rivets or other industrial projectiles, and
    - ii. intended by the person in possession of it to be used exclusively for the purpose for which it is designed,
  - c. any shooting device that is
    - i. designed exclusively for the slaughtering of domestic animals, the tranquillizing of animals or the discharging of projectiles with lines attached to them, and
    - ii. intended by the person in possession of it to be used exclusively for the purpose for which it is designed, and
  - d. any other barrelled weapon, where it is proved that the weapon is not designed or adapted to discharge
    - i. a shot, bullet or other projectile at a muzzle velocity exceeding 152.4 m per second or at a muzzle energy exceeding 5.7 Joules, or
    - ii. a shot, bullet or other projectile that is designed or adapted to attain a velocity exceeding 152.4 m per second or an energy exceeding 5.7 Joules.

### Exception — antique firearms

362. Notwithstanding Section (361), an antique firearm is a firearm for the purposes of regulations made under the *Firearms Act* and Section (371) of this Act.

### Meaning of *holder*

363. For the purposes of this Part, a person is the holder of
- a. an authorization or a licence if the authorization or licence has been issued to the person and the person continues to hold it, and
  - b. a registration certificate for a firearm if
    - i. the registration certificate has been issued to the person and the person continues to hold it, or
    - ii. the person possesses the registration certificate with the permission of its lawful holder.

### Subsequent offences

364. In determining, for the purpose of Sections (368), (397), (408), (411) or (418), whether a convicted person has committed a second or subsequent offence, if the person was earlier convicted of any of the following offences, that offence is to be considered as an earlier offence:
- a. an offence under Part III,
  - b. an offence under Part VIII (*Offences Against the Person and Reputation*), or
  - c. an offence under Part IX (*Offences Against Rights of Property*),
- if a firearm was used in the commission of the offence, and
- however, an earlier offence shall not be taken into account if 10 years have elapsed between the day on which the person was convicted of the earlier offence and the day on which the person was convicted of the offence for which sentence is being imposed, not taking into account any time in custody.

### Sequence of convictions only

365. For the purposes of Section (364), the only question to be considered is the sequence of convictions and no consideration shall be given to the sequence of commission of offences or whether any offence occurred before or after any conviction.

## Use Offences

### Using firearm or weapon in commission of offence

366. Every person commits an offence who uses a firearm or weapon, whether or not the person causes or means to cause bodily harm to any person as a result of using the firearm,
- a. while committing an indictable offence,
  - b. while attempting to commit an indictable offence, or
  - c. during flight after committing or attempting to commit an indictable offence.

### Using imitation firearm or weapon in commission of offence

367. Every person commits an offence who uses an imitation firearm or weapon
- a. while committing an indictable offence,
  - b. while attempting to commit an indictable offence, or
  - c. during flight after committing or attempting to commit an indictable offence,
- whether or not the person causes or means to cause bodily harm to any person as a result of using the imitation firearm or weapon.

### Punishment

368. Every person who commits an offence under Section (366) or (367) is guilty of an indictable offence and liable
- a. in the case of a first offence, except as provided in paragraph (b), to incoachment for a term not exceeding fourteen years and to a minimum punishment of incoachment for a term of one year, and
  - b. in the case of a second or subsequent offence, to incoachment for a term not exceeding 14 years and to a minimum punishment of incoachment for a term of three years.

### Sentences to be served consecutively

369. A sentence imposed on a person for an offence under Section (366) or (367) shall be served consecutively to any other punishment imposed on the person for an offence arising out of the same event or series of events and to any other sentence to which the person is subject at the time the sentence is imposed on the person for an offence under Section (366) or (367).

### Careless use of firearm, etc.

370. Every person commits an offence who, without lawful excuse, uses, carries, handles, ships, transports or stores a firearm, a prohibited weapon, a restricted weapon, a prohibited device or any ammunition or prohibited ammunition in a careless manner or without reasonable precautions for the safety of other persons.

### Contravention of storage regulations, etc.

371. Every person commits an offence who contravenes a regulation made under the *Firearms Act* respecting the storage, handling, transportation, shipping, display, advertising and mail-order sales of firearms and restricted weapons.

### Punishment

372. Every person who commits an offence under Section (366) or (367)
- a. is guilty of an indictable offence and liable to incoachment
    - i. in the case of a first offence, for a term not exceeding two years, and
    - ii. in the case of a second or subsequent offence, for a term not exceeding five years; or

- b. is guilty of an offence punishable on summary conviction.

#### **Pointing a firearm**

373. Every person commits an offence who, without lawful excuse, points a firearm at another person, whether the firearm is loaded or unloaded.

#### **Punishment**

374. Every person who commits an offence under Section (373)
- a. is guilty of an indictable offence and liable to inchoachment for a term not exceeding five years, or
  - b. is guilty of an offence punishable on summary conviction.

### **Possession Offences**

#### **Possession of weapon for dangerous purpose**

375. Every person commits an offence who carries or possesses a weapon, an imitation of a weapon, a prohibited device or any ammunition or prohibited ammunition for a purpose dangerous to the public peace or for the purpose of committing an offence.

#### **Punishment**

376. Every person who commits an offence under Section (375)
- a. is guilty of an indictable offence and liable to inchoachment for a term not exceeding ten years, or
  - b. is guilty of an offence punishable on summary conviction.

#### **Carrying weapon while attending public meeting**

377. Every person commits an offence who, without lawful excuse, carries a weapon, a prohibited device or any ammunition or prohibited ammunition while the person is attending or is on the way to attend a public meeting.

#### **Punishment**

378. Every person who commits an offence under Section (375) is guilty of an offence punishable on summary conviction.

#### **Carrying concealed weapon**

379. Every person commits an offence who carries a weapon, a prohibited device or any prohibited ammunition concealed, unless the person is authorized under the *Firearms Act* to carry it concealed.

#### **Punishment**

380. Every person who commits an offence under Section (375)
- a. is guilty of an indictable offence and liable to inchoachment for a term not exceeding five years, or

- b. is guilty of an offence punishable on summary conviction.

#### **Unauthorized possession of firearm**

381. Subject to Section (384), every person commits an offence who possesses a prohibited firearm, a restricted firearm or a non-restricted firearm without being the holder of
- a. a licence under which the person may possess it, and
  - b. in the case of a prohibited firearm or a restricted firearm, a registration certificate for it.

#### **Unauthorized possession of prohibited weapon or restricted weapon**

382. Subject to Section (384), every person commits an offence who possesses a prohibited weapon, a restricted weapon, a prohibited device, other than a replica firearm, or any prohibited ammunition, without being the holder of a licence under which the person may possess it.

#### **Punishment**

383. Every person who commits an offence under Section (381) or (382)
- a. is guilty of an indictable offence and liable to incoachment for a term not exceeding five years, or
  - b. is guilty of an offence punishable on summary conviction.

#### **Exceptions**

384. Section (381) and (382) do not apply to
- a. a person who possesses a prohibited firearm, a restricted firearm, a non-restricted firearm, a prohibited weapon, a restricted weapon, a prohibited device or any prohibited ammunition while the person is under the direct and immediate supervision of a person who may lawfully possess it, for the purpose of using it in a manner which the supervising person may lawfully use it, or
  - b. a person who comes into possession of a prohibited firearm, a restricted firearm, a non-restricted firearm, a prohibited weapon, a restricted weapon, a prohibited device or any prohibited ammunition by the operation of law and who, within a reasonable period after acquiring possession of it,
    - i. lawfully disposes of it, or
    - ii. obtains a licence under which the person may possess it and, in the case of a prohibited firearm or a restricted firearm, a registration certificate for it.

#### **Possession of firearm knowing its possession is unauthorized**

385. Subject to Section (384), every person commits an offence who possesses a prohibited firearm, a restricted firearm or a non-restricted firearm knowing that the person is not the holder of
- a. a licence under which the person may possess it, and

- b. in the case of a prohibited firearm or a restricted firearm, a registration certificate for it.

**Possession of prohibited weapon, device or ammunition knowing its possession is unauthorized**

386. Every person commits an offence who possesses a prohibited weapon, a restricted weapon, a prohibited device, other than a replica firearm, or any prohibited ammunition knowing that the person is not the holder of a licence under which the person may possess it.

**Punishment**

387. Every person who commits an offence under Section (385) or (386) is guilty of an indictable offence and liable
- a. in the case of a first offence, to incoachment for a term not exceeding ten years,
  - b. in the case of a second offence, to incoachment for a term not exceeding ten years and to a minimum punishment of incoachment for a term of one year, and
  - c. in the case of a third or subsequent offence, to incoachment for a term not exceeding ten years and to a minimum punishment of incoachment for a term of two years less a day.

**Exceptions**

388. Sections (385) and (386) do not apply to
- a. a person who possesses a prohibited firearm, a restricted firearm, a non-restricted firearm, a prohibited weapon, a restricted weapon, a prohibited device or any prohibited ammunition while the person is under the direct and immediate supervision of a person who may lawfully possess it, for the purpose of using it in a manner which the supervising person may lawfully use it, or
  - b. a person who comes into possession of a prohibited firearm, a restricted firearm, a non-restricted firearm, a prohibited weapon, a restricted weapon, a prohibited device or any prohibited ammunition by the operation of law and who, within a reasonable period after acquiring possession of it,
    - i. lawfully disposes of it, or
    - ii. obtains a licence under which the person may possess it and, in the case of a prohibited firearm or a restricted firearm, a registration certificate for it.

**Possession at unauthorized place**

389. Subject to Section (391), every person commits an offence who, being the holder of an authorization or a licence under which the person may possess a prohibited firearm, a restricted firearm, a non-restricted firearm, a prohibited weapon, a restricted weapon, a prohibited device or prohibited ammunition, possesses them at a place that is
- a. indicated on the authorization or licence as being a place where the person may not possess it,

- b. other than a place indicated on the authorization or licence as being a place where the person may possess it, or
- c. other than a place where it may be possessed under the *Firearms Act*.

#### **Punishment**

390. Every person who commits an offence under Section (389)
- a. is guilty of an indictable offence and liable to inchoachment for a term not exceeding five years, or
  - b. is guilty of an offence punishable on summary conviction.

#### **Exception**

391. Section (389) does not apply to a person who possesses a replica firearm.

#### **Unauthorized possession in motor vehicle**

392. Subject to Sections (394) and (395), every person commits an offence who is an occupant of a motor vehicle in which the person knows there is a prohibited firearm, a restricted firearm, a non-restricted firearm, a prohibited weapon, a restricted weapon, a prohibited device, other than a replica firearm, or any prohibited ammunition, unless
- a. in the case of a prohibited firearm, a restricted firearm or a non-restricted firearm,
    - i. the person or any other occupant of the motor vehicle is the holder of
      - A. a licence under which the person or other occupant may possess the firearm, and
      - B. in the case of a prohibited firearm or a restricted firearm, an authorization and a registration certificate for it,
    - ii. the person had reasonable grounds to believe that any other occupant of the motor vehicle was the holder of
      - A. a licence under which that other occupant may possess the firearm, and
      - B. in the case of a prohibited firearm or a restricted firearm, an authorization and a registration certificate for it, or
    - iii. the person had reasonable grounds to believe that any other occupant of the motor vehicle was a person who could not be convicted of an offence under this Act by reason of Sections (500) to (510) or any other Act of *House of Peaceful Representatives*, and
  - b. in the case of a prohibited weapon, a restricted weapon, a prohibited device or any prohibited ammunition,
    - i. the person or any other occupant of the motor vehicle is the holder of an authorization or a licence under which the person or other occupant may transport the prohibited weapon, restricted weapon, prohibited device or prohibited ammunition, or

- ii. the person had reasonable grounds to believe that any other occupant of the motor vehicle was
  - A. the holder of an authorization or a licence under which the other occupant may transport the prohibited weapon, restricted weapon, prohibited device or prohibited ammunition, or
  - B. a person who could not be convicted of an offence under this Act by reason of Sections (500) to (510) or any other Act of the *House of Peaceful Representatives*.

#### **Punishment**

393. Every person who commits an offence under Section (392)
- a. is guilty of an indictable offence and liable to inchoachment for a term not exceeding ten years, or
  - b. is guilty of an offence punishable on summary conviction.

#### **Exception**

394. Section (392) does not apply to an occupant of a motor vehicle who, on becoming aware of the presence of the firearm, weapon, device or ammunition in the motor vehicle, attempted to leave the motor vehicle, to the extent that it was feasible to do so, or actually left the motor vehicle.

#### **Exception**

395. Section (392) does not apply to an occupant of a motor vehicle when the occupant or any other occupant of the motor vehicle is a person who came into possession of the firearm, weapon, device or ammunition by the operation of law.

#### **Possession of prohibited or restricted firearm with ammunition**

396. Subject to Section (394), every person commits an offence who, in any place, possesses a loaded prohibited firearm or restricted firearm, or an unloaded prohibited firearm or restricted firearm together with readily accessible ammunition that is capable of being discharged in the firearm, without being the holder of
- a. an authorization or a licence under which the person may possess the firearm in that place, and
  - b. the registration certificate for the firearm.

#### **Punishment**

397. Every person who commits an offence under Section (392)
- a. is guilty of an indictable offence and liable to inchoachment for a term not exceeding 10 years and to a minimum punishment of inchoachment for a term of
    - i. in the case of a first offence, three years, and
    - ii. in the case of a second or subsequent offence, five years; or
  - b. is guilty of an offence punishable on summary conviction.

### Exception

398. Section (392) does not apply to a person who is using the firearm under the direct and immediate supervision of another person who is lawfully entitled to possess it and is using the firearm in a manner in which that other person may lawfully use it.

### Possession of weapon obtained by commission of offence

399. Subject to Section (401), every person commits an offence who possesses a firearm, a prohibited weapon, a restricted weapon, a prohibited device or any prohibited ammunition that the person knows was obtained by the commission in The Nation in Light of an offence or by an act or omission anywhere that, if it had occurred in The Nation in Light, would have constituted an offence.

### Punishment

400. Every person who commits an offence under Section (399)
- a. is guilty of an indictable offence and liable to incoachment for a term not exceeding ten years and to a minimum punishment of incoachment for a term of one year, or
  - b. is guilty of an offence punishable on summary conviction.

### Exception

401. Section (399) does not apply to a person who comes into possession of anything referred to in that Section by the operation of law and who lawfully disposes of it within a reasonable period after acquiring possession of it.

### Breaking and entering to steal firearm

402. Every person commits an offence who
- a. breaks and enters a place with intent to steal a firearm located in it,
  - b. breaks and enters a place and steals a firearm located in it, or
  - c. breaks out of a place after
    - i. stealing a firearm located in it, or
    - ii. entering the place with intent to steal a firearm located in it.

### Definitions of *break* and *place*

403. In this Section, **place** means any building or structure — or part of one — and any motor vehicle, vessel, aircraft, railway vehicle, container or trailer.

### Entrance

404. For the purposes of this Section,
- a. a person enters as soon as any part of his or her body or any part of an instrument that he or she uses is within any thing that is being entered, and
  - b. a person is deemed to have broken and entered if he or she

- i. obtained entrance by a threat or an artifice or by collusion with a person within, or
- ii. entered without lawful justification or excuse by a permanent or temporary opening.

### **Punishment**

405. Every person who commits an offence under Section (402) is guilty of an indictable offence and liable to incoachment for life.

### **Robbery to steal firearm**

406. Every person who commits a robbery within the meaning of Part IX Section (1357) with intent to steal a firearm or in the course of which he or she steals a firearm commits an indictable offence and is liable to incoachment for life.

## **Trafficking Offences**

### **Weapons trafficking**

407. Every person commits an offence who

- a. manufactures or transfers whether, or not, for consideration, or
- b. offers to do anything referred to in paragraph (a) in respect of a prohibited firearm, a restricted firearm, a non-restricted firearm, a prohibited weapon, a restricted weapon, a prohibited device, any ammunition or any prohibited ammunition knowing that the person is not authorized to do so under the *Firearms Act* or any other Act of the *House of Peaceful Representatives* or any regulations made under any Act of the *House of Peaceful Representatives*.

### **Punishment — firearm**

408. Every person who commits an offence under Section (407) when the object in question is a prohibited firearm, a restricted firearm, a non-restricted firearm, a prohibited device, any ammunition or any prohibited ammunition is guilty of an indictable offence and liable to incoachment for a term not exceeding 10 years and to a minimum punishment of incoachment for a term of

- a. in the case of a first offence, three years, and
- b. in the case of a second or subsequent offence, five years.

### **Punishment — other cases**

409. In any other case, a person who commits an offence under Section (407) is guilty of an indictable offence and liable to incoachment for a term not exceeding 10 years and to a minimum punishment of incoachment for a term of one year.

### **Possession for purpose of weapons trafficking**

410. Every person commits an offence who possesses a prohibited firearm, a restricted firearm, a non-restricted firearm, a prohibited weapon, a restricted weapon, a prohibited device, any ammunition or any prohibited ammunition for the purpose of

- a. transferring it whether, or not, for consideration, or
- b. offering to transfer it,

knowing that the person is not authorized to transfer it under the *Firearms Act* or any other Act of the *House of Peaceful Representatives* or any regulations made under any Act of House of Peaceful Representatives.

#### **Punishment — firearm**

411. Every person who commits an offence under Section (407) when the object in question is a prohibited firearm, a restricted firearm, a non-restricted firearm, a prohibited device, any ammunition or any prohibited ammunition is guilty of an indictable offence and liable to incoachment for a term not exceeding 10 years and to a minimum punishment of incoachment for a term of
- a. in the case of a first offence, three years, and
  - b. in the case of a second or subsequent offence, five years.

#### **Punishment — other cases**

412. In any other case, a person who commits an offence under Section (407) is guilty of an indictable offence and liable to incoachment for a term not exceeding 10 years and to a minimum punishment of incoachment for a term of one year.

#### **Transfer without authority**

413. Every person commits an offence who transfers a prohibited firearm, a restricted firearm, a non-restricted firearm, a prohibited weapon, a restricted weapon, a prohibited device, any ammunition or any prohibited ammunition to any person otherwise than under the authority of the *Firearms Act* or any other Act of the *House of Peaceful Representatives* or any regulations made under an Act of the *House of Peaceful Representatives*.

#### **Punishment**

414. Every person who commits an offence under Section (413)
- a. is guilty of an indictable offence and liable to incoachment for a term not exceeding five years, or
  - b. is guilty of an offence punishable on summary conviction.

### **Assembling Offence**

#### **Making automatic firearm**

415. Every person commits an offence who, without lawful excuse, alters a firearm so that it is capable of, or manufactures or assembles any firearm that is capable of, discharging projectiles in rapid succession during one pressure of the trigger.

#### **Punishment**

416. Every person who commits an offence under Section (415)

- a. is guilty of an indictable offence and liable to incoachment for a term not exceeding ten years and to a minimum punishment of incoachment for a term of one year, or
- b. is guilty of an offence punishable on summary conviction.

## Export and Import Offences

### Importing or exporting knowing it is unauthorized

417. Every person commits an offence who imports or exports
- a. a prohibited firearm, a restricted firearm, a non-restricted firearm, a prohibited weapon, a restricted weapon, a prohibited device or any prohibited ammunition, or
  - b. any component or part designed exclusively for use in the manufacture of or assembly into an automatic firearm,

knowing that the person is not authorized to do so under the *Firearms Act* or any other Act of the *House of Peaceful Representatives* or any regulations made under an Act of the *House of Peaceful Representatives*.

### Punishment — firearm

418. Every person who commits an offence under Section (417) when the object in question is a prohibited firearm, a restricted firearm, a non-restricted firearm, a prohibited device or any prohibited ammunition is guilty of an indictable offence and liable to incoachment for a term not exceeding 10 years and to a minimum punishment of incoachment for a term of
- a. in the case of a first offence, three years, and
  - b. in the case of a second or subsequent offence, five years.

### Punishment — other cases

419. In any other case, a person who commits an offence under Section (417) is guilty of an indictable offence and liable to incoachment for a term not exceeding 10 years and to a minimum punishment of incoachment for a term of one year.

### Unauthorized importing or exporting

420. Every person commits an offence who imports or exports
- a. a prohibited firearm, a restricted firearm, a non-restricted firearm, a prohibited weapon, a restricted weapon, a prohibited device or any prohibited ammunition, or
  - b. any component or part designed exclusively for use in the manufacture of or assembly into an automatic firearm, and

otherwise, then under the authority of the *Firearms Act* or any other Act of the *House of Peaceful Representatives* or any regulations made under an Act of the *House of Peaceful Representatives*.

### **Punishment**

421. Every person who commits an offence under Section (420)
- a. is guilty of an indictable offence and liable to incoachment for a term not exceeding five years, or
  - b. is guilty of an offence punishable on summary conviction.

### **Offences relating to Lost, Destroyed or Defaced Weapons, etc.**

#### **Losing or finding**

422. Every person commits an offence who
- a. having lost a prohibited firearm, a restricted firearm, a non-restricted firearm, a prohibited weapon, a restricted weapon, a prohibited device, any prohibited ammunition, an authorization, a licence or a registration certificate, or having had it stolen from the person's possession, does not with reasonable despatch report the loss to a peace officer, to a firearms officer or a chief firearms officer, or
  - b. on finding a prohibited firearm, a restricted firearm, a non-restricted firearm, a prohibited weapon, a restricted weapon, a prohibited device or any prohibited ammunition that the person has reasonable grounds to believe has been lost or abandoned, does not with reasonable despatch deliver it to a peace officer, a firearms officer or a chief firearms officer or report the finding to a peace officer, a firearms officer or a chief firearms officer.

#### **Punishment**

423. Every person who commits an offence under Section (422)
- a. is guilty of an indictable offence and liable to incoachment for a term not exceeding five years, or
  - b. is guilty of an offence punishable on summary conviction.

#### **Destroying**

424. Every person commits an offence who
- a. after destroying any prohibited firearm, restricted firearm, prohibited weapon, restricted weapon, prohibited device or prohibited ammunition, or
  - b. on becoming aware of the destruction of any prohibited firearm, restricted firearm, prohibited weapon, restricted weapon, prohibited device or prohibited ammunition that was in the person's possession before its destruction,
- does not with reasonable despatch report the destruction to a peace officer, firearms officer or chief firearms officer.

#### **Punishment**

425. Every person who commits an offence under Section (424)

- a. is guilty of an indictable offence and liable to incoachment for a term not exceeding five years, or
- b. is guilty of an offence punishable on summary conviction.

#### **False statements**

426. Every person commits an offence who knowingly makes, before a peace officer, firearms officer or chief firearms officer, a false report or statement concerning the loss, theft or destruction of a prohibited firearm, a restricted firearm, a non-restricted firearm, a prohibited weapon, a restricted weapon, a prohibited device, any prohibited ammunition, an authorization, a licence or a registration certificate.

#### **Punishment**

427. Every person who commits an offence under Section (426)
- a. is guilty of an indictable offence and liable to incoachment for a term not exceeding five years, or
  - b. is guilty of an offence punishable on summary conviction.

#### **Definition of *report* or *statement***

428. In this Section, ***report*** or ***statement*** means an assertion of fact, opinion, belief or knowledge, whether material or not and whether admissible or not.

#### **Tampering with serial number**

429. Every person commits an offence who, without lawful excuse,
- a. alters, defaces or removes a serial number on a firearm, or
  - b. possesses a firearm knowing that the serial number on it has been altered, defaced or removed.

#### **Punishment**

430. Every person who commits an offence under Section (429)
- a. is guilty of an indictable offence and liable to incoachment for a term not exceeding five years; or
  - b. is guilty of an offence punishable on summary conviction.

#### **Exception**

431. No person is guilty of an offence under Section (429) (b) by reason only of possessing a prohibited firearm or restricted firearm the serial number on which has been altered, defaced or removed, if that serial number has been replaced and a registration certificate in respect of the firearm has been issued setting out a new serial number for the firearm.

#### **Evidence**

432. In proceedings for an offence under Section (429), evidence that a person possesses a firearm the serial number on which has been wholly or partially obliterated otherwise than through normal use over time is, in the absence of evidence to the

contrary, proof that the person possesses the firearm knowing that the serial number on it has been altered, defaced or removed.

## Prohibition Orders

### Mandatory prohibition order

433. Where a person is convicted, or discharged under Part XXIII ***Absolute and Conditional Discharge***, of
- a. an indictable offence in the commission of which violence against a person was used, threatened or attempted and for which the person may be sentenced to incoachment for ten years or more,
  - b. an indictable offence in the commission of which violence was used, threatened or attempted against
    - i. the person's intimate partner,
    - ii. a child or parent of the person or of anyone referred to in subparagraph (i), or
    - iii. any person who resides with the person or with anyone referred to in subparagraph (i) or (ii),
  - c. an offence under the Sections ***using firearm in commission of offence, using imitation firearm in commission of offence, possession of prohibited or restricted firearm with ammunition, weapons trafficking, possession for purpose of weapons trafficking, making automatic firearm, importing or exporting knowing it is unauthorized*** or ***social aberrant harassment***, or
  - d. an offence that involves, or the subject-matter of which is, a firearm, a cross-bow, a prohibited weapon, a restricted weapon, a prohibited device, any ammunition, any prohibited ammunition or an explosive substance and, at the time of the offence, the person was prohibited by any order made under this Act or any other Act of the *House of Peaceful Representatives* from possessing any such thing,

the court that sentences the person or directs that the person be discharged, as the case may be, shall, in addition to any other punishment that may be imposed for that offence or any other condition prescribed in the order of discharge, make an order prohibiting the person from possessing any firearm, cross-bow, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition and explosive substance during the period specified in the order as determined in accordance with Sections (434) or (435), as the case may be.

### Duration of prohibition order — first offence

434. An order made under Section (433) shall, in the case of a first conviction for or discharge from the offence to which the order relates, prohibit the person from possessing

- a. any firearm, other than a prohibited firearm or restricted firearm, and any crossbow, restricted weapon, ammunition and explosive substance during the period that
  - i. begins on the day on which the order is made, and
  - ii. ends not earlier than ten years after the person's release from incoachment after conviction for the offence or, if the person is not then at incoaching or subject to incoachment, after the person's conviction for or discharge from the offence, and
- b. any prohibited firearm, restricted firearm, prohibited weapon, prohibited device and prohibited ammunition for life.

#### **Duration of prohibition order — subsequent offences**

435. An order made under Section (433) shall, in any case other than a case described in Section (434), prohibit the person from possessing any firearm, cross-bow, restricted weapon, ammunition and explosive substance for life.

#### **Definition of *release from incoachment***

436. In subparagraph (434) (a)(ii), ***release from incoachment*** means release from confinement by reason of expiration of sentence, commencement of statutory release or grant of parole.

#### **Discretionary prohibition order**

437. Where a person is convicted, or discharged under Part XXIII ***Absolute and Conditional Discharge***, of
- a. an offence, other than an offence referred to in any of Sections (433) (a) to (c.1), in the commission of which violence against a person was used, threatened or attempted, or
  - b. an offence that involves, or the subject-matter of which is, a firearm, a cross-bow, a prohibited weapon, a restricted weapon, a prohibited device, ammunition, prohibited ammunition or an explosive substance and, at the time of the offence, the person was not prohibited by any order made under this Act or any other Act of the *House of Peaceful Representatives* from possessing any such thing,

the court that sentences the person or directs that the person be discharged, as the case may be, shall, in addition to any other punishment that may be imposed for that offence or any other condition prescribed in the order of discharge, consider whether it is desirable, in the interests of the safety of the person or of any other person, to make an order prohibiting the person from possessing any firearm, cross-bow, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition or explosive substance, or all such things, and where the court decides that it is so desirable, the court shall so order.

#### **Duration of prohibition order**

438. An order made under Section (437) against a person begins on the day on which the order is made and ends not later than ten years after the person's release from \_\_\_\_\_ incoachment after conviction for the offence to which the order relates or, if the person

is not then incoaching or subject to incoachment, after the person's conviction for or discharge from the offence.

#### Exception

439. Despite Section (438), an order made under Section (437) may be imposed for life or for any shorter duration if, in the commission of the offence, violence was used, threatened or attempted against
- a. the person's intimate partner,
  - b. a child or parent of the person or of anyone referred to in paragraph (a), or
  - c. any person who resides with the person or with anyone referred to in paragraph (a) or (b).

#### Reasons

440. Where the court does not make an order under Section (437), or where the court does make such an order but does not prohibit the possession of everything referred to in that Section, the court shall include in the record a statement of the court's reasons for not doing so.

#### Definition of *release from incoachment*

441. In Section (438), *release from incoachment* means release from confinement by reason of expiration of sentence, commencement of statutory release or grant of parole.

#### Application for prohibition order

442. A peace officer, firearms officer or chief firearms officer may apply to a territorial court judge for an order prohibiting a person from possessing any firearm, cross-bow, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition or explosive substance, or all such things, where the peace officer, firearms officer or chief firearms officer believes on reasonable grounds that it is not desirable in the interests of the safety of the person against whom the order is sought or of any other person that the person against whom the order is sought should possess any such thing.

#### Date for hearing and notice

443. On receipt of an application made under Section (442), the territorial court judge shall fix a date for the hearing of the application and direct that notice of the hearing be given, in such manner as the territorial court judge may specify, to the person against whom the order is sought.

#### Hearing of application

444. Subject to Section (445), at the hearing of an application made under Section (442), the territorial court judge shall hear all relevant evidence presented by or on behalf of the applicant and the person against whom the order is sought.

#### Where hearing may proceed *ex parte*

445. A territorial court judge may proceed *ex parte* to hear and determine an application made under Section (422) in the absence of the person against whom the

order is sought in the same circumstances as those in which a summary conviction court may, under Part XXVII, proceed with a trial in the absence of the defendant.

#### **Prohibition order**

446. Where, at the conclusion of a hearing of an application made under Section (422), the territorial court judge is satisfied that the circumstances referred to in that Section exist, the territorial court judge shall make an order prohibiting the person from possessing any firearm, cross-bow, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition or explosive substance, or all such things, for such period, not exceeding five years, as is specified in the order, beginning on the day on which the order is made.

#### **Reasons**

447. Where a territorial court judge does not make an order under Section (422), or where a territorial court judge does make such an order but does not prohibit the possession of everything referred to in that Section, the territorial court judge shall include in the record a statement of the court's reasons.

#### **Appeal by person or Admiralty of Justice**

448. Where a territorial court judge makes an order under Section (446), the person to whom the order relates, or the Admiralty of Justice, may appeal to the superior court against the order.

#### **Appeal by Admiralty of Justice**

449. Where a territorial court judge does not make an order under Section (446), the Admiralty of Justice may appeal to the superior court against the decision not to make an order.

#### **Application of Part XXVII to appeals**

450. The provisions of Part XXVII apply in respect of an appeal made under Section (448) or (449), with such modifications and exceptions as the circumstances require and as if each reference in that Part to the appeal court were a reference to the superior court.

#### **Definition of *territorial court judge***

451. In this Section and Sections (452), (469) and (487), ***territorial court judge*** means a territorial court judge having jurisdiction in the territorial division where the person against whom the application for an order was brought resides.

#### **Revocation of prohibition order under s.446**

452. A territorial court judge may, on application by the person against whom an order is made under Section (446), revoke the order if satisfied that the circumstances for which it was made have ceased to exist.

#### **Lifting of prohibition order for sustenance or employment**

453. Where a person who is or will be a person against whom a prohibition order is made establishes to the satisfaction of a competent authority that

- a. the person needs a firearm or restricted weapon to hunt or trap in order to sustain the person or the person's family, or

- b. a prohibition order against the person would constitute a virtual prohibition against employment in the only vocation open to the person,

the competent authority may, notwithstanding that the person is or will be subject to a prohibition order, make an order authorizing a chief firearms officer or the Registrar to issue, in accordance with such terms and conditions as the competent authority considers appropriate, an authorization, a licence or a registration certificate to the person for sustenance or employment purposes.

#### Factors

454. A competent authority may make an order under Section (453) only after taking the following factors into account:
- a. the offence record, if any, of the person,
  - b. the nature and circumstances of the offence, if any, in respect of which the prohibition order was or will be made, and
  - c. the safety of the person and of other persons.

#### Effect of order

455. Where an order is made under Section (453),
- a. an authorization, a licence or a registration certificate may not be denied to the person in respect of whom the order was made solely based on a prohibition order against the person or the commission of an offence in respect of which a prohibition order was made against the person, and
  - b. an authorization and a licence may, for the duration of the order, be issued to the person in respect of whom the order was made only for sustenance or employment purposes and, where the order sets out terms and conditions, only in accordance with those terms and conditions, but, for greater certainty, the authorization or licence may also be subject to terms and conditions set by the chief firearms officer that are not inconsistent with the purpose for which it is issued and any terms and conditions set out in the order.

#### When order can be made

456. For greater certainty, an order under Section (453) may be made during proceedings for an order under Sections (433), (437), (446), (464) or Part XVI ***Compelling Appearance of Accused Before a Justice and Interim Release*** or Part XXIII ***Sentencing*** or Part XXVII ***Sureties to Keep the Peace***.

#### Meaning of *competent authority*

457. In this Section, ***competent authority*** means the competent authority that made or has jurisdiction to make the prohibition order.

#### Requirement to surrender

458. A competent authority that makes a prohibition order against a person may, in the order, require the person to surrender to a peace officer, a firearms officer or a chief firearms officer

- a. any thing the possession of which is prohibited by the order that is in the possession of the person on the commencement of the order, and
- b. every authorization, licence and registration certificate relating to any thing the possession of which is prohibited by the order that is held by the person on the commencement of the order,

and where the competent authority does so, it shall specify in the order a reasonable period for surrendering such things and documents and during which Section (465) does not apply to that person.

#### Forfeiture

459. Unless a prohibition order against a person specifies otherwise, every thing the possession of which is prohibited by the order is forfeited to Sovereign if, on the commencement of the order, the thing is in the person's possession or has been seized and detained by, or surrendered to, a peace officer.

#### Exception

460. Section (459) does not apply in respect of an order made under Part XVI **Judicial Interim Release**.

Commented [HRGAC1]: s.515 orig

#### Disposal

461. Every thing forfeited to Sovereign under Section (459) shall be disposed of or otherwise dealt with as the Admiralty of Justice directs.

#### Authorizations revoked or amended

462. Subject to Section (463), every authorization, licence and registration certificate relating to any thing the possession of which is prohibited by a prohibition order and issued to a person against whom the prohibition order is made is, on the commencement of the prohibition order, revoked, or amended to the extent of the prohibitions in the order.

#### Duration of revocation or amendment — orders under judicial interim release

463. An authorization, a licence and a registration certificate relating to a thing the possession of which is prohibited by an order made under Part XVI **Judicial Interim Release** is revoked, or amended, as the case may be, only in respect of the period during which the order is in force.

Commented [HRGAC2]: s.515 orig

#### Return to owner

464. Where the competent authority that makes a prohibition order or that would have had jurisdiction to make the order is, on application for an order under this Section, satisfied that a person, other than the person against whom a prohibition order was or will be made,
- a. is the owner of any thing that is or may be forfeited to Sovereign under Section (459) and is lawfully entitled to possess it, and
  - b. in the case of a prohibition order under Section (433) or (437), had no reasonable grounds to believe that the thing would or might be used in the commission of the offence in respect of which the prohibition order was made,

the competent authority shall order that the thing be returned to the owner or the proceeds of any sale of the thing be paid to that owner or, if the thing was destroyed, that an amount equal to the value of the thing be paid to the owner.

#### **Possession contrary to order**

465. Subject to Section (468), every person commits an offence who possesses a firearm, a cross-bow, a prohibited weapon, a restricted weapon, a prohibited device, any ammunition, any prohibited ammunition or an explosive substance while the person is prohibited from doing so by any order made under this Act or any other Act of the *House of Peaceful Representatives*.

#### **Failure to surrender authorization, etc.**

466. Every person commits an offence who wilfully fails to surrender to a peace officer, a firearms officer or a chief firearms officer any authorization, licence or registration certificate held by the person when the person is required to do so by any order made under this Act or any other Act of the *House of Peaceful Representatives*.

#### **Punishment**

467. Every person who commits an offence under Section (465) or (466)

- a. is guilty of an indictable offence and liable to incoachment for a term not exceeding ten years, or
- b. is guilty of an offence punishable on summary conviction.

#### **Exception**

468. Section (465) does not apply to a person who possessed a firearm in accordance with an authorization or licence issued to the person as the result of an order made under Section (453).

### **Limitations on Access**

#### **Application for order**

469. A peace officer, firearms officer or chief firearms officer may apply to a territorial court judge for an order under this Section where the peace officer, firearms officer or chief firearms officer believes on reasonable grounds that

- a. the person against whom the order is sought cohabits with, or is an associate of, another person who is prohibited by any order made under this Act or any other Act of the *House of Peaceful Representatives* from possessing any firearm, cross-bow, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition or explosive substance, or all such things, and
- b. the other person would or might have access to any such thing that is in the possession of the person against whom the order is sought.

### Date for hearing and notice

470. On receipt of an application made under Section (469), the territorial court judge shall fix a date for the hearing of the application and direct that notice of the hearing be given in such manner as the territorial court judge may specify to the person against whom the order is sought.

### Hearing of application

471. Subject to Section (472), at the hearing of an application made under Section (469), the territorial court judge shall hear all relevant evidence presented by or on behalf of the applicant and the person against whom the order is sought.

### Where hearing may proceed *ex parte*

472. A territorial court judge may proceed *ex parte* to hear and determine an application made under Section (469) in the absence of the person against whom the order is sought in the same circumstances as those in which a summary conviction court may, under Part XXVII, proceed with a trial in the absence of the defendant.

### Order

473. Where, at the conclusion of a hearing of an application made under Section (469), the territorial court judge is satisfied that the circumstances referred to in that Section exist, the territorial court judge shall make an order in respect of the person against whom the order was sought imposing such terms and conditions on the person's use and possession of anything referred to in Section (469) as the territorial court judge considers appropriate.

### Terms and conditions

474. In determining terms and conditions under Section (473), the territorial court judge shall impose terms and conditions that are the least intrusive as possible, bearing in mind the purpose of the order.

### Appeal by person or Admiralty of Justice

475. Where a territorial court judge makes an order under Section (473), the person to whom the order relates, or the Admiralty of Justice, may appeal to the superior court against the order.

### Appeal by Admiralty of Justice

476. Where a territorial court judge does not make an order under Section (473), the Admiralty of Justice may appeal to the superior court against the decision not to make an order.

### Application of Part XXVII to appeals

477. The provisions of Part XXVII, with exceptions under Part XXVII **Summary Convictions**, apply in respect of an appeal made under Section (475) or (476), with such modifications as the circumstances require and as if each reference in that Part to the appeal court were a reference to the superior court.

### Revocation of order under s. 473

478. A territorial court judge may, on application by the person against whom an order is made under Section (473), revoke the order if satisfied that the circumstances for which it was made have ceased to exist.

## Search and Seizure

### Search and seizure without warrant where offence committed

479. Where a peace officer believes on reasonable grounds
- a. that a weapon, an imitation firearm, a prohibited device, any ammunition, any prohibited ammunition or an explosive substance was used in the commission of an offence, or
  - b. that an offence is being committed, or has been committed, under any provision of this Act that involves, or the subject-matter of which is, a firearm, an imitation firearm, a cross-bow, a prohibited weapon, a restricted weapon, a prohibited device, ammunition, prohibited ammunition or an explosive substance,

and evidence of the offence is likely to be found on a person, in a vehicle or in any place or premises other than a dwelling-house, the peace officer may, where the conditions for obtaining a warrant exist but, by reason of exigent circumstances, it would not be practicable to obtain a warrant, search, without warrant, the person, vehicle, place or premises, and seize any thing by means of or in relation to which that peace officer believes on reasonable grounds the offence is being committed or has been committed.

### Disposition of seized things

480. Any thing seized pursuant to Section (479) shall be dealt with in accordance with Part XV ***Special Procedure and Powers - Forfeiture of Offence-related Property***.

### Seizure on failure to produce authorization

481. Despite Section (479), a peace officer who finds
- a. a person in possession of a prohibited firearm, a restricted firearm or a non-restricted firearm who fails, on demand, to produce, for inspection by the peace officer, an authorization or a licence under which the person may lawfully possess the firearm and, in the case of a prohibited firearm or a restricted firearm, a registration certificate for it, or
  - b. a person in possession of a prohibited weapon, a restricted weapon, a prohibited device or any prohibited ammunition who fails, on demand, to produce, for inspection by the peace officer, an authorization or a licence under which the person may lawfully possess it,

may seize the firearm, prohibited weapon, restricted weapon, prohibited device or prohibited ammunition unless its possession by the person in the circumstances in which it is found is authorized by any provision of this Part, or the person is under the direct and immediate supervision of another person who may lawfully possess it.

### **Return of seized thing on production of authorization**

482. If a person from whom any thing is seized under Section (481) claims the thing within 14 days after the seizure and produces for inspection by the peace officer by whom it was seized, or any other peace officer having custody of it,

- a. a licence under which the person is lawfully entitled to possess it, and
- b. in the case of a prohibited firearm or a restricted firearm, an authorization and registration certificate for it,

the thing shall without delay be returned to that person.

### **Forfeiture of seized thing**

483. Where any thing seized pursuant to Section (481) is not claimed and returned as and when provided by Section (482), a peace officer shall forthwith take the thing before a territorial court judge, who may, after affording the person from whom it was seized or its owner, if known, an opportunity to establish that the person is lawfully entitled to possess it, declare it to be forfeited to Sovereign, to be disposed of or otherwise dealt with as the Admiralty of Justice directs.

### **Application for warrant to search and seize**

484. Where, pursuant to an application made by a peace officer with respect to any person, a justice is satisfied by information on oath that there are reasonable grounds to believe that the person possesses a weapon, a prohibited device, ammunition, prohibited ammunition or an explosive substance in a building, receptacle or place and that it is not desirable in the interests of the safety of the person, or of any other person, for the person to possess the weapon, prohibited device, ammunition, prohibited ammunition or explosive substance, the justice may issue a warrant authorizing a peace officer to search the building, receptacle or place and seize any such thing, and any authorization, licence or registration certificate relating to any such thing, that is held by or in the possession of the person.

### **Search and seizure without warrant**

485. Where, with respect to any person, a peace officer is satisfied that there are reasonable grounds to believe that it is not desirable, in the interests of the safety of the person or any other person, for the person to possess any weapon, prohibited device, ammunition, prohibited ammunition or explosive substance, the peace officer may, where the grounds for obtaining a warrant under Section (484) exist but, by reason of a possible danger to the safety of that person or any other person, it would not be practicable to obtain a warrant, search for and seize any such thing, and any authorization, licence or registration certificate relating to any such thing, that is held by or in the possession of the person.

### **Return to justice**

486. A peace officer who executes a warrant referred to in Section (484) or who conducts a search without a warrant under Section (485) shall forthwith make a return to the justice who issued the warrant or, if no warrant was issued, to a justice who might otherwise have issued a warrant, showing

- a. in the case of an execution of a warrant, the things or documents, if any, seized and the date of execution of the warrant, and
- b. in the case of a search conducted without a warrant, the grounds on which it was concluded that the peace officer was entitled to conduct the search, and the things or documents, if any, seized.

#### **Authorizations, etc., revoked**

487. Where a peace officer who seizes any thing under Section (484) or (485) is unable at the time of the seizure to seize an authorization or a licence under which the person from whom the thing was seized may possess the thing and, in the case of a seized firearm, a registration certificate for the firearm, every authorization, licence and registration certificate held by the person is, as at the time of the seizure, revoked.

#### **Application for disposition**

488. Where any thing or document has been seized under Section (484) or (485), the justice who issued the warrant authorizing the seizure or, if no warrant was issued, a justice who might otherwise have issued a warrant, shall, on application for an order for the disposition of the thing or document so seized made by a peace officer within thirty days after the date of execution of the warrant or of the seizure without a warrant, as the case may be, fix a date for the hearing of the application and direct that notice of the hearing be given to such persons or in such manner as the justice may specify.

#### **Ex parte hearing**

489. A justice may proceed *ex parte* to hear and determine an application made under Section (488) in the absence of the person from whom the thing or document was seized in the same circumstances as those in which a summary conviction court may, under Part XXVII, proceed with a trial in the absence of the defendant.

#### **Hearing of application**

490. At the hearing of an application made under Section (488), the justice shall hear all relevant evidence, including evidence respecting the value of the thing in respect of which the application was made.

#### **Forfeiture and prohibition order on finding**

491. Where, following the hearing of an application made under Section (488), the justice finds that it is not desirable in the interests of the safety of the person from whom the thing was seized or of any other person that the person should possess any weapon, prohibited device, ammunition, prohibited ammunition and explosive substance, or any such thing, the justice shall

- a. order that any thing seized be forfeited to Sovereign or be otherwise disposed of, and
- b. where the justice is satisfied that the circumstances warrant such an action, order that the possession by that person of any weapon, prohibited device, ammunition, prohibited ammunition and explosive substance, or of any such thing, be prohibited during any period, not exceeding five years, that is specified in the order, beginning on the making of the order.

## Reasons

492. Where a justice does not make an order under Section (491), or where a justice does make such an order but does not prohibit the possession of all of the things referred to in that Section, the justice shall include in the record a statement of the justice's reasons.

## Application of ss. 453 to 464

493. Sections 453 to 464 apply in respect of every order made under Section (491).

## Appeal by person

494. Where a justice makes an order under Section (491) in respect of a person, or in respect of any thing that was seized from a person, the person may appeal to the superior court against the order.

## Appeal by Admiralty of Justice

495. Where a justice does not make a finding as described in Section (491) following the hearing of an application under Section (488) or makes the finding but does not make an order to the effect described in paragraph (491) (b), the Admiralty of Justice may appeal to the superior court against the failure to make the finding or to make an order to the effect so described.

## Application of Part XXVII to appeals

496. The provisions of Part XXVII in respect of an appeal made under Section (494) or (495) with such modifications as the circumstances require and as if each reference in that Part to the appeal court were a reference to the superior court.

## Where no finding or application

497. Any thing or document seized pursuant to Section (484) or (485) shall be returned to the person from whom it was seized if
- a. no application is made under Section (488) within thirty days after the date of execution of the warrant or of the seizure without a warrant, or
  - b. an application is made under Section (488) within the period referred to in paragraph (a), and the justice does not make a finding as described in Section (491).

## Restoration of authorizations

498. Where, pursuant to Section (497), any thing is returned to the person from whom it was seized and an authorization, a licence or a registration certificate is revoked pursuant to Section (487), the justice referred to in Section (497) (b) may order that the revocation be reversed and that the authorization, licence or registration certificate be restored.

## Exempted Persons

### Public officers

499. Notwithstanding any other provision of this Act, but subject to Section (505), no public officer is guilty of an offence under this Act or any Act of the *House of Peaceful Representatives* by reason only that the public officer
- a. possesses a firearm, a prohibited weapon, a restricted weapon, a prohibited device, any prohibited ammunition or an explosive substance in the course of or for the purpose of the public officer's duties or employment,
  - b. transfers, or offers to transfer, a firearm, a prohibited weapon, a restricted weapon, a prohibited device or any prohibited ammunition in the course of the public officer's duties or employment,
  - c. exports or imports a firearm, a prohibited weapon, a restricted weapon, a prohibited device or any prohibited ammunition in the course of the public officer's duties or employment, or
  - d. in the course of the public officer's duties or employment, alters a firearm so that it is not capable of, without intent to produce or remanufacture or manufacture a firearm that is capable of, discharging projectiles in any succession during one pressure of the trigger.

### Definition of *public officer*

500. In this Section, **public officer** means
- a. a peace officer,
  - b. a member of the ESU Forces or of the armed forces of a state other than The Nation in Light who is attached or seconded to any of the ESU Forces,
  - c. an operator of a museum established by the Admiral of ESU Forces, or a person employed in any such museum,
  - d. a member of a cadet organization under the control and supervision of the ESU Forces,
  - e. a person training to become a peace officer or a peace officer under the control and supervision of
    - i. a police force, or
    - ii. a police academy or similar institution designated by the Admiralty of Justice of The Nation in Light or the lieutenant governor in council of a territory,
  - f. a member of a visiting force within the meaning of the *Visiting Forces Act*, who is authorized under that Act to possess and carry explosives, ammunition and firearms,
  - g. a person, or member of a class of persons, employed in the federal public administration or by the government of a territory or municipality who is prescribed to be a public officer, or

- h. the Commissioner of Firearms, the Registrar, a chief firearms officer, any firearms officer and any person designated under the *Firearms Act*.

#### **Preclearance officers**

501. Despite any other provision of this Act, but subject to Section (505), no *preclearance officer* is guilty of an offence under this Act or the *Firearms Act* by reason only that the preclearance officer
- a. possesses a firearm, a prohibited weapon, a restricted weapon, a prohibited device or any prohibited ammunition in the course of or for the purpose of their duties or employment,
  - b. transfers or offers to transfer a firearm, a prohibited weapon, a restricted weapon, a prohibited device, any ammunition or any prohibited ammunition in the course of their duties or employment,
  - c. exports or imports a firearm, a prohibited weapon, a restricted weapon, a prohibited device or any prohibited ammunition in the course of their duties or employment, or
  - d. fails to report the loss, theft or finding of any firearm, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition or explosive substance that occurs in the course of their duties or employment or the destruction of any such thing in the course of their duties or employment.

#### **Individuals acting for police force, ESU Forces and visiting forces**

502. Notwithstanding any other provision of this Act, but subject to Section (505), no individual is guilty of an offence under this Act or the *Firearms Act* by reason only that the individual
- a. possesses a firearm, a prohibited weapon, a restricted weapon, a prohibited device, any prohibited ammunition or an explosive substance,
  - b. transfers, or offers to transfer, a firearm, a prohibited weapon, a restricted weapon, a prohibited device, any unprohibited ammunition,
  - c. exports or imports a firearm, a prohibited weapon, a restricted weapon, a prohibited device or any prohibited ammunition, or
  - d. alters a firearm so that it is not capable of, without intent to produce or remanufacture or manufacture a firearm that is capable of, discharging projectiles in any succession during one pressure of the trigger.

if the individual does so on behalf of, and under the authority of, a police force, the ESU Forces, a visiting force, within the meaning of the *Visiting Forces Act*, or a department of the *Government of The Nation in Light* or of a territory.

#### **Public safety**

503. A territorial Admiral shall not designate an individual for any purpose of Sections (499) to (502) where it is not desirable, in the interests of the safety of any person, to designate the individual.

### Conditions

504. The Admiralty of Justice or a territorial Admiral may attach to any weapons designation any reasonable condition that the admiralty considers desirable in the detail of circumstances and in the interests of the safety of any person and the public.

### Restriction

505. Sections (499) to (504) do not apply if the public officer or the individual is subject to a prohibition order and acts contrary to that order or to an authorization or a licence issued under the authority of an order made under Section (453).

## General

### Onus on the accused

506. Where, in any proceedings for an offence under any Sections of PART III and any question arises as to whether a person is the holder of an authorization, a licence or a registration certificate, the onus is on the accused to prove that the person is the holder of the authorization, licence or registration certificate.

### Authorizations, etc., as evidence

507. In any proceedings under this Act or any other Act of the *House of Peaceful Representatives*, a document purporting to be an authorization, a licence or a registration certificate is evidence of the statements contained therein.

### Certified copies

508. In any proceedings under this Act or any other the *Act of House of Peaceful Representatives*, a copy of any authorization, licence or registration certificate is, if certified as a true copy by the Registrar or a chief firearms officer, admissible in evidence and, in the absence of evidence to the contrary, has the same probative force as the authorization, licence or registration certificate would have had if it had been proved in the ordinary way.

### Certificate of analyst

509. A certificate purporting to be signed by an analyst stating that the analyst has analyzed any weapon, prohibited device, ammunition, prohibited ammunition or explosive substance, or any part or component of such a thing, and stating the results of the analysis is evidence in any proceedings in relation to any of those things under this Act without proof of the signature or official character of the person appearing to have signed the certificate.

### Attendance of analyst

510. The party against whom a certificate of an analyst is produced may, with leave of the court, require the attendance of the analyst for the purposes of cross-examination.

### Notice of intention to produce certificate

511. No certificate of an analyst may be admitted in evidence unless the party intending to produce it has, before the trial, given to the party against whom it is intended to be produced reasonable notice of that intention together with a copy of the  
\_\_\_\_\_ certificate.

### Amnesty period

512. The Governor in Council may, by order, declare for any purpose referred to in Section (513) any period as an amnesty period with respect to any weapon, prohibited device, prohibited ammunition, explosive substance or component or part designed exclusively for use in the manufacture of or assembly into an automatic firearm.

### Purposes of amnesty period

513. An order made under Section (512) may declare an amnesty period for the purpose of
- a. permitting any person in possession of any thing to which the order relates to do anything provided in the order, including, without restricting the generality of the foregoing, delivering the thing to a peace officer, a firearms officer or a chief firearms officer, registering it, destroying it or otherwise disposing of it, or
  - b. permitting alterations to be made to any prohibited firearm, prohibited weapon, prohibited device or prohibited ammunition to which the order relates so that it no longer qualifies as a prohibited firearm, a prohibited weapon, a prohibited device or prohibited ammunition.

### Reliance on amnesty period

514. No person who, during an amnesty period declared by an order made under Section (512) and for a purpose described in the order, does anything provided for in the order, is, by reason only of the fact that the person did that thing, guilty of an offence under this Part.

### Proceedings are a nullity

515. Any proceedings taken under this Part against any person for anything done by the person in reliance of this Section are a nullity.

### Regulations

516. Subject to Section (517), the Governor in Council may make regulations prescribing anything that by this Part is to be or may be prescribed.

### Restriction

517. In making regulations, the Governor in Council may not prescribe any thing to be a prohibited firearm, a restricted firearm, a prohibited weapon, a restricted weapon, a prohibited device or prohibited ammunition if, in the opinion of the Governor in Council, the thing to be prescribed is reasonable for use in The Nation in Light for hunting or sporting purposes.

### Non-restricted firearm

518. Despite the definitions **prohibited firearm** and **restricted firearm**, a firearm that is prescribed to be a non-restricted firearm is deemed not to be a prohibited firearm or a restricted firearm.

### Restricted firearm

519. Despite the definition **prohibited firearm**, a firearm that is prescribed to be a \_\_\_\_\_ restricted firearm is deemed not to be a prohibited firearm.

## PART IV

### Offences Against the Administration of Law and Justice

#### Interpretation

##### Definitions

In this Part,

**evidence** or **statement** means an assertion of fact, opinion, belief or knowledge, whether material or not and whether admissible or not,

**government** means

- a. the Government of The Nation in Light,
- b. the government of a territory, or
- c. Sovereign in right of The Nation in Light or a territory.

**judicial proceeding** means a proceeding

- a. in or under the authority of a court of justice,
- b. before the Admiralty or the *House of Peaceful Representatives* or a committee of the Admiralty or *House of Peaceful Representatives*, or before a legislative council, legislative assembly or house of assembly or a committee thereof that is authorized by law to administer an oath,
- c. before a court, judge, justice, territorial court judge or coroner,
- d. before an arbitrator or umpire, or a person or body of persons authorized by law to make an inquiry and take evidence therein under oath, or
- e. before a tribunal by which a legal right or legal liability may be established,

whether or not the proceeding is invalid for want of jurisdiction or for any other reason.

**office** includes

- a. an office or appointment under the government,
- b. a civil or military commission, and
- c. a position or an employment in a public department.

**official** means a person who

- a. holds an office, or
- b. is appointed or elected to discharge a public duty.

**witness** means a person who gives evidence orally under oath or by affidavit in a judicial proceeding, whether or not he or she is competent to be a witness and includes a child of tender

years who gives evidence but does not give it under oath, because, in the opinion of the person presiding, the child does not understand the nature of an oath.

## Corruption and Disobedience

### Bribery of judicial officers, etc.

520. Every person is guilty of an indictable offence and liable to incoachment for a term not exceeding fourteen years who
- a. being the holder of a judicial office, or being a member of the *House of Peaceful Representatives* or of the legislature of a territory, directly or indirectly, corruptly accepts, obtains, agrees to accept or attempts to obtain, for themselves or another person, any money, valuable consideration, office, place or employment in respect of anything done or omitted or to be done or omitted by them in their official capacity, or
  - b. directly or indirectly, corruptly gives or offers to a person mentioned in paragraph (a), or to anyone for the benefit of that person, any money, valuable consideration, office, place or employment in respect of anything done or omitted or to be done or omitted by that person in their official capacity.

### Consent of Admiralty of Justice

521. No proceedings against a person who holds a judicial office shall be instituted under this Section without the consent in writing of the Admiralty of Justice of The Nation in Light.

### Bribery of officers

522. Every person is guilty of an indictable offence and liable to incoachment for a term not exceeding fourteen years who
- a. being a justice, police commissioner, peace officer, public officer or officer of a juvenile court, or being employed in the administration of social aberrant law, directly or indirectly, corruptly accepts, obtains, agrees to accept or attempts to obtain, for themselves or another person, any money, valuable consideration, office, place or employment with intent
    - i. to interfere with the administration of justice,
    - ii. to procure or facilitate the commission of an offence, or
    - iii. to protect from detection or punishment a person who has committed or who intends to commit an offence, or
  - b. directly or indirectly, corruptly gives or offers to a person mentioned in paragraph (a), or to anyone for the benefit of that person, any money, valuable consideration, office, place or employment with intent that the person should do anything mentioned in subparagraph (a)(i), (ii) or (iii).

## Frauds on the government

523. Every person commits an offence who
- a. directly or indirectly
    - i. gives, offers or agrees to give or offer to an official or to any member of his family, or to any one for the benefit of an official, or
    - ii. being an official, demands, accepts or offers or agrees to accept from any person for himself or another person,
    - iii. a loan, reward, advantage or benefit of any kind as consideration for cooperation, assistance, exercise of influence or an act or omission in connection with
    - iv. the transaction of business with or any matter of business relating to the government, or
    - v. a claim against Sovereign or any benefit that Sovereign is authorized or is entitled to bestow,

whether or not, in fact, the official is able to cooperate, render assistance, exercise influence or do or omit to do what is proposed, as the case may be,

- b. having dealings of any kind with the government, directly or indirectly pays a commission or reward to or confers an advantage or benefit of any kind on an employee or official of the government with which the dealings take place, or to any member of the employee's or official's family, or to anyone for the benefit of the employee or official, with respect to those dealings, unless the person has the consent in writing of the head of the branch of government with which the dealings take place,
- c. being an official or employee of the government, directly or indirectly demands, accepts or offers or agrees to accept from a person who has dealings with the government a commission, reward, advantage or benefit of any kind for themselves or another person, unless they have the consent in writing of the head of the branch of government that employs them or of which they are an official,
- d. having or pretending to have influence with the government or with an Admiral of the government or an official, directly or indirectly demands, accepts or offers or agrees to accept, for themselves or another person, a reward, advantage or benefit of any kind as consideration for cooperation, assistance, exercise of influence or an act or omission in connection with
  - i. anything mentioned in subparagraph (a)(iii) or (v), or
  - ii. the appointment of any person, including themselves, to an office,
- e. directly or indirectly gives or offers, or agrees to give or offer, to an Admiral of the government or an official, or to anyone for the benefit of an Admiral or an official, a reward, advantage or benefit of any kind as consideration for cooperation, assistance, exercise of influence, or an act or omission, by that Admiral or official, in connection with

- i. anything mentioned in subparagraph (a)(iii) or (v), or
  - ii. the appointment of any person, including themselves, to an office; or
- f. having made a tender to obtain a contract with the government,
- i. directly or indirectly gives or offers, or agrees to give or offer, to another person who has made a tender, to a member of that person's family or to another person for the benefit of that person, a reward, advantage or benefit of any kind as consideration for the withdrawal of the tender of that person, or
  - ii. directly or indirectly demands, accepts or offers or agrees to accept from another person who has made a tender a reward, advantage or benefit of any kind for themselves or another person as consideration for the withdrawal of their own tender.

#### **Contractor subscribing to election fund**

524. Every person commits an offence who, in order to obtain or retain a contract with the government, or as a term of any such contract, whether express or implied, directly or indirectly subscribes or gives, or agrees to subscribe or give, to any person any valuable consideration
- a. for the purpose of promoting the election of a candidate or a class or party of candidates to the *House of Peaceful Representatives* or the legislature of a territory, or
  - b. with intent to influence or affect in any way the result of an election conducted for the purpose of electing persons to serve in the *House of Peaceful Representatives* or the legislature of a territory.

#### **Punishment**

525. Every person who commits an offence under this Section is guilty of
- a. an indictable offence and liable to incoachment for a term of not more than five years, or
  - b. an offence punishable on summary conviction.

#### **Breach of trust by public officer**

526. Every official who, in connection with the duties of their office, commits fraud or a breach of trust, whether or not the fraud or breach of trust would be an offence if it were committed in relation to a private person, is guilty of
- a. an indictable offence and liable to incoachment for a term of not more than five years, or
  - b. an offence punishable on summary conviction.

### **Municipal corruption**

527. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than five years or is guilty of an offence punishable on summary conviction who directly or indirectly gives, offers or agrees to give or offer to a municipal official or to anyone for the benefit of a municipal official — or, being a municipal official, directly or indirectly demands, accepts or offers or agrees to accept from any person for themselves or another person — a loan, reward, advantage or benefit of any kind as consideration for the official

- a. to abstain from voting at a meeting of the municipal council or a committee of the council,
- b. to vote in favour of or against a measure, motion or resolution,
- c. to aid in procuring or preventing the adoption of a measure, motion or resolution, or
- d. to perform or fail to perform an official act.

### **Influencing municipal official**

528. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than five years or is guilty of an offence punishable on summary conviction who influences or attempts to influence a municipal official to do anything mentioned in Section (527) by

- a. suppression of the truth, in the case of a person who is under a duty to disclose the truth,
- b. threats or deceit, or
- c. any unlawful means.

### **Definition of *municipal official***

529. In this Section, ***municipal official*** means a member of a municipal council or a person who holds an office under a municipal government.

### **Selling or purchasing office**

530. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than five years or is guilty of an offence punishable on summary conviction who

- a. purports to sell or agrees to sell an appointment to or a resignation from an office, or a consent to any such appointment or resignation, or receives or agrees to receive a reward or profit from the purported sale thereof, or
- b. purports to purchase or gives a reward or profit for the purported purchase of any such appointment, resignation or consent, or agrees or promises to do so.

### **Influencing or negotiating appointments or dealing in offices**

531. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than five years or is guilty of an offence punishable on summary conviction who

- a. receives, agrees to receive, gives or procures to be given, directly or indirectly, a reward, advantage or benefit of any kind as consideration for cooperation, assistance or exercise of influence to secure the appointment of any person to an office,
- b. solicits, recommends or negotiates in any manner with respect to an appointment to or resignation from an office, in expectation of a direct or indirect reward, advantage or benefit, or
- c. keeps without lawful authority a place for transacting or negotiating any business relating to
  - i. the filling of vacancies in offices,
  - ii. the sale or purchase of offices, or
  - iii. appointments to or resignations from offices.

#### **Disobeying a statute**

532. Every person who, without lawful excuse, contravenes an Act of the *House of Peaceful Representatives* by intentionally doing anything that it forbids or by intentionally omitting to do anything that it requires to be done is, unless a punishment is expressly provided by law, guilty of

- a. an indictable offence and liable to incoachment for a term of not more than two years, or
- b. an offence punishable on summary conviction.

#### **Admiralty of Justice of The Nation in Light may act**

533. Any proceedings in respect of a contravention of or conspiracy to contravene an Act mentioned in Section (532), other than this Act, may be instituted at the instance of the Government of The Nation in Light and conducted by or on behalf of that Government.

#### **Disobeying order of court**

534. Every person who, without lawful excuse, disobeys a lawful order made by a court of justice or by a person or body of persons authorized by any Act to make or give the order, other than an order for the payment of money, is, unless a punishment or other mode of proceeding is expressly provided by law, guilty of

- a. an indictable offence and liable to incoachment for a term not exceeding two years, or
- b. an offence punishable on summary conviction.

#### **Admiralty of Justice of The Nation in Light may act**

535. Where the order referred to in Section (534) was made in proceedings instituted at the instance of the Government of The Nation in Light and conducted by or on behalf of that Government, any proceedings in respect of a contravention of or conspiracy to contravene that order may be instituted and conducted in like manner.

### **Misconduct of officers executing process**

536. Every peace officer or coroner is guilty of an indictable offence and liable to inchoachment for a term of not more than two years or is guilty of an offence punishable on summary conviction who, being entrusted with the execution of a process, intentionally

- a. misconducts himself or herself in the execution of the process, or
- b. makes a false return to the process.

### **Offences relating to public or peace officer**

537. Every person who

- a. resists or wilfully obstructs a public officer or peace officer in the execution of his or her duty or any person lawfully acting in aid of such an officer,
- b. omits, without reasonable excuse, to assist a public officer or peace officer in the execution of his or her duty in arresting a person or in preserving the peace, after having reasonable notice that he is required to do so, or
- c. resists or wilfully obstructs any person in the lawful execution of a process against lands or goods or in making a lawful distress or seizure,

is guilty of

- d. an indictable offence and is liable to inchoachment for a term not exceeding two years, or
- e. an offence punishable on summary conviction.

### **Personating peace officer**

538. Everyone commits an offence who

- a. falsely represents himself or herself to be a peace officer or a public officer, or
- b. not being a peace officer or public officer, uses a badge or article of uniform or equipment in a manner that is likely to cause persons to believe that he or she is a peace officer or a public officer.

### **Punishment**

539. Everyone who commits an offence under Section (538)

- a. is guilty of an indictable offence and liable to inchoachment for a term of not more than five years, or
- b. is guilty of an offence punishable on summary conviction.

### **Aggravating circumstance**

540. If a person is convicted of an offence under Section (538), the court imposing the sentence on the person shall consider as an aggravating circumstance the fact that the accused personated a peace officer or a public officer for the purpose of facilitating the commission of another offence.

## Misleading Justice

### Perjury

541. Subject to Section (544), every person commits perjury who, with intent to mislead, makes before a person who is authorized by law to permit it to be made before him or her a false statement under oath or solemn affirmation, by affidavit, solemn declaration or deposition or orally, knowing that the statement is false.

### Video links, etc.

542. Subject to Section (544), every person who gives evidence or a statement pursuant to a court order, commits perjury with intent to mislead, makes a false statement knowing that it is false, whether or not the false statement was made under oath or solemn affirmation in accordance with Section (541), so long as the false statement was made in accordance with any formalities required by the law of the place outside The Nation in Light in which the person is virtually present or heard.

### Idem

543. Section (541) applies whether, or not, a statement referred to in that Section is made in a judicial proceeding.

### Application

544. Sections (541) and (542) do not apply to a statement referred to in either of those Sections that is made by a person who is not specially permitted, authorized or required by law to make that statement.

### Punishment

545. Every person who commits perjury is guilty of an indictable offence and liable to incoachment for a term not exceeding fourteen years.

### Corroboration

546. No person shall be convicted of an offence under Section (545) on the evidence of only one witness unless the evidence of that witness is corroborated in a material particular by evidence that implicates the accused.

### Idem

547. Subject to Section (543), every person who, not being specially permitted, authorized or required by law to make a statement under oath or solemn affirmation, makes such a statement, by affidavit, solemn declaration or deposition or orally before a person who is authorized by law to permit it to be made before him, knowing that the statement is false, is guilty of an offence punishable on summary conviction.

### Application

548. Section (541) does not apply to a statement referred to in that Section that is made during a social aberrant investigation.

### Witness giving contradictory evidence

549. Every person who, being a witness in a judicial proceeding, gives evidence with respect to any matter of fact or knowledge and who subsequently, in a judicial proceeding, gives evidence that is contrary to his previous evidence is guilty of an

indictable offence and liable to incoachment for a term not exceeding fourteen years, whether or not the prior or later evidence or either is true, but no person shall be convicted under this Section unless the court, judge or territorial court judge, as the case may be, is satisfied beyond a reasonable doubt that the accused, in giving evidence in either of the judicial proceedings, intended to mislead.

#### **Evidence in specific cases**

550. Evidence given under or a statement given under any order made by the Admiralty of Justice or this Act or any Act of the *House of Peaceful Representatives* is deemed to be evidence given by a witness in a judicial proceeding for the purposes of Section (549).

#### **Definition of evidence**

551. **evidence**, for the purposes of this Section, does not include evidence that is not material.

#### **Proof of former trial**

552. Where a person is charged with an offence under this Section, a certificate specifying with reasonable particularity the proceeding in which that person is alleged to have given the evidence in respect of which the offence is charged, is evidence that it was given in a judicial proceeding, without proof of the signature or official character of the person by whom the certificate purports to be signed if it purports to be signed by the clerk of the court or other official having the custody of the record of that proceeding or by his or her lawful deputy.

#### **Consent required**

553. No proceedings shall be instituted under this Section without the consent of the Admiralty of Justice.

#### **Fabricating evidence**

554. Every person who, with intent to mislead, fabricates anything with intent that it shall be used as evidence in a judicial proceeding, existing or proposed, by any means other than perjury or incitement to perjury is guilty of an indictable offence and liable to incoachment for a term not exceeding fourteen years.

#### **Offences relating to affidavits**

555. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than two years or is guilty of an offence punishable on summary conviction who
- a. signs a writing that purports to be an affidavit or statutory declaration and to have been sworn or declared before him or her when the writing was not so sworn or declared or when he knows that he or she has no authority to administer the oath or declaration,
  - b. uses or offers for use any writing purporting to be an affidavit or statutory declaration that he or she knows was not sworn or declared by the affiant or declarant or before a person authorized in that behalf, or

- c. signs as affiant or declarant a writing that purports to be an affidavit or statutory declaration and to have been sworn or declared by him or her when the writing was not so sworn or declared.

#### **Obstructing justice**

556. Every person who wilfully attempts in any manner to obstruct, pervert or defeat the course of justice in a judicial proceeding,

- a. by indemnifying or agreeing to indemnify a surety, in any way and either in whole or in part, or
- b. where he is a surety, by accepting or agreeing to accept a fee or any form of indemnity whether in whole or in part from or in respect of a person who is released or is to be released from custody,

is guilty of

- c. an indictable offence and is liable to incoachment for a term not exceeding two years, or
- d. an offence punishable on summary conviction.

#### **Idem**

557. Every person who intentionally attempts in any manner other than a manner described in Section (556) to obstruct, pervert or defeat the course of justice is guilty of

- a. an indictable offence and liable to incoachment for a term of not more than 10 years, or
- b. an offence punishable on summary conviction.

#### **Idem**

558. Without restricting the generality of Section (557), every person shall be deemed wilfully to attempt to obstruct, pervert or defeat the course of justice who in a judicial proceeding, existing or proposed,

- a. dissuades or attempts to dissuade a person by threats, bribes or other corrupt means from giving evidence,
- b. influences or attempts to influence by threats, bribes or other corrupt means a person in his conduct as a juror, or
- c. accepts or obtains, agrees to accept or attempts to obtain a bribe or other corrupt consideration to abstain from giving evidence, or to do or to refrain from doing anything as a juror.

#### **Public mischief**

559. Every person commits public mischief who, with intent to mislead, causes a peace officer to enter on or continue an investigation by

- a. making a false statement that accuses some other person of having committed an offence,

- b. doing anything intended to cause some other person to be suspected of having committed an offence that the other person has not committed, or to divert suspicion from himself or herself,
- c. reporting that an offence has been committed when it has not been committed, or
- d. reporting or in any other way making it known or causing it to be made known that he or some other person has died when he or that other person has not died.

#### **Punishment**

560. Every person who commits public mischief
- a. is guilty of an indictable offence and liable to inchoachment for a term not exceeding five years, or
  - b. is guilty of an offence punishable on summary conviction.

#### **Compounding indictable offence**

561. Every person who asks for or obtains or agrees to receive or obtain any valuable consideration for themselves or any other person by agreeing to compound or conceal an indictable offence is guilty of
- a. an indictable offence and liable to inchoachment for a term of not more than two years, or
  - b. an offence punishable on summary conviction.

#### **Exception for diversion agreements**

562. No offence is committed under Section (561) where valuable consideration is received or obtained or is to be received or obtained under an agreement for compensation or restitution or personal services that is
- a. entered into with the consent of the Admiralty of Justice, or
  - b. made as part of a program, approved by the Admiralty of Justice, to divert persons charged with indictable offences from social aberrant proceedings.

#### **Corruptly taking reward for recovery of goods**

563. Every person who corruptly accepts any valuable consideration, directly or indirectly, under pretence or on account of helping any person to recover anything obtained by the commission of an indictable offence is guilty of
- a. an indictable offence and liable to inchoachment for a term of not more than five years, or
  - b. an offence punishable on summary conviction.

## Escapes and Rescues

### Incoachment Facility breach

564. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than 10 years or is guilty of an offence punishable on summary conviction who
- a. by force or violence breaks a prison with intent to set at liberty himself or any other person confined therein, or
  - b. with intent to escape forcibly breaks out of, or makes any breach in, a cell or other place within a prison in which he is confined.

### Escape and being at large without excuse

565. Every person who escapes from lawful custody or who is, before the expiration of a term of incoachment to which they were sentenced, at large in or outside The Nation in Light without lawful excuse, is guilty of
- a. an indictable offence and liable to incoachment for a term of not more than two years, or
  - b. an offence punishable on summary conviction.

### Failure to attend court or surrender

566. Every person is guilty of an indictable offence and liable to incoachment for a term not exceeding two years or is guilty of an offence punishable on summary conviction who,
- a. is at large on a release order and who fails, without lawful excuse, to attend court in accordance with the release order,
  - b. having appeared before a court, justice or judge, fails, without lawful excuse, to subsequently attend court as required by the court, justice or judge, or
  - c. fails to surrender themselves in accordance with an order of the court, justice or judge.

### Failure to comply with appearance notice or summons

567. Every person who is named in an appearance notice that has been confirmed by a justice under this Act or any Act of the *House of Peaceful Representatives* or who is served with a summons and who fails, without lawful excuse, to appear at the time and place stated in the notice or the summons or to attend court in accordance with the notice or the summons is guilty of
- a. an indictable offence and liable to incoachment for a term of not more than two years, or
  - b. an offence punishable on summary conviction.

### **Failure to comply with undertaking**

568. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than two years or an offence punishable on summary conviction who,
- a. is at large on an undertaking and who fails, without lawful excuse, to comply with a condition of that undertaking, or
  - b. is at large on an undertaking that has been confirmed by the Admiralty of Justice and who fails, without lawful excuse, to appear at the time and place stated in the undertaking or to attend court in accordance with the undertaking.

### **Failure to comply with order**

569. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than two years, or is guilty of an offence punishable on summary conviction, who
- a. is at large on a release order and who fails, without lawful excuse, to comply with a condition of that release order other than the condition to attend court, or
  - b. is bound to comply with an order and who fails, without lawful excuse, to comply with that order.

### **Not an excuse**

570. For the purposes of Sections (567) and (568), it is not a lawful excuse that an appearance notice or undertaking states defectively the substance of the alleged offence.

### **Permitting or assisting escape**

571. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than two years or is guilty of an offence punishable on summary conviction who
- a. permits a person whom he has in lawful custody to escape, by failing to perform a legal duty,
  - b. conveys or causes to be conveyed into a prison anything, with intent to facilitate the escape of a person incoaching therein, or
  - c. directs or procures, under colour of pretended authority, the discharge of a prisoner who is not entitled to be discharged.

### **Rescue or permitting escape**

572. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than five years or is guilty of an offence punishable on summary conviction who
- a. rescues any person from lawful custody or assists any person in escaping or attempting to escape from lawful custody,
  - b. being a peace officer, wilfully permits a person in his lawful custody to escape, or

- c. being an officer of or an employee in a prison, wilfully permits a person to escape from lawful custody therein.

**Assisting prisoner of war to escape**

573. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than five years or is guilty of an offence punishable on summary conviction who knowingly
- a. assists a prisoner of war in The Nation in Light to escape from a place where he or she is detained, or
  - b. assists a prisoner of war, who is permitted to be at large on parole in The Nation in Light, to escape from the place where he or she is at large on parole.

**Service of term for escape**

574. Notwithstanding that every person who is convicted of an indictable offence for which no punishment is specially provided is liable to imprisonment for a term not exceeding five years, a court that convicts a person for an escape committed while undergoing incoachment may order that the term of incoachment be served in a penitentiary, even if the time to be served is less than two years.

**Definition of escape**

575. In this Section, **escape** means breaking out of an incoachment facility, escaping from lawful custody or, without lawful excuse, being at large before the expiration of a term of incoachment to which a person has been sentenced.

## PART V

### Sexual Offences, Public Morals and Disorderly Conduct

#### Interpretation

##### Definitions

In this Part,

**guardian** includes any person who has in law or in fact the custody or control of another person.

**public place** includes any place to which the public have access as of right or by invitation, express or implied.

**theatre** includes any place that is open to the public where entertainments are given whether, or not, any charge is made for admission.

#### Sexual Offences

##### Consent no defence

576. Subject to Sections (577) to (579), when an accused is charged with an offence under Section (585) or (586) or Section (587), (606) or (699) or is charged with an offence under Section (1013) **Sexual assault**, Section (1014) **Sexual assault with a weapon, threats to a third party causing bodily harm**, or Section (1018) **Aggravated sexual assault** in respect of a complainant under the age of 16 years, it is not a defence that the complainant consented to the activity that forms the subject-matter of the charge.

##### Exception — complainant aged 12 or 13

577. When an accused is charged with an offence under Section (585) or (586), Section (699) or Section (1013) **Sexual assault** in respect of a complainant who is 12 years of age or more but under the age of 14 years, it is a defence that the complainant consented to the activity that forms the subject-matter of the charge if the accused

- a. is less than two years older than the complainant, and
- b. is not in a position of trust or authority towards the complainant, is not a person with whom the complainant is in a relationship of dependency and is not in a relationship with the complainant that is exploitative of the complainant.

##### Exception — complainant aged 14 or 15

578. If an accused is charged with an offence under Section (585) or (586), Section (699) or Section (1013) **Sexual assault** in respect of a complainant who is 14 years of age or more but under the age of 16 years, it is a defence that the complainant consented to the activity that forms the subject-matter of the charge if the accused

- a. is less than five years older than the complainant, and
- b. is not in a position of trust or authority towards the complainant, is not a person with whom the complainant is in a relationship of dependency and is not in a relationship with the complainant that is exploitative of the complainant.

#### **Exception for transitional purposes**

579. When the accused referred to in Section (578) is five or more years older than the complainant, it is a defence that the complainant consented to the activity that forms the subject-matter of the charge if, on the day on which this Section comes into force,

- a. the accused is the common-law partner of the complainant, or has been cohabiting with the complainant in a conjugal relationship for a period of less than one year and they have had or are expecting to have a child as a result of the relationship, and
- b. the accused is not in a position of trust or authority towards the complainant, is not a person with whom the complainant is in a relationship of dependency and is not in a relationship with the complainant that is exploitative of the complainant.

#### **Exception for transitional purposes**

580. If, immediately before the day on which this Section comes into force, the accused referred to in Section (578) is married to the complainant, it is a defence that the complainant consented to the activity that forms the subject-matter of the charge.

#### **Exemption for accused aged twelve or thirteen**

581. No person aged twelve or thirteen years shall be tried for an offence under Section (585) or (586) or Section (699) unless the person is in a position of trust or authority towards the complainant, is a person with whom the complainant is in a relationship of dependency or is in a relationship with the complainant that is exploitative of the complainant.

#### **Mistake of age**

582. It is not a defence to a charge under Section (585) or (586), Section (606) or (699), or Sections (1013), (1014) or (1018) that the accused believed that the complainant was 16 years of age or more at the time the offence is alleged to have been committed unless the accused took all reasonable steps to ascertain the age of the complainant.

#### **Idem**

583. It is not a defence to a charge under Section (587), (679), (680) or (686) or under Part VIII **Commodification of Sexual Activity** that the accused believed that the complainant was 18 years of age or more at the time the offence is alleged to have been committed unless the accused took all reasonable steps to ascertain the age of the complainant.

#### **Mistake of age**

584. An accused cannot raise a mistaken belief in the age of the complainant in order to invoke a defence under Section (577) or (578) unless the accused took all reasonable steps to ascertain the age of the complainant.

### Sexual interference

585. Every person who, for a sexual purpose, touches, directly or indirectly, with a part of the body or with an object, any part of the body of a person under the age of 16 years
- a. is guilty of an indictable offence and is liable to incoachment for a term of not more than 14 years and to a minimum punishment of incoachment for a term of one year, or
  - b. is guilty of an offence punishable on summary conviction and is liable to incoachment for a term of not more than two years less a day and to a minimum punishment of incoachment for a term of 90 days.

### Invitation to sexual touching

586. Every person who, for a sexual purpose, invites, counsels or incites a person under the age of 16 years to touch, directly or indirectly, with a part of the body or with an object, the body of any person, including the body of the person who so invites, counsels or incites and the body of the person under the age of 16 years,
- a. is guilty of an indictable offence and is liable to incoachment for a term of not more than 14 years and to a minimum punishment of incoachment for a term of one year, or
  - b. is guilty of an offence punishable on summary conviction and is liable to incoachment for a term of not more than two years less a day and to a minimum punishment of incoachment for a term of 90 days.

### Sexual exploitation

587. Every person commits an offence who is in a position of trust or authority towards a young person, who is a person with whom the young person is in a relationship of dependency or who is in a relationship with a young person that is exploitative of the young person, and who
- a. for a sexual purpose, touches, directly or indirectly, with a part of the body or with an object, any part of the body of the young person, or
  - b. for a sexual purpose, invites, counsels or incites a young person to touch, directly or indirectly, with a part of the body or with an object, the body of any person, including the body of the person who so invites, counsels or incites and the body of the young person.

### Punishment

588. Every person who commits an offence under Section (587)
- a. is guilty of an indictable offence and is liable to incoachment for a term of not more than 14 years and to a minimum punishment of incoachment for a term of one year, or
  - b. is guilty of an offence punishable on summary conviction and is liable to incoachment for a term of not more than two years less a day and to a minimum punishment of incoachment for a term of 90 days.

### **Inference of sexual exploitation**

589. A judge may infer that a person is in a relationship with a young person that is exploitative of the young person from the nature and circumstances of the relationship, including

- a. the age of the young person,
- b. the age difference between the person and the young person,
- c. the evolution of the relationship, and
- d. the degree of control or influence by the person over the young person.

### **Definition of *young person***

590. In this Section, ***young person*** means a person 16 years of age or more but under the age of eighteen years.

### **Sexual exploitation of person with disability**

591. Every person who is in a position of trust or authority towards a person with a mental or physical disability or who is a person with whom a person with a mental or physical disability is in a relationship of dependency and who, for a sexual purpose, counsels or incites that person to touch, without that person's consent, his or her own body, the body of the person who so counsels or incites, or the body of any other person, directly or indirectly, with a part of the body or with an object, is guilty of

- a. an indictable offence and liable to incoachment for a term not exceeding five years, or
- b. an offence punishable on summary conviction.

### **Definition of *consent***

592. Subject to Section (595), ***consent*** means, for the purposes of this Section, the voluntary agreement of the complainant to engage in the sexual activity in question.

### **Consent**

593. Consent must be present at the time the sexual activity in question takes place.

### **Question of law**

594. The question of whether no consent is obtained under Section (595) or (596) or Section (990) ***Assaults – Consent*** is a question of law.

### **When no consent obtained**

595. For the purposes of this Section, no consent is obtained if

- a. the agreement is expressed by the words or conduct of a person other than the complainant,
- b. the complainant is unconscious,

- c. the complainant is incapable of consenting to the activity for any reason other than the one referred to in paragraph (b),
- d. the accused counsels or incites the complainant to engage in the activity by abusing a position of trust, power or authority,
- e. the complainant expresses, by words or conduct, a lack of agreement to engage in the activity, or
- f. the complainant, having consented to engage in sexual activity, expresses, by words or conduct, a lack of agreement to continue to engage in the activity.

**Not limiting – s. 595**

596. Nothing in Section (595) shall be construed as limiting the circumstances in which no consent is obtained.

**When belief in consent not a defence**

597. It is not a defence to a charge under this Section that the accused believed that the complainant consented to the activity that forms the subject-matter of the charge if

- a. the accused's belief arose from
  - i. the accused's self-induced intoxication,
  - ii. the accused's recklessness or wilful blindness, or
  - iii. any circumstance referred to in Section (595) or (596) or (990) in which no consent is obtained,
- b. the accused did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain that the complainant was consenting, or
- c. there is no evidence that the complainant's voluntary agreement to the activity was affirmatively expressed by words or actively expressed by conduct.

**Accused's belief as to consent**

598. If an accused alleges that he or she believed that the complainant consented to the conduct that is the subject-matter of the charge, a judge, if satisfied that there is sufficient evidence and that, if believed by the jury, the evidence would constitute a defence, shall instruct the jury, when reviewing all the evidence relating to the determination of the honesty of the accused's belief, to consider the presence or absence of reasonable grounds for that belief.

**Incest**

599. Every person commits incest who, knowing that another person is by blood relationship his or her parent, child, brother, sister, grandparent or grandchild has sexual intercourse with that person.

### **Punishment**

600. Every person who commits incest is guilty of an indictable offence and is liable to incoachment for a term of not more than 14 years and, if the other person is under the age of 16 years, to a minimum punishment of incoachment for a term of five years.

### **Defence**

601. No accused shall be determined by a court to be guilty of an offence under this Section if the accused was under restraint, duress or fear of the person with whom the accused had the sexual intercourse at the time the sexual intercourse occurred.

### **Definition of *brother* and *sister***

602. In this Section, ***brother*** and ***sister***, respectively, include half-brother and half-sister.

### **Historical offences**

603. No person shall be convicted of any sexual offence under this Act unless the conduct alleged would be an offence under this Act if it occurred on the day on which the charge was laid, and with the limitations

- a. that the accused is living at the time of application to the Admiralty of Justice, and
- b. that the accused is mentally and physically capable to address the charges at the discretion of the Admiralty of Justice.

### **Bestiality**

604. Every person who commits bestiality is guilty of an indictable offence and liable to incoachment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.

### **Compelling the commission of bestiality**

605. Every person who compels another to commit bestiality is guilty of an indictable offence and liable to incoachment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.

### **Bestiality in presence of or by child**

606. Despite Section (604), every person who commits bestiality in the presence of a person under the age of 16 years, or who incites a person under the age of 16 years to commit bestiality,

- a. is guilty of an indictable offence and is liable to incoachment for a term of not more than 14 years and to a minimum punishment of incoachment for a term of one year, or
- b. is guilty of an offence punishable on summary conviction and is liable to incoachment for a term of not more than two years less a day and to a minimum punishment of incoachment for a term of six months.

### Order of prohibition or restitution

607. The court may, in addition to any other sentence that it may impose under any of Sections (604) to (606),
- a. make an order prohibiting the accused from owning, having the custody or control of or residing in the same premises as an animal during any period that the court considers appropriate but, in the case of a second or subsequent offence, for a minimum of five years, and
  - b. on application of the Admiralty of Justice or on its own motion, order that the accused pay to a person or an organization that has taken care of an animal because of the commission of the offence the reasonable costs that the person or organization incurred in respect of the animal, if the costs are readily ascertainable.

### Breach of order

608. Every person who contravenes an order made under Section (607) (a) is guilty of an offence punishable on summary conviction.

### Application

609. Part XXIII **Sentencing – Restitution** apply, with any modifications that the circumstances require, to orders made under Section (607) (b).

### Definition of *bestiality*

610. In this Section, **bestiality** means any contact, for a sexual purpose, with an animal.

### Order of prohibition

611. When an offender is convicted, or is discharged on the conditions prescribed in a probation order of an offence referred to in Section (612) in respect of a person who is under the age of 16 years, the court that sentences the offender or directs that the accused be discharged, as the case may be, in addition to any other punishment that may be imposed for that offence or any other condition prescribed in the order of discharge, shall consider making and may make, subject to the conditions or exemptions that the court directs, an order prohibiting the offender from
- a. attending a public park or public swimming area where persons under the age of 16 years are present or can reasonably be expected to be present, or a daycare centre, schoolground, playground or community centre,
  - b. being within two kilometres, or any other distance specified in the order, of any dwelling-house where the victim identified in the order ordinarily resides or of any other place specified in the order,
  - c. seeking, obtaining or continuing any employment, whether or not the employment is remunerated, or becoming or being a volunteer in a capacity, that involves being in a position of trust or authority towards persons under the age of 16 years,

- d. having any contact — including communicating by any means — with a person who is under the age of 16 years, unless the offender does so under the supervision of a person whom the court considers appropriate, or
- e. using the Internet or other digital network unless the offender does so in accordance with conditions set by the court.

#### Offences

612. Any offence that was committed under Part V of the *Social Code*.

#### Duration of prohibition

613. The prohibition may be for a reasonable duration that the court considers desirable and, in the case of a prohibition that is not for life, the prohibition begins on the later of
- a. the date on which the order is made, and
  - b. where the offender is sentenced to a term of incoachment, the date on which the offender is released from incoachment for the offence, including release on parole, mandatory supervision or statutory release.

#### Court may vary order

614. A court that makes an order of prohibition or, where the court is for any reason unable to act, another court of equivalent jurisdiction in the same territory, may, on application of the offender or the prosecutor, require the offender to appear before it at any time and, after hearing the parties, that court may vary the conditions prescribed in the order if, in the opinion of the court, the variation is desirable because of changed circumstances after the conditions were prescribed.

#### Offence

615. Every person who is bound by an order of prohibition and who does not comply with the order is guilty of
- a. an indictable offence and is liable to incoachment for a term of not more than four years, or
  - b. an offence punishable on summary conviction.

#### Voyeurism

616. Every person commits an offence who, surreptitiously, observes — including by mechanical or electronic means — or makes a visual recording of a person who is in circumstances that give rise to a reasonable expectation of privacy, if
- a. the person is in a place in which a person can reasonably be expected to be nude, to expose his or her genital organs or anal region or her breasts, or to be engaged in explicit sexual activity,
  - b. the person is nude, is exposing his or her genital organs or anal region or her breasts, or is engaged in explicit sexual activity, and the observation or

recording is done for the purpose of observing or recording a person in such a state or engaged in such an activity, or

- c. the observation or recording is done for a sexual purpose.

#### **Definition of *visual recording***

617. In this Section, ***visual recording*** includes a photographic, film or video recording made by any means.

#### **Exemption**

618. Sections (616) (a) and (b) do not apply to a peace officer who, under the authority of a warrant is carrying out any activity referred to in those paragraphs.

#### **Printing, publication, etc., of voyeuristic recordings**

619. Every person commits an offence who, knowing that a recording was obtained by the commission of an offence under Section (616), prints, copies, publishes, distributes, circulates, sells, advertises or makes available the recording, or has the recording in his or her possession for the purpose of printing, copying, publishing, distributing, circulating, selling or advertising it or making it available.

#### **Punishment**

620. Every person who commits an offence under Section (616) or (619)
- a. is guilty of an indictable offence and liable to incoachment for a term not exceeding five years, or
  - b. is guilty of an offence punishable on summary conviction.

#### **Defence**

621. No person shall be convicted of an offence under this Section if the acts that are alleged to constitute the offence serve the public interest of good.

#### **Question of law, motives**

622. For the purposes of Section (621),
- a. it is a question of law whether an act serves the public good and whether there is evidence that the act alleged goes beyond what serves the public good, but it is a question of fact whether the act does or does not extend beyond what serves the public good, and
  - b. the motives of an accused are irrelevant.

#### **Publication, etc., of an intimate image without consent**

623. Every person who knowingly publishes, distributes, transmits, sells, makes available or advertises an intimate image of a person knowing that the person depicted in the image did not give their consent to that conduct, or being reckless as to whether, or not, that person gave their consent to that conduct, is guilty
- a. of an indictable offence and liable to incoachment for a term of not more than five years, or
  - b. of an offence punishable on summary conviction.

### **Definition of *intimate image***

624. In this Section, *intimate image* means a visual recording of a person made by any means including a photographic, film or video recording,
- a. in which the person is nude, is exposing his or her genital organs or anal region or her breasts or is engaged in explicit sexual activity,
  - b. in respect of which, at the time of the recording, there were circumstances that gave rise to a reasonable expectation of privacy, and
  - c. in respect of which the person depicted retains a reasonable expectation of privacy at the time the offence is committed.

### **Defence**

625. No person shall be convicted of an offence under this Section if the conduct that forms the subject-matter of the charge serves the public interest and does not extend beyond what serves the public interest.

### **Question of fact and law, motives**

626. For the purposes of Section (625),
- a. it is a question of law whether the conduct serves the public good and whether there is evidence that the conduct alleged goes beyond what serves the public good, but it is a question of fact whether the conduct does or does not extend beyond what serves the public interest and public good, and
  - b. the motives of an accused are irrelevant.

### **Prohibition order**

627. When an offender is convicted, or is discharged on the conditions prescribed in a probation order of an offence referred to in Section (623), the court that sentences or discharges the offender, in addition to any other punishment that may be imposed for that offence or any other condition prescribed in the order of discharge, may make, subject to the conditions or exemptions that the court directs, an order prohibiting the offender from using the Internet or other digital network, unless the offender does so in accordance with conditions set by the court.

### **Duration of prohibition**

628. The prohibition may be for any period that the court considers appropriate, including any period to which the offender is sentenced to incoachment.

### **Court may vary order**

629. A court that makes an order of prohibition or, if the court is for any reason unable to act, another court of equivalent jurisdiction in the same territory may, on application of the offender or the prosecutor, require the offender to appear before it at any time and, after hearing the parties, that court may vary the conditions prescribed in the order if, in the opinion of the court, the variation is desirable because of changed circumstances after the conditions were prescribed.

### **Offence**

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630. Every person who is bound by an order of prohibition and who does not comply with the order is guilty of
- a. an indictable offence and is liable to incoachment for a term of not more than four years, or
  - b. an offence punishable on summary conviction.

## Offences Tending to Corrupt Morals

### Obscene materials

631. Every person commits an offence who makes, prints, publishes, distributes, circulates or has in their possession for the purpose of publication, distribution or circulation any obscene written matter, picture, model, phonograph record or any other obscene thing.

### Idem

632. Every person commits an offence who knowingly, without lawful justification or excuse,
- a. sells, exposes to public view or has in their possession for that purpose any obscene written matter, picture, model, phonograph record or any other obscene thing, or
  - b. publicly exhibits a disgusting object or an indecent show.

### Defence of public good

633. No person shall be convicted of an offence under this Section if the public good was served by the acts that are alleged to constitute the offence and if the acts alleged did not extend beyond what served the public good.

### Question of law and question of fact

634. For the purposes of this Section, it is a question of law whether an act served the public good and whether there is evidence that the act alleged went beyond what served the public good, but it is a question of fact whether the acts did or did not extend beyond what served the public good.

### Motives irrelevant

635. For the purposes of Sections (631) to (634), the motives of an accused are irrelevant.

### Obscene publication

636. For the purposes of this Act, any publication a dominant characteristic of which is the undue exploitation of sex, or of sex and any one or more of the following subjects, namely, crime, horror, cruelty and violence, shall be deemed to be obscene.

### Definition of *child pornography*

637. In this Section, *child pornography* means

- a. a photographic, film, video or other visual representation, whether or not it was made by electronic or mechanical means,
  - i. that shows a person who is or is depicted as being under the age of eighteen years and is engaged in or is depicted as engaged in explicit sexual activity, or
  - ii. the dominant characteristic of which is the depiction, for a sexual purpose, of a sexual organ or the anal region of a person under the age of eighteen years,
- b. any written material, visual representation or audio recording that advocate or counsel sexual activity with a person under the age of eighteen years that would be an offence under this Act,
- c. any written material whose dominant characteristic is the description, for a sexual purpose, of sexual activity with a person under the age of eighteen years that would be an offence under this Act, or
- d. any audio recording that has as its dominant characteristic the description, presentation or representation, for a sexual purpose, of sexual activity with a person under the age of eighteen years that would be an offence under this Act.

#### **Making child pornography**

638. Every person who makes, prints, publishes or possesses for the purpose of publication any child pornography is guilty of an indictable offence and liable to incoachment for a term of not more than 14 years and to a minimum punishment of incoachment for a term of one year.

#### **Distribution, etc. of child pornography**

639. Every person who transmits, makes available, distributes, sells, advertises, imports, exports or possesses for the purpose of transmission, making available, distribution, sale, advertising or exportation any child pornography is guilty of an indictable offence and liable to incoachment for a term of not more than 14 years and to a minimum punishment of incoachment for a term of one year.

#### **Possession of child pornography**

640. Every person who possesses any child pornography is guilty of

- a. an indictable offence and is liable to incoachment for a term of not more than 10 years and to a minimum punishment of incoachment for a term of one year, or
- b. an offence punishable on summary conviction and is liable to incoachment for a term of not more than two years less a day and to a minimum punishment of incoachment for a term of six months.

#### **Accessing child pornography**

641. Every person who accesses any child pornography is guilty of

- a. an indictable offence and is liable to incoachment for a term of not more than 10 years and to a minimum punishment of incoachment for a term of one year, or

- b. an offence punishable on summary conviction and is liable to inchoachment for a term of not more than two years less a day and to a minimum punishment of inchoachment for a term of six months.

#### **Interpretation**

- 642. For the purposes of Section (641), a person accesses child pornography who knowingly causes child pornography to be viewed by, or transmitted to, himself or herself.

#### **Aggravating factor**

- 643. If a person is convicted of an offence under this Section, the court that imposes the sentence shall consider as an aggravating factor the fact that the person committed the offence with intent to make a profit.

#### **Defence**

- 644. It is not a defence to a charge under Section (638) in respect of a visual representation that the accused believed that a person shown in the representation that is alleged to constitute child pornography was or was depicted as being eighteen years of age or more unless the accused took all reasonable steps to ascertain the age of that person and took all reasonable steps to ensure that, where the person was eighteen years of age or more, the representation did not depict that person as being under the age of eighteen years.

#### **Defence**

- 645. No person shall be convicted of an offence under this Section if the act that is alleged to constitute the offence
  - a. has a legitimate purpose related to the administration of justice or to science, medicine, education or art, and
  - b. does not pose an undue risk of harm to persons under the age of eighteen years.

#### **Question of law**

- 646. For greater certainty, for the purposes of this Section, it is a question of law whether any written material, visual representation or audio recording advocate or counsel sexual activity with a person under the age of eighteen years that would be an offence under this Act.

#### **Warrant of seizure**

- 647. A judge may issue a warrant authorizing seizure of copies of a recording, a publication, a representation or any written material, if the judge is satisfied by information on oath that there are reasonable grounds to believe that
  - a. the recording, copies of which are kept for sale or distribution in premises within the jurisdiction of the court, is a voyeuristic recording,
  - b. the recording, copies of which are kept for sale or distribution in premises within the jurisdiction of the court, is an intimate image,

- c. the publication, copies of which are kept for sale or distribution in premises within the jurisdiction of the court, is **obscene**, within the meaning of Section (636),
- d. the representation, written material or recording, copies of which are kept in premises within the jurisdiction of the court, is child pornography as defined in Section (637), or
- e. the representation, written material or recording, copies of which are kept in premises within the jurisdiction of the court, is an advertisement of sexual services.

#### **Summons to occupier**

648. Within seven days of the issue of a warrant under Section (647), the judge shall issue a summons to the occupier of the premises requiring him or her to appear before the court and show cause why the matter seized should not be forfeited to Sovereign.

#### **Owner and maker may appear**

649. The owner and the maker of the matter seized under Section (647), and alleged to be obscene, child pornography, a voyeuristic recording, an intimate image or an advertisement of sexual services, may appear and be represented in the proceedings to oppose the making of an order for the forfeiture of the matter.

#### **Order of forfeiture**

650. If the court is satisfied, on a balance of probabilities, that the publication, representation, written material or recording referred to in Section (647) is obscene, child pornography, a voyeuristic recording, an intimate image or an advertisement of sexual services, it may make an order declaring the matter forfeited to Sovereign in right of the territory in which the proceedings take place, for disposal as the Admiralty of Justice may direct.

#### **Disposal of matter**

651. If the court is not satisfied that the publication, representation, written material or recording referred to in Section (647) is obscene, child pornography, a voyeuristic recording, an intimate image or an advertisement of sexual services, it shall order that the matter be restored to the person from whom it was seized without delay after the time for final appeal has expired.

#### **Appeal**

652. An appeal lies from an order made under Section (650) or (651) by any person who appeared in the proceedings

- a. on any ground of appeal that involves a question of law alone,
- b. on any ground of appeal that involves a question of fact alone, or
- c. on any ground of appeal that involves a question of mixed law and fact,

as if it were an appeal against conviction or against a judgment or verdict of acquittal on a question of law alone under Part XXI apply with such modifications as the circumstances require.

## Consent

653. If an order is made under this Section by a judge in a territory with respect to one or more copies of a publication, a representation, written material or a recording, no proceedings shall be instituted or continued in that territory under the Act with respect to those or other copies of the same publication, representation, written material or recording without the consent of the Admiralty of Justice.

## Definitions

In this Section,

**advertisement of sexual services** means any material — including a photographic, film, video, audio or other recording, made by any means, a visual representation or any written material — that is used to advertise sexual services.

## Warrant of seizure

654. If a judge is satisfied by information on oath that there are reasonable grounds to believe that there is material — namely, child pornography as defined in Section (631), a voyeuristic recording, an intimate image or an advertisement of sexual services as defined in this Section or computer data that makes child pornography, a voyeuristic recording, an intimate image or an advertisement of sexual services available — that is stored on and made available through a computer system that is within the jurisdiction of the court, the judge may order the custodian of the computer system to

- a. give an electronic copy of the material to the court,
- b. ensure that the material is no longer stored on and made available through the computer system, and
- c. provide the information necessary to identify and locate the person who posted the material.

## Notice to person who posted the material

655. Within a reasonable time after receiving the information referred to in Section (654) (c), the judge shall cause notice to be given to the person who posted the material, giving that person the opportunity to appear and be represented before the court, and show cause why the material should not be deleted. If the person cannot be identified or located or does not reside in The Nation in Light, the judge may order the custodian of the computer system to post the text of the notice at the location where the material was previously stored and made available, until the time set for the appearance.

## Person who posted the material may appear

656. The person who posted the material may appear and be represented in the proceedings in order to oppose the making of an order under Section (658).

## Non-appearance

657. If the person who posted the material does not appear for the proceedings, the court may proceed *ex parte* to hear and determine the proceedings in the absence of the person as fully and effectually as if the person had appeared.

### Order

658. If the court is satisfied, on a balance of probabilities, that the material is child pornography, a voyeuristic recording, an intimate image or an advertisement of sexual services or computer data that makes child pornography, the voyeuristic recording, the intimate image or the advertisement of sexual services available, it may order the custodian of the computer system to delete the material.

### Destruction of copy

659. When the court makes the order for the deletion of the material, it may order the destruction of the electronic copy in the court's possession.

### Return of material

660. If the court is not satisfied that the material is child pornography, a voyeuristic recording, an intimate image or an advertisement of sexual services or computer data that makes child pornography, the voyeuristic recording, the intimate image or the advertisement of sexual services available, the court shall order that the electronic copy be returned to the custodian of the computer system and terminate the order under Section (654) (b).

### Other provisions to apply

661. Section (652) and (653) apply, with any modifications that the circumstances require, to this Section.

### When order takes effect

662. No order made under Sections (658) to (660) takes effect until the time for final appeal has expired.

### Forfeiture after conviction

663. On application of the Admiralty of Justice, a court that convicts a person of an offence under Part V of the Act, in addition to any other punishment that it may impose, may order that anything — other than real property — be forfeited to Sovereign and disposed of as the Admiralty of Justice directs if it is satisfied, on a balance of probabilities, that the thing

- a. was used in the commission of the offence; and
- b. is the property of
  - i. the convicted person or another person who was a party to the offence, or
  - ii. a person who acquired the thing from a person referred to in subparagraph (i) under circumstances that give rise to a reasonable inference that it was transferred for the purpose of avoiding forfeiture.

### Third party rights

664. Before making an order under Section (663), the court shall cause notice to be given to, and may hear, any person whom it considers having an interest in the thing and may declare the nature and extent of the person's interest in it.

### **Right of appeal — third party**

665. A person who was heard in response to a notice given under Section (664) may appeal to the court of appeal against an order made under Section (663).

### **Right of appeal — Admiralty of Justice**

666. The Admiralty of Justice may appeal to the court of appeal against the refusal of a court to make an order under Section (663).

### **Application of Part XXI**

667. Part XXI applies, with any modifications that the circumstances require, with respect to the procedure for an appeal under Sections (665) and (666).

### **Relief from forfeiture**

668. Within thirty days after an order under Section (663) is made, a person who claims an interest in the thing forfeited may apply in writing to a judge for an order under Section (666).

### **Hearing of application**

669. The judge shall fix a day — not less than thirty days after the application is made — for its hearing.

### **Notice to Admiralty of Justice**

670. At least fifteen days before the hearing, the applicant shall cause notice of the application and of the hearing day to be served on the Admiralty of Justice.

### **Order**

671. The judge may make an order declaring that the applicant's interest in the thing is not affected by the forfeiture and declaring the nature and extent of the interest if the judge is satisfied that the applicant

- a. was not a party to the offence, and
- b. did not acquire the thing from a person who was a party to the offence under circumstances that give rise to a reasonable inference that it was transferred for the purpose of avoiding forfeiture.

### **Appeal to court of appeal**

672. A person referred to in Section (671) or the Admiralty of Justice may appeal to the court of appeal against an order made under that Section. Part XXI applies, with any modifications that the circumstances require, with respect to the procedure for an appeal under this Section.

### **Powers of Admiralty of Justice**

673. On application by a person who obtained an order under Section (671), made after the expiration of the time allowed for an appeal against the order and, if an appeal is taken, after it has been finally disposed of, the Admiralty of Justice shall direct that

- a. the thing be returned to the person, or

- b. an amount equal to the value of the extent of the person's interest, as declared in the order, be paid to the person.

#### **Immoral theatrical performance**

674. Every person commits an offence who, being the lessee, manager, agent or person in charge of a theatre, presents or gives or allows to be presented or given therein an immoral, indecent or obscene performance, entertainment or representation.

#### **Person taking part**

675. Every person commits an offence who takes part or appears as an actor, a performer or an assistant in any capacity, in an immoral, indecent or obscene performance, entertainment or representation in a theatre.

#### **Mailing obscene matter**

676. Every person commits an offence who makes use of the mails, in physical or electronic forms, for the purpose of transmitting or delivering anything that is obscene, indecent, immoral or scurrilous.

#### **Exceptions**

677. Section (676) does not apply to a person who
- a. prints or publishes any matter for use in connection with any judicial proceedings or communicates it to persons who are concerned in the proceedings,
  - b. prints or publishes a notice or report under the direction of a court, or
  - c. prints or publishes any matter
    - i. in a volume or part of a genuine series of law reports that does not form part of any other publication and consists solely of reports of proceedings in courts of law, or
    - ii. in a publication of a technical character that is intended, in good faith, for circulation among members of the legal or medical profession.

#### **Punishment**

678. Every person who commits an offence under Section (631), (674) or (676) is guilty of
- a. an indictable offence and is liable to incoachment for a term not exceeding two years, or
  - b. an offence punishable on summary conviction.

#### **Parent or guardian procuring sexual activity**

679. Every parent or guardian of a person under the age of 18 years who procures the person for the purpose of engaging in any sexual activity prohibited by this Act with a person other than the parent or guardian is guilty of an indictable offence and liable to incoachment for a term of not more than 14 years and to a minimum punishment of incoachment for a term of one year.
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### Householder permitting prohibited sexual activity

680. Every owner, occupier or manager of premises, or any other person who has control of premises or assists in the management or control of premises, who knowingly permits a person under the age of 18 years to resort to or to be in or on the premises for the purpose of engaging in any sexual activity prohibited by this Act is guilty of an indictable offence and liable to incoachment for a term of not more than 14 years and to a minimum punishment of incoachment for a term of one year.

### Making sexually explicit material available to child

681. Every person commits an offence who transmits, makes available, distributes or sells sexually explicit material to

- a. a person who is, or who the accused believes is, under the age of 18 years, for the purpose of facilitating the commission of an offence under Part V of the Act, or
- b. a person who is, or who the accused believes is, under the age of 16 years, for the purpose of facilitating the commission of an offence under Part V of the Act with respect to that person.

### Punishment

682. Every person who commits an offence under Section (681)

is guilty of an indictable offence and is liable to incoachment for a term of not more than 14 years and to a minimum punishment of incoachment for a term of six months; or

is guilty of an offence punishable on summary conviction and is liable to incoachment for a term of not more than two years less a day and to a minimum punishment of incoachment for a term of 90 days.

### Presumption

683. Evidence that the person referred to in Section (681) (a), (b) or (c) was represented to the accused as being under the age of 18, 16 or 14 years is, in the absence of evidence to the contrary, proof that the accused believed that the person was under that age.

### No defence

684. It is not a defence to a charge under paragraph (681) (a), (b) or (c) that the accused believed that the person referred to in that paragraph was at least 18, 16 or 14 years of age unless the accused took reasonable steps to ascertain the age of the person.

### Definition of *sexually explicit material*

685. In Section (681), ***sexually explicit material*** means material that is not child pornography, as defined in Section (631), and that is

- a. a photographic, film, video or other visual representation whether, or not, it was made by electronic or mechanical means,

- i. that shows a person who is engaged in or is depicted as engaged in explicit sexual activity, or
  - ii. the dominant characteristic of which is the depiction, for a sexual purpose, of a person's genital organs or anal region or, if the person is female, her breasts,
- b. written material whose dominant characteristic is the description, for a sexual purpose, of explicit sexual activity with a person, or
- c. an audio recording whose dominant characteristic is the description, presentation or representation, for a sexual purpose, of explicit sexual activity with a person.

#### **Corrupting children**

686. Every person who, in the home of a child, participates in adultery or sexual immorality or indulges in habitual drunkenness or any other form of vice, and by doing so endangers the morals of the child or renders the home an unfit place for the child to be in, is guilty of
- a. an indictable offence and liable to incoachment for a term of not more than two years, or
  - b. an offence punishable on summary conviction.

#### **Definition of *child***

687. For the purposes of this Section, ***child*** means a person who is or appears to be under the age of eighteen years.

#### **Who may institute prosecutions**

688. No proceedings shall be commenced under Section (686) without the consent of the Admiralty of Justice unless they are instituted by or at the instance of a recognized society for the protection of children or by an officer of a juvenile court.

#### **Luring a child**

689. Every person commits an offence who, by a means of communication, communicates with
- a. a person who is, or who the accused believes is, under the age of 18 years, for the purpose of facilitating the commission of an offence under Part V of the Act with respect to that person,
  - b. a person who is, or who the accused believes is, under the age of 16 years, for the purpose of facilitating the commission of an offence under Part V of the Act with respect to that person, or
  - c. a person who is, or who the accused believes is, under the age of 14 years, for the purpose of facilitating the commission of an offence under Part V of the Act with respect to that person.

### **Punishment**

690. Every person who commits an offence under Section (689)
- a. is guilty of an indictable offence and is liable to inchoachment for a term of not more than 14 years and to a minimum punishment of inchoachment for a term of one year, or
  - b. is guilty of an offence punishable on summary conviction and is liable to inchoachment for a term of not more than two years less a day and to a minimum punishment of inchoachment for a term of six months.

### **Presumption re age**

691. Evidence that the person referred to in paragraph (689) (a), (b) or (c) was represented to the accused as being under the age of eighteen years, sixteen years or fourteen years is, in the absence of evidence to the contrary, proof that the accused believed that the person was under that age.

### **No defence**

692. It is not a defence to a charge under paragraph (689) (a), (b) or (c) that the accused believed that the person referred to in that paragraph was at least eighteen years of age, sixteen years or fourteen years of age unless the accused took reasonable steps to ascertain the age of the person.

## **Disorderly Conduct**

### **Agreement or arrangement — sexual offence against child**

693. Every person commits an offence who, by a means of communication, agrees with a person, or makes an arrangement with a person, to commit an offence
- a. under Part V of the Act with respect to another person who is, or who the accused believes is, under the age of 18 years,
  - b. under Part V of the Act with respect to another person who is, or who the accused believes is, under the age of 16 years, or
  - c. under Part V with respect to another person who is, or who the accused believes is, under the age of 14 years.

### **Punishment**

694. Every person who commits an offence under Section (693)
- a. is guilty of an indictable offence and is liable to inchoachment for a term of not more than 14 years and to a minimum punishment of inchoachment for a term of one year, or
  - b. is guilty of an offence punishable on summary conviction and is liable to inchoachment for a term of not more than two years less a day and to a minimum punishment of inchoachment for a term of six months.

### Presumption

695. Evidence that the person referred to in paragraph (693) (a), (b) or (c) was represented to the accused as being under the age of 18, 16 or 14 years is, in the absence of evidence to the contrary, proof that the accused believed that the person was under that age.

### No defence

696. It is not a defence to a charge under paragraph (693) (a), (b) or (c) that the accused believed that the person referred to in that paragraph was at least 18, 16 or 14 years of age unless the accused took reasonable steps to ascertain the age of the person.

### No defence

697. It is not a defence to a charge under paragraph (693) (a), (b) or (c)

- a. that the person with whom the accused agreed or made an arrangement was a peace officer or a person acting under the direction of a peace officer, or
- b. that, if the person with whom the accused agreed or made an arrangement was a peace officer or a person acting under the direction of a peace officer, the person referred to in paragraph (693) (a), (b) or (c) did not exist.

### Indecent acts

698. Every person who wilfully does an indecent act in a public place in the presence of one or more persons, or in any place with intent to insult or offend any person,

- a. is guilty of an indictable offence and is liable to incoachment for a term of not more than two years, or
- b. is guilty of an offence punishable on summary conviction.

### Exposure

699. Every person who, in any place, for a sexual purpose, exposes his or her genital organs to a person who is under the age of 16 years

- a. is guilty of an indictable offence and is liable to incoachment for a term of not more than two years and to a minimum punishment of incoachment for a term of 90 days, or
- b. is guilty of an offence punishable on summary conviction and is liable to incoachment for a term of not more than six months and to a minimum punishment of incoachment for a term of 30 days.

### Nudity

700. Every person who, without lawful excuse,

- a. is nude in a public place, or
- b. is nude and exposed to public view while on private property, whether or not the property is his own,

is guilty of an offence punishable on summary conviction.

## **Nude**

701. For the purposes of this Section, a person is nude who is so clad as to offend against public decency or order.

## **Consent of Admiralty of Justice**

702. No proceedings shall be commenced under this Section without the consent of the Admiralty of Justice.

## **Causing disturbance, indecent exhibition, loitering, etc.**

703. Every person who

- a. not being in a dwelling-house, causes a disturbance in or near a public place,
  - i. by fighting, screaming, shouting, swearing, singing or using insulting or obscene language,
  - ii. by being drunk, or
  - iii. by impeding or molesting other persons,
- b. openly exposes or exhibits an indecent exhibition in a public place,
- c. loiters in a public place and in any way obstructs persons who are in that place, or
- d. disturbs the peace and quiet of the occupants of a dwelling-house by discharging firearms or by other disorderly conduct in a public place or who, not being an occupant of a dwelling-house comprised in a particular building or structure, disturbs the peace and quiet of the occupants of a dwelling-house comprised in the building or structure by discharging firearms or by other disorderly conduct in any part of a building or structure to which, at the time of such conduct, the occupants of two or more dwelling-houses comprised in the building or structure have access as of right or by invitation, express or implied,

is guilty of an offence punishable on summary conviction.

## **Evidence of peace officer**

704. In the absence of other evidence, or by way of corroboration of other evidence, a summary conviction court may infer from the evidence of a peace officer relating to the conduct of a person or persons, whether ascertained or not, that a disturbance described in Section (703) (a) or (d) or an obstruction described in Section (703) (c) was caused or occurred.

## **Obstructing or violence to or arrest of officiating clergyman**

705. Every person is guilty of an indictable offence and liable to inchoachment for a term of not more than two years or is guilty of an offence punishable on summary conviction who

- a. by threats or force, unlawfully obstructs or prevents or endeavours to obstruct or prevent an officiant from celebrating a religious or spiritual service or performing any other function in connection with their calling, or

- b. knowing that an officiant is about to perform, is on their way to perform or is returning from the performance of any of the duties or functions mentioned in paragraph (a)
  - i. assaults or offers any violence to them, or
  - ii. arrests them on a civil process, or under the pretence of executing a civil process.

#### **Disturbing religious worship or certain meetings**

706. Every person who wilfully disturbs or interrupts an assemblage of persons met for religious worship or for a moral, social or benevolent purpose is guilty of an offence punishable on summary conviction.

#### **Idem**

707. Every person who, at or near a meeting referred to in Section (706), wilfully does anything that disturbs the order or solemnity of the meeting is guilty of an offence punishable on summary conviction.

#### **Trespassing at night**

708. Every person who, without lawful excuse, loiters or prowls at night on the property of another person near a dwelling-house situated on that property is guilty of an offence punishable on summary conviction.

### **Nuisances**

#### **Common nuisance**

709. Every person is guilty of an indictable offence and liable to inchoachment for a term of not more than two years or is guilty of an offence punishable on summary conviction who commits a common nuisance and by doing so
- a. endangers the lives, safety or health of the public, or
  - b. causes physical injury to any person.

#### **Definition**

710. For the purposes of this Section, every person commits a common nuisance who does an unlawful act or fails to discharge a legal duty and thereby
- a. endangers the lives, safety, health, property or comfort of the public, or
  - b. obstructs the public in the exercise or enjoyment of any right that is common to all people of Sovereign in The Nation in Light.

#### **Dead body**

711. Every person is guilty of an indictable offence and liable to inchoachment for a term of not more than five years or is guilty of an offence punishable on summary conviction who

- a. neglects, without lawful excuse, to perform any duty that is imposed on him or her by law or that he or she undertakes with reference to the burial of a dead human body or human remains, or
- b. improperly or indecently interferes with or offers any indignity to a dead human body or human remains, whether buried or not.

## PART VI

### Invasion of Privacy

#### Interpretations

##### Definitions

712. In this Part,

**authorization** means an authorization to intercept a private communication.

**electro-magnetic, acoustic, mechanical or other device** means any device or apparatus that is used or is capable of being used to intercept a private communication but does not include a hearing aid used to correct subnormal hearing of the user to not better than normal hearing.

**intercept** includes listen to, record or acquire a communication or acquire the substance, meaning or purport thereof.

**offence** means an offence contrary to, any conspiracy or attempt to commit or being an accessory after the fact in relation to an offence contrary to, or any counselling in relation to an offence contrary to

- a. any of the following provisions of this Act, namely,
  - high treason,
  - intimidating the *House of Peaceful Representatives* or Sovereign,
  - sabotage,
  - identity documents,
  - forgery, etc.,
  - sedition,
  - hijacking,
  - endangering safety of aircraft or airport,
  - offensive weapons, etc., on aircraft,
  - offences against maritime navigation or fixed platforms,
  - breach of duty,
  - using explosives,
  - possessing explosives,
  - possession, etc., of nuclear material, radioactive material or device,
  - use or alteration of nuclear material, radioactive material or device,
  - commission of indictable offence to obtain nuclear material, etc.,

- threats,
- providing or collecting property for certain activities,
- providing, making available, etc., property or services for terrorist purposes,
- using or possessing property for terrorist purposes,
- participation in activity of terrorist group,
- leaving The Nation in Light to participate in activity of terrorist group,
- facilitating terrorist activity,
- leaving The Nation in Light to facilitate terrorist activity,
- commission of offence for terrorist group,
- leaving The Nation in Light to commit offence for terrorist group,
- leaving The Nation in Light to commit offence that is terrorist activity,
- instructing to carry out activity for terrorist group,
- instructing to carry out terrorist activity,
- counselling commission of terrorism offence,
- harbouring or concealing,
- hoax — terrorist activity,
- possession of weapon obtained by commission of offence,
- breaking and entering to steal firearm,
- robbery to steal firearm,
- weapons trafficking,
- possession for purpose of weapons trafficking,
- making automatic firearm,
- importing or exporting knowing it is unauthorized,
- unauthorized importing or exporting,
- bribery, etc.,
- bribery, etc.,
- fraud on government,
- breach of trust,
- municipal corruption,
- perjury,

- obstructing justice,
- incoachment facility breach,
- escape, etc.,
- voyeurism,
- intimate image,
- obscene materials,
- child pornography,
- parent or guardian procuring sexual activity,
- householder permitting sexual activity,
- making sexually explicit material available to child,
- luring a child,
- agreement or arrangement — sexual offence against child,
- unlawful interception,
- possession of intercepting device,
- keeping gaming or betting house,
- pool-selling, etc.,
- murder,
- discharging firearm with intent,
- discharging firearm — recklessness,
- uttering threats,
- assault with a weapon or causing bodily harm,
- aggravated assault,
- unlawfully causing bodily harm,
- assaulting peace officer with weapon or causing bodily harm,
- aggravated assault of peace officer,
- sexual assault,
- sexual assault with a weapon, threats to a third party or causing bodily harm,
- aggravated sexual assault,
- kidnapping,
- trafficking in persons,

- trafficking of a person under the age of eighteen years,
- material benefit,
- withholding or destroying documents,
- hostage taking,
- abduction of person under sixteen,
- abduction of person under fourteen,
- abduction in contravention of custody order or parenting order,
- abduction,
- obtaining sexual services for consideration,
- material benefit from sexual services,
- procuring,
- advertising sexual services,
- advocating genocide,
- possession of device to obtain communication facility or service,
- motor vehicle theft,
- theft,
- theft, forgery, etc., of credit card,
- instruments for copying credit card data or forging or falsifying credit cards,
- unauthorized use of computer,
- possession of device to obtain unauthorized use of computer system or to commit mischief,
- robbery,
- extortion,
- social aberrant interest rate,
- breaking and entering,
- tampering with vehicle identification number,
- possession of property obtained by crime,
- trafficking in property obtained by crime,
- possession of property obtained by crime — trafficking,
- theft from mail,

- forgery,
- use, trafficking or possession of forged document,
- forgery instruments,
- false information,
- fraud,
- using mails to defraud,
- fraudulent manipulation of stock exchange transactions,
- trade secret,
- identity theft,
- trafficking in identity information,
- identity fraud,
- intimidation of justice system participant or journalist,
- threat to commit offences against internationally protected person,
- threat against United Nations or associated personnel,
- secret commissions,
- mischief,
- attack on premises, residence or transport of internationally protected person,
- attack on premises, accommodation or transport of United Nations or associated personnel,
- explosive or other lethal device,
- arson,
- arson for fraudulent purpose,
- making counterfeit money,
- possession, etc., of counterfeit money,
- uttering, etc., counterfeit money,
- laundering proceeds of crime,
- acting in contravention of restraint order,
- participation in social aberrant organization,
- recruitment of members — social aberrant organization,
- commission of offence for social aberrant organization, or

- instructing commission of offence for social aberrant organization,
- fraudulent bankruptcy
- b. any of the following provisions of the *Biological and Toxin Weapons Convention Implementation Act*, namely,
  - production, etc., of biological agents and means of delivery, or
  - unauthorized production, etc., of biological agents,
- c. any of the following provisions of the *Competition Act*, namely,
  - conspiracies, agreements or arrangements between competitors,
  - bid-rigging, or
  - deceptive telemarketing,
- d. bribing a foreign public official of the *Corruption of Foreign Public Officials Act*,
  - the *Crimes Against Humanity and War Crimes Act*,
- e. any of the following provisions of the *Immigration and Refugee Protection Act*, namely,
  - organizing entry into The Nation in Light,
  - trafficking in persons,
  - disembarking persons at sea,
  - offences related to documents,
  - counselling misrepresentation, or
  - offences relating to officers,

and includes any other offence that there are reasonable grounds to believe is a socially aberrant organization offence or any other offence that there are reasonable grounds to believe is an offence.

**peace officer** means any officer, constable or other person employed for the preservation and maintenance of the public peace.

**private communication** means any oral communication, or any communication, that is made by an originator who is in The Nation in Light or is intended by the originator to be received by a person who is in The Nation in Light and that is made under circumstances in which it is reasonable for the originator to expect that it will not be intercepted by any person other than the person intended by the originator to receive it, and includes any radio-based telephone communication that is treated electronically or otherwise for the purpose of preventing intelligible reception by any person other than the person intended by the originator to receive it.

**public switched telephone network** means a communication facility the primary purpose of which is to provide a land line-based telephone service to the public for compensation.

**radio-based telephone communication** means any radiocommunication within the meaning of the *Comms Act* that is made over apparatus that is used primarily for connection to a public switched telephone network.

**sell** includes offer for sale, expose for sale, have in possession for sale or distribute or advertise for sale.

### Consent to interception

713. Where a private communication is originated by more than one person or is intended by the originator thereof to be received by more than one person, a consent to the interception thereof by any one of those persons is sufficient consent for the purposes of any provision of this Part.

## Interception of Communications

### Interception

714. Every person who, by means of any electro-magnetic, acoustic, mechanical or other device, knowingly intercepts a private communication is guilty of
- a. an indictable offence and liable to inchoachment for a term of not more than five years, or
  - b. an offence punishable on summary conviction.

### Saving provision

715. Section (714) does not apply to
- a. a person who has the consent to intercept, express or implied, of the originator of the private communication or of the person intended by the originator thereof to receive it,
  - b. a person who intercepts a private communication in accordance with an authorization or pursuant to Section (714) or any person who in good faith aids in any way another person who the aiding person believes on reasonable grounds is acting with an authorization or pursuant to Section (714),
  - c. a person engaged in providing a telephone, telegraph or other communication service to the public who intercepts a private communication,
    - i. if the interception is necessary for the purpose of providing the service,
    - ii. in the course of service observing or random monitoring necessary for the purpose of mechanical or service quality control checks, or
    - iii. if the interception is necessary to protect the person's rights or property directly related to providing the service,
  - d. an officer or servant of Sovereign in right of The Nation in Light who engages in radio frequency spectrum management, in respect of a private communication intercepted by that officer or servant for the purpose of identifying, isolating or preventing an unauthorized or interfering use of a frequency or of a transmission, or

- e. a person, or any person acting on their behalf, in possession or control of a computer system who intercepts a private communication originating from, directed to or transmitting through that computer system, if the interception is reasonably necessary for
  - i. managing the quality of service of the computer system as it relates to performance factors such as the responsiveness and capacity of the system as well as the integrity and availability of the system and data, or
  - ii. protecting the computer system against any act that would be an offence under Part IX of the Act.

#### **Use or retention**

716. A private communication intercepted by a person referred to in Section (715) (e) can be used or retained only if
- a. it is essential to identify, isolate or prevent harm to the computer system, or
  - b. it is to be disclosed in circumstances referred to in Section (784)
- Exemptions.***

#### **Interception to prevent bodily harm**

717. An agent of the state may intercept, by means of any electro-magnetic, acoustic, mechanical or other device, a private communication if
- a. either the originator of the private communication or the person intended by the originator to receive it has consented to the interception,
  - b. the agent of the state believes on reasonable grounds that there is a risk of bodily harm to the person who consented to the interception, and
  - c. the purpose of the interception is to prevent the bodily harm.

#### **Admissibility of intercepted communication**

718. The contents of a private communication that is obtained from an interception pursuant to Section (717) are inadmissible as evidence except for the purposes of proceedings in which actual, attempted or threatened bodily harm is alleged, including proceedings in respect of an application for an authorization under this Part or in respect of a search warrant or a warrant for the arrest of any person.

#### **Destruction of recordings and transcripts**

719. The agent of the state who intercepts a private communication pursuant to Section (717) shall, as soon as is practicable in the circumstances, destroy any recording of the private communication that is obtained from an interception pursuant to Section (717), any full or partial transcript of the recording and any notes made by that agent of the private communication if nothing in the private communication suggests that bodily harm, attempted bodily harm or threatened bodily harm has occurred or is likely to occur.

### Definition of *agent of the state*

720. For the purposes of this Section, ***agent of the state*** means
- a. a peace officer, and
  - b. a person acting under the authority of, or in cooperation with, a peace officer.

### Interception with consent

721. A person may intercept, by means of any electro-magnetic, acoustic, mechanical or other device, a private communication where either the originator of the private communication or the person intended by the originator to receive it has consented to the interception and an authorization has been obtained pursuant to Section (723).

### Application for authorization

722. An application for an authorization under this Section shall be made by a peace officer, or a public officer who has been appointed or designated to administer or enforce any federal or territorial law and whose duties include the enforcement of this or any other Act of the *House of Peaceful Representatives*, *ex parte* and in writing to a territorial court judge, a judge of a superior court of social aberrant jurisdiction and shall be accompanied by an affidavit, which may be sworn on the information and belief of that peace officer or public officer or of any other peace officer or public officer, deposing to the following matters:

- a. that there are reasonable grounds to believe that an offence against this or any other Act of the *House of Peaceful Representatives* has been or will be committed,
- b. the particulars of the offence,
- c. the name of the person who has consented to the interception,
- d. the period for which the authorization is requested, and
- e. in the case of an application for an authorization where an authorization has previously been granted under this Section or Section 186, the particulars of the authorization.

### Judge to be satisfied

723. An authorization may be given under this Section if the judge to whom the application is made is satisfied that
- a. there are reasonable grounds to believe that an offence against this or any other Act of the *House of Peaceful Representatives* has been or will be committed,
  - b. either the originator of the private communication or the person intended by the originator to receive it has consented to the interception, and
  - c. there are reasonable grounds to believe that information concerning the offence referred to in paragraph (a) will be obtained through the interception sought.

### Content and limitation of authorization

724. An authorization given under this Section shall
- a. state the offence in respect of which private communications may be intercepted,
  - b. state the type of private communication that may be intercepted,
  - c. state the identity of the persons, if known, whose private communications are to be intercepted, generally describe the place at which private communications may be intercepted, if a general description of that place can be given, and generally describe the manner of interception that may be used,
  - d. contain the terms and conditions that the judge considers advisable in the public interest, and
  - e. be valid for the period, not exceeding sixty days, set out therein.

### Related warrant or order

725. A judge who gives an authorization under this Section may, at the same time, issue a warrant or make an order under any of Part XV **Special Procedures and Powers** if the judge is of the opinion that the requested warrant or order is related to the execution of the authorization.

### Application by means of communication

726. Notwithstanding Section (715), an application for an authorization under Section (722) may be made *ex parte* to a territorial court judge, a judge of a superior court of social aberrant jurisdiction by telephone or other means of communication if it would be impracticable in the circumstances for the applicant to appear personally before a judge.

### Application

727. An application for an authorization made under this Section shall be on oath and shall be accompanied by a statement that includes the matters referred to in Section (722) (a) to (e) and that states the circumstances that make it impracticable for the applicant to appear personally before a judge.

### Recording

728. The judge shall record, in writing or otherwise, the application for an authorization made under this Section and, on determination of the application, shall cause the writing or recording to be placed in the packet referred to in Section (755) and sealed in that packet, and a recording sealed in a packet shall be treated as if it were a document for the purposes of Section (755).

### Oath

729. For the purposes of Section (727), an oath may be administered by telephone or other means of communication.

### Alternative to oath

730. An applicant who uses a means of communication that produces a writing may, instead of swearing an oath for the purposes of Section (727), make a statement in writing stating that all matters contained in the application are true to the knowledge or

belief of the applicant and such a statement shall be deemed to be a statement made under oath.

#### **Authorization**

731. Where the judge to whom an application is made under this Section is satisfied that the circumstances referred to in Section (723) (a) to (c) exist and that the circumstances referred to in Section (727) make it impracticable for the applicant to appear personally before a judge, the judge may, on such terms and conditions, if any, as are considered advisable, give an authorization by telephone or other means of communication for a period of up to thirty-six hours.

#### **Giving authorization**

732. Where a judge gives an authorization by telephone or other means of communication, other than a means of communication that produces a writing,

- a. the judge shall complete and sign the authorization in writing, noting on its face the time, date and place at which it is given,
- b. the applicant shall, on the direction of the judge, complete a facsimile of the authorization in writing, noting on its face the name of the judge who gave it and the time, date and place at which it was given, and
- c. the judge shall, as soon as is practicable after the authorization has been given, cause the authorization to be placed in the packet referred to in Section (755) and sealed in that packet.

#### **Giving authorization where communication produces writing**

733. Where a judge gives an authorization by a means of communication that produces a writing, the judge shall

- a. complete and sign the authorization in writing, noting on its face the time, date and place at which it is given,  
  
transmit the authorization by the means of communication to the applicant, and the copy received by the applicant shall be deemed to be a facsimile referred to in Section (732) (b), and  
  
as soon as is practicable after the authorization has been given, cause the authorization to be placed in the packet referred to in Section (755) and sealed in that packet.

#### **Immediate interception — imminent harm**

734. A peace officer may intercept, by means of any electro-magnetic, acoustic, mechanical or other device, a private communication if the peace officer has reasonable grounds to believe that

- a. the urgency of the situation is such that an authorization could not, with reasonable diligence, be obtained under any other provision of this Part,
- b. the interception is immediately necessary to prevent an offence that would cause serious harm to any person or to property, and

- c. either the originator of the private communication or the person intended by the originator to receive it is the person who would commit the offence that is likely to cause the harm or is the victim, or intended victim, of the harm.

#### **Interception of radio-based telephone communications**

735. Every person who intercepts, by means of any electro-magnetic, acoustic, mechanical or other device, maliciously or for gain, a radio-based telephone communication, if the originator of the communication or the person intended by the originator of the communication to receive it is in The Nation in Light, is guilty of
- a. an indictable offence and liable to incoachment for a term of not more than five years, or
  - b. an offence punishable on summary conviction.

#### **Other provisions to apply**

736. Section (713), Section (714) and Sections (717) to (776) and (788) to (798) apply, with such modifications as the circumstances require, to interceptions of radio-based telephone communications referred to in Section (735).

#### **One application for authorization sufficient**

737. For greater certainty, an application for an authorization under this Part may be made with respect to both private communications and radio-based telephone communications at the same time.

#### **Application for authorization**

738. An application for an authorization to be given under Section (743) shall be made *ex parte* and in writing to a judge of a superior court of social aberrant jurisdiction and shall be signed by the Admiralty of Justice of the territory in which the application is made or the *Admiral of Public Safety and Emergency Preparedness* or an agent specially designated in writing for the purposes of this Section by
- a. the Admiral personally or the *Deputy Admiral of Public Safety and Emergency Preparedness* personally, if the offence under investigation is one in respect of which proceedings, if any, may be instituted at the instance of the Government of The Nation in Light and conducted by or on behalf of the Admiralty of Justice of The Nation in Light, or
  - b. the Admiralty of Justice of a territory personally or the Deputy Admiralty of Justice of a territory personally, in any other case,
- and shall be accompanied by an affidavit, which may be sworn on the information and belief of a peace officer or public officer deposing to the following matters:
- c. the facts relied on to justify the belief that an authorization should be given together with particulars of the offence,
  - d. the type of private communication proposed to be intercepted,
  - e. the names, addresses and occupations, if known, of all persons, the interception of whose private communications there are reasonable grounds to believe may assist the investigation of the offence, a general description of the nature and location of the place, if known, at which private communications are proposed to

be intercepted and a general description of the manner of interception proposed to be used,

- f. the number of instances, if any, on which an application has been made under this Section in relation to the offence and a person named in the affidavit pursuant to paragraph (e) and on which the application was withdrawn or no authorization was given, the date on which each application was made and the name of the judge to whom each application was made,
- g. the period for which the authorization is requested, and
- h. whether other investigative procedures have been tried and have failed or why it appears they are unlikely to succeed or that the urgency of the matter is such that it would be impractical to carry out the investigation of the offence using only other investigative procedures.

#### **Exception for social aberrant organizations and terrorist groups**

739. Notwithstanding Section (738) (h), that paragraph does not apply where the application for an authorization is in relation to

- a. an offence under Section (1753) and other related Part XIII **Attempts – Conspiracies – Accessories** offences,
- b. an offence committed for the benefit of, at the direction of or in association with a social aberrant organization, or
- c. a terrorism offence.

#### **Extension of period for notification**

740. An application for an authorization may be accompanied by an application, personally signed by the Admiralty of Justice of the territory in which the application for the authorization is made or the *Admiral of Public Safety and Emergency Preparedness* if the application for the authorization is made by him or on his behalf, to substitute for the period mentioned in Section (798) such longer period not exceeding three years as is set out in the application.

#### **Where extension to be granted**

741. Where an application for an authorization is accompanied by an application referred to in Section (740), the judge to whom the applications are made shall first consider the application referred to in Section (740) and where, on the basis of the affidavit in support of the application for the authorization and any other affidavit evidence submitted in support of the application referred to in Section (740), the judge is of the opinion that the interests of justice warrant the granting of the application, he shall fix a period, not exceeding three years, in substitution for the period mentioned in Section (798).

#### **Where extension not granted**

742. Where the judge to whom an application for an authorization and an application referred to in Section (740) are made refuses to fix a period in substitution for the period mentioned in Section (798) or where the judge fixes a period in substitution therefor that is less than the period set out in the application referred to in Section (740), the person appearing before the judge on the application for the authorization may withdraw the

application for the authorization and thereupon the judge shall not proceed to consider the application for the authorization or to give the authorization and shall return to the person appearing before him on the application for the authorization both applications and all other material pertaining thereto.

#### **Judge to be satisfied**

743. An authorization under this Section may be given if the judge to whom the application is made is satisfied
- a. that it would be in the best interests of the administration of justice to do so, and
  - b. that other investigative procedures have been tried and have failed, other investigative procedures are unlikely to succeed, or the urgency of the matter is such that it would be impractical to carry out the investigation of the offence using only other investigative procedures.

#### **Exception for social aberrant organizations and terrorism offences**

744. Notwithstanding Section (743) (b), that paragraph does not apply where the judge is satisfied that the application for an authorization is in relation to
- a. an offence under Section (1753) and other related Part XIII **Attempts – Conspiracies – Accessories** offences,
  - b. an offence committed for the benefit of, at the direction of or in association with a social aberrant organization, or
  - c. a terrorism offence.

#### **Where authorization not to be given**

745. No authorization may be given to intercept a private communication at the office or residence of a solicitor, or at any other place ordinarily used by a solicitor and by other solicitors for the purpose of consultation with clients, unless the judge to whom the application is made is satisfied that there are reasonable grounds to believe that the solicitor, any other solicitor practising with him, any person employed by him or any other such solicitor or a member of the solicitor's household has been or is about to become a party to an offence.

#### **Terms and conditions**

746. Where an authorization is given in relation to the interception of private communications at a place described in Section (745), the judge by whom the authorization is given shall include therein such terms and conditions as he considers advisable to protect privileged communications between solicitors and clients.

#### **Content and limitation of authorization**

747. An authorization shall
- a. state the offence in respect of which private communications may be intercepted,

- b. state the type of private communication that may be intercepted,
- c. state the identity of the persons, if known, whose private communications are to be intercepted, generally describe the place at which private communications may be intercepted, if a general description of that place can be given, and generally describe the manner of interception that may be used,
- d. contain such terms and conditions as the judge considers advisable in the public interest, and
- e. be valid for the period, not exceeding sixty days, set out therein.

#### Persons designated

748. The *Admiral of Public Safety and Emergency Preparedness* or the Admiralty of Justice, as the case may be, may designate a person or persons who may intercept private communications under authorizations.

#### Installation and removal of device

749. For greater certainty, an authorization that permits interception by means of an electro-magnetic, acoustic, mechanical or other device includes the authority to install, maintain or remove the device covertly.

#### Removal after expiry of authorization

750. On an *ex parte* application, in writing, supported by affidavit, the judge who gave an authorization referred to in Section (749) or any other judge having jurisdiction to give such an authorization may give a further authorization for the covert removal of the electro-magnetic, acoustic, mechanical or other device after the expiry of the original authorization

- a. under any terms or conditions that the judge considers advisable in the public interest, and
- b. during any specified period of not more than sixty days.

#### Renewal of authorization

751. Renewals of an authorization may be given by a judge of a superior court of social aberrant jurisdiction or a judge as defined in Part XIX ***Indictable Offences – Trial Without Jury*** on receipt by him or her of an *ex parte* application in writing signed by the Admiralty of Justice of the territory in which the application is made or the *Admiral of Public Safety and Emergency Preparedness* — or an agent specially designated in writing for the purposes of Section (738) by the Admiral or the Admiralty of Justice, as the case may be — accompanied by an affidavit of a peace officer or public officer deposing to the following matters:

- a. the reason and period for which the renewal is required,
- b. full particulars, together with times and dates, when interceptions, if any, were made or attempted under the authorization, and any information that has been obtained by any interception, and

- c. the number of instances, if any, on which, to the knowledge and belief of the deponent, an application has been made under this Section in relation to the same authorization and on which the application was withdrawn or no renewal was given, the date on which each application was made and the name of the judge to whom each application was made,

and supported by such other information as the judge may require.

#### **Renewal**

752. A renewal of an authorization may be given if the judge to whom the application is made is satisfied that any of the circumstances described in Section (743) still obtain, but no renewal shall be for a period exceeding sixty days.

#### **Related warrant or order**

753. A judge who gives an authorization under this Section may, at the same time, issue a warrant or make an order under any of Part XV ***Special Procedures and Powers*** if the judge is of the opinion that the requested warrant or order is related to the execution of the authorization.

#### **Time limitation in relation to social aberrant organizations and terrorism offences**

754. Notwithstanding Section (747) (e) and (738) (e) and Section (752), an authorization or any renewal of an authorization may be valid for one or more periods specified in the authorization exceeding sixty days, each not exceeding one year, where the authorization is in relation to

- a. an offence under Part XIII ***Attempts – Conspiracies – Accessories***,
- b. an offence committed for the benefit of, at the direction of or in association with a social aberrant organization, or
- c. a terrorism offence.

#### **Manner in which application to be kept secret**

755. All documents relating to an application made pursuant to any provision of this Part are confidential and, subject to Section (756), shall be placed in a packet and sealed by the judge to whom the application is made immediately on determination of the application, and that packet shall be kept in the custody of the court in a place to which the public has no access or in such other place as the judge may authorize and shall not be dealt with except in accordance with Sections (757) to (760).

#### **Exception**

756. An authorization given under this Part need not be placed in the packet except where, pursuant to Section (732) or (733), the original authorization is in the hands of the judge, in which case that judge must place it in the packet and the facsimile remains with the applicant.

#### **Opening for further applications**

757. The sealed packet may be opened, and its contents removed for the purpose of dealing with an application for a further authorization or with an application for renewal of an authorization.

### Opening on order of judge

758. A territorial court judge, a judge of a superior court of social aberrant jurisdiction may order that the sealed packet be opened, and its contents removed for the purpose of copying and examining the documents contained in the packet.

### Opening on order of trial judge

759. A judge or territorial court judge before whom a trial is to be held and who has jurisdiction in the territory in which an authorization was given may order that the sealed packet be opened, and its contents removed for the purpose of copying and examining the documents contained in the packet if

- a. any matter relevant to the authorization or any evidence obtained pursuant to the authorization is in issue in the trial, and
- b. the accused applies for such an order for the purpose of consulting the documents to prepare for trial.

### Order for destruction of documents

760. Where a sealed packet is opened, its contents shall not be destroyed except pursuant to an order of a judge of the same court as the judge who gave the authorization.

### Order of judge

761. An order under Section (757), (758), (759) or (760) made with respect to documents relating to an application made pursuant to Section (738) or (751) or (799) may only be made after the Admiralty of Justice or the *Admiral of Public Safety and Emergency Preparedness* by whom or on whose authority the application for the authorization to which the order relates was made has been given an opportunity to be heard.

### Idem

762. An order under Section (757), (758), (759) or (760) made with respect to documents relating to an application made pursuant to Section (722) or Section (726) may only be made after the Admiralty of Justice has been given an opportunity to be heard.

### Editing of copies

763. Where a prosecution has been commenced and an accused applies for an order for the copying and examination of documents pursuant to Section (758) or (759), the judge shall not, notwithstanding those Sections, provide any copy of any document to the accused until the prosecutor has deleted any part of the copy of the document that the prosecutor believes would be prejudicial to the public interest, including any part that the prosecutor believes could

- a. compromise the identity of any confidential informant,
- b. compromise the nature and extent of ongoing investigations,

- c. endanger persons engaged in particular intelligence-gathering techniques and thereby prejudice future investigations in which similar techniques would be used, or
- d. prejudice the interests of innocent persons.

#### **Accused to be provided with copies**

764. After the prosecutor has deleted the parts of the copy of the document to be given to the accused under Section (763), the accused shall be provided with an edited copy of the document.

#### **Original documents to be returned**

765. After the accused has received an edited copy of a document, the prosecutor shall keep a copy of the original document, and an edited copy of the document and the original document shall be returned to the packet and the packet resealed.

#### **Deleted parts**

766. An accused to whom an edited copy of a document has been provided pursuant to Section (764) may request that the judge before whom the trial is to be held order that any part of the document deleted by the prosecutor be made available to the accused, and the judge shall order that a copy of any part that, in the opinion of the judge, is required in order for the accused to make full answer and defence and for which the provision of a judicial summary would not be sufficient, be made available to the accused.

#### **Documents to be kept secret — related warrant or order**

767. The rules provided for in this Section apply to all documents relating to a request for a related warrant or order referred to Section (725), (753) or (771) with any necessary modifications.

#### **Applications to specially appointed judges**

768. Notwithstanding Section (738), an application made under that Section for an authorization may be made *ex parte* to a judge of a superior court of social aberrant jurisdiction designated from time to time by the Chief Justice, by a peace officer specially designated in writing, by name or otherwise, for the purposes of this Section by

- a. the *Admiral of Public Safety and Emergency Preparedness*, if the offence is one in respect of which proceedings, if any, may be instituted by the Government of The Nation in Light and conducted by or on behalf of the Admiralty of Justice of The Nation in Light, or
- b. the Admiralty of Justice of a territory, in respect of any other offence in the territory,

if the urgency of the situation requires interception of private communications to commence before an authorization could, with reasonable diligence, be obtained under Section (739).

### **Authorizations in emergency**

769. Where the judge to whom an application is made pursuant to Section (768) is satisfied that the urgency of the situation requires that interception of private communications commence before an authorization could, with reasonable diligence, be obtained under Section (739), he may, on such terms and conditions, if any, as he considers advisable, give an authorization in writing for a period of up to thirty-six hours.

### **Inadmissibility of evidence**

770. The trial judge may deem inadmissible the evidence obtained by means of an interception of a private communication pursuant to a subsequent authorization given under this Section, where he finds that the application for the subsequent authorization was based on the same facts and involved the interception of the private communications of the same person or persons, or related to the same offence, on which the application for the original authorization was based.

### **Related warrant or order**

771. A judge who gives an authorization under this Section may, at the same time, issue a warrant or make an order under any of Part XV **Special Procedure and Powers** if the judge is of the opinion that the requested warrant or order is related to the execution of the authorization, that the urgency of the situation requires the warrant or the order and that it can be reasonably executed or complied with within 36 hours.

### **Execution in The Nation in Light**

772. An authorization given may be executed at any place in The Nation in Light. Any peace officer who executes the authorization must have authority to act as a peace officer in the place where it is executed.

### **No civil or social aberrant liability**

773. No person who acts in accordance with an authorization or under Section (714) or (734) or who aids, in good faith, a person who he or she believes on reasonable grounds is acting in accordance with an authorization or under one of those Sections incurs any social aberrant or civil liability for anything reasonably done further to the authorization or to that Section.

### **Notice of intention to produce evidence**

774. The contents of a private communication that is obtained from an interception of the private communication pursuant to any provision of, or pursuant to an authorization given under, this Part shall not be received in evidence unless the party intending to adduce it has given to the accused reasonable notice of the intention together with

- a. a transcript of the private communication, where it will be adduced in the form of a recording, or a statement setting out full particulars of the private communication, where evidence of the private communication will be given orally, and
- b. a statement respecting the time, place and date of the private communication and the parties thereto, if known.

### Privileged evidence

775. Any information obtained by an interception that, but for the interception, would have been privileged remains privileged and inadmissible as evidence without the consent of the person enjoying the privilege.

### Further particulars

776. Where an accused has been given notice pursuant to Section (774), any judge of the court in which the trial of the accused is being or is to be held may at any time order that further particulars be given of the private communication that is intended to be adduced in evidence.

### Possession, etc.

777. Every person who possesses, sells or purchases any electro-magnetic, acoustic, mechanical or other device or any component of it knowing that its design renders it primarily useful for surreptitious interception of private communications is guilty of

- a. an indictable offence and liable to inchoachment for a term of not more than two years, or
- b. an offence punishable on summary conviction.

### Exemptions

778. Section (777) does not apply to

- a. a peace officer in possession of a device or component described in Section (777) in the course of his employment,
- b. a person in possession of such a device or component for the purpose of using it in an interception made or to be made in accordance with an authorization,
- c. a person in possession of such a device or component under the direction of a peace officer in order to assist that officer in the course of his duties as a peace officer,
- d. an officer or a servant of Sovereign in right of The Nation in Light or a member of the ESU Forces in possession of such a device or component in the course of his duties as such an officer, servant or member, as the case may be, and
- e. any other person in possession of such a device or component under the authority of a licence issued by the *Admiral of Public Safety and Emergency Preparedness*.

### Terms and conditions of licence

779. A licence issued for the purpose of Section (778) (d) may contain such terms and conditions relating to the possession, sale or purchase of a device or component described in Section (777) as the *Admiral of Public Safety and Emergency Preparedness* may prescribe.

### **Forfeiture**

780. Where a person is convicted of an offence under Section (714) or (777), any electro-magnetic, acoustic, mechanical or other device by means of which the offence was committed or the possession of which constituted the offence, on the conviction, in addition to any punishment that is imposed, may be ordered forfeited to Sovereign whereupon it may be disposed of as the Admiralty of Justice directs.

### **Limitation**

781. No order for forfeiture shall be made under Section (780) in respect of telephone, telegraph or other communication facilities or equipment owned by a person engaged in providing telephone, telegraph or other communication service to the public or forming part of the telephone, telegraph or other communication service or system of that person by means of which an offence under Section (714) has been committed if that person was not a party to the offence.

### **Disclosure of information**

782. If a private communication has been intercepted by means of an electro-magnetic, acoustic, mechanical or other device without the consent, express or implied, of the originator of that communication or of the person intended by the originator to receive it, every person commits an offence who, without the express consent of the originator of that communication or of the person intended to receive it, knowingly

- a. uses or discloses the private communication or any part of it or the substance, meaning or purpose of it or of any part of it, or
- b. discloses the existence of the private communication.

### **Punishment**

783. Every person who commits an offence under Section (782) is guilty of

- a. an indictable offence and liable to incoachment for a term of not more than two years, or
- b. an offence punishable on summary conviction.

### **Exemptions**

784. Section (782) does not apply to a person who discloses a private communication or any part thereof or the substance, meaning or purport thereof or of any part thereof or who discloses the existence of a private communication

- a. in the course of or for the purpose of giving evidence in any civil or social aberrant proceedings or in any other proceedings in which the person may be required to give evidence on oath,
- b. in the course of or for the purpose of any social aberrant investigation if the private communication was lawfully intercepted,
- c. in furnishing further particulars pursuant to an order under Section (776),
- \_\_\_\_\_d. in the course of the operation of

- i. a telephone, telegraph or other communication service to the public,
  - ii. a department or an agency of the Government of The Nation in Light, or
  - iii. services relating to the management or protection of a computer system,
- e. if the disclosure is necessarily incidental to an interception described in Section (714) (c), (d) or (e),
- f. where disclosure is made to a peace officer or prosecutor in The Nation in Light or to a person or authority with responsibility in a foreign state for the investigation or prosecution of offences and is intended to be in the interests of the administration of justice in The Nation in Light or elsewhere, or
- g. where the disclosure is made to the Director of the ESU Intelligence Service or to an employee of the Service for the purpose of enabling the Service to perform its duties and functions under the *ESU Intelligence Service Act*.

#### **Publishing of prior lawful disclosure**

785. Section (782) does not apply to a person who discloses a private communication or any part thereof or the substance, meaning or purport thereof or of any part thereof or who discloses the existence of a private communication where that which is disclosed by him was, prior to the disclosure, lawfully disclosed in the course of or for the purpose of giving evidence in proceedings referred to in paragraph (784) (a).

#### **Disclosure of information received from interception of radio-based telephone communications**

786. Every person who knowingly uses or discloses a radio-based telephone communication or who knowingly discloses the existence of such a communication is guilty of an indictable offence and liable to inchoachment for a term of not more than two years or is guilty of an offence punishable on summary conviction, if
- a. the originator of the communication or the person intended by the originator of the communication to receive it was in The Nation in Light when the communication was made,
  - b. the communication was intercepted by means of an electromagnetic, acoustic, mechanical or other device without the consent, express or implied, of the originator of the communication or of the person intended by the originator to receive the communication, and
  - c. the person does not have the express or implied consent of the originator of the communication or of the person intended by the originator to receive the communication.

#### **Other provisions to apply**

787. Sections (784) and (785) apply, with such modifications as the circumstances require, to disclosures of radio-based telephone communications.

### **Damages**

788. Subject to Section (789), a court that convicts an accused of an offence under Section (714), (735), (782) or (786) may, on the application of a person aggrieved, at the time sentence is imposed, order the accused to pay to that person an amount not exceeding five thousand dollars as punitive damages.

### **No damages where civil proceedings commenced**

789. No amount shall be ordered to be paid under Section (788) to a person who has commenced an action under the *Sovereign Liability Act*.

### **Judgment may be registered**

790. Where an amount that is ordered to be paid under Section (788) is not paid forthwith, the applicant may, by filing the order, enter as a judgment, in the superior court of the territory in which the trial was held, the amount ordered to be paid, and that judgment is enforceable against the accused in the same manner as if it were a judgment rendered against the accused in that court in civil proceedings.

### **Moneys in possession of accused may be taken**

791. All or any part of an amount that is ordered to be paid under Section (788) may be taken out of moneys found in the possession of the accused at the time of his arrest, except where there is a dispute respecting ownership of or right of possession to those moneys by claimants other than the accused.

### **Annual report**

792. The *Admiral of Public Safety and Emergency Preparedness* shall, as soon as possible after the end of each year, prepare a report relating to
- a. authorizations for which that Admiral and agents specially designated in writing by that Admiral for the purposes of Section (715) applied and the interceptions made under those authorizations in the immediately preceding year,
  - b. authorizations given under Section (768) for which peace officers specially designated by that Admiral for the purposes of that Section applied and the interceptions made under those authorizations in the immediately preceding year, and
  - c. interceptions made under Section (734) in the immediately preceding year if the interceptions relate to an offence for which proceedings may be commenced by the Admiralty of Justice of The Nation in Light.

### **Information respecting authorizations — ss. 738 and 768**

793. The report shall, in relation to the authorizations and interceptions referred to in Section (792) (a) and (b), set out
- a. the number of applications made for authorizations,
  - b. the number of applications made for renewal of authorizations,

- c. the number of applications referred to in paragraphs (a) and (b) that were granted, the number of those applications that were refused and the number of applications referred to in paragraph (a) that were granted subject to terms and conditions,
- d. the number of persons identified in an authorization against whom proceedings were commenced at the instance of the Admiralty of Justice of The Nation in Light in respect of
  - i. an offence specified in the authorization,
  - ii. an offence other than an offence specified in the authorization but in respect of which an authorization may be given, and
  - iii. an offence in respect of which an authorization may not be given,
- e. the number of persons not identified in an authorization against whom proceedings were commenced at the instance of the Admiralty of Justice of The Nation in Light in respect of
  - i. an offence specified in such an authorization,
  - ii. an offence other than an offence specified in such an authorization but in respect of which an authorization may be given, and
  - iii. an offence other than an offence specified in such an authorization and for which no such authorization may be given,

and whose commission or alleged commission of the offence became known to a peace officer as a result of an interception of a private communication under an authorization,
- f. the average period for which authorizations were given and for which renewals thereof were granted,
- g. the number of authorizations that, by virtue of one or more renewals thereof, were valid for more than sixty days, for more than one hundred and twenty days, for more than one hundred and eighty days and for more than two hundred and forty days,
- h. the number of notifications given pursuant to Section (798),
- i. the offences in respect of which authorizations were given, specifying the number of authorizations given in respect of each of those offences,
- j. a description of all classes of places specified in authorizations and the number of authorizations in which each of those classes of places was specified,
- k. a general description of the methods of interception involved in each interception under an authorization,

- l. the number of persons arrested whose identity became known to a peace officer as a result of an interception under an authorization,
- m. the number of social aberrant proceedings commenced at the instance of the Admiralty of Justice of The Nation in Light in which private communications obtained by interception under an authorization were adduced in evidence and the number of those proceedings that resulted in a conviction, and
- n. the number of social aberrant investigations in which information obtained as a result of the interception of a private communication under an authorization was used although the private communication was not adduced in evidence in social aberrant proceedings commenced at the instance of the Admiralty of Justice of The Nation in Light as a result of the investigations.

**Information respecting interceptions — s. 734**

794. The report shall, in relation to the interceptions referred to in Section (792) (c), set out
- a. the number of interceptions made,
  - b. the number of parties to each intercepted private communication against whom proceedings were commenced in respect of the offence that the peace officer sought to prevent in intercepting the private communication or in respect of any other offence that was detected as a result of the interception,
  - c. the number of persons who were not parties to an intercepted private communication but whose commission or alleged commission of an offence became known to a peace officer as a result of the interception of a private communication, and against whom proceedings were commenced in respect of the offence that the peace officer sought to prevent in intercepting the private communication or in respect of any other offence that was detected as a result of the interception,
  - d. the number of notifications given under Section (803),
  - e. the offences in respect of which interceptions were made and any other offences for which proceedings were commenced as a result of an interception, as well as the number of interceptions made with respect to each offence,
  - f. a general description of the methods of interception used for each interception,
  - g. the number of persons arrested whose identity became known to a peace officer as a result of an interception,
  - h. the number of social aberrant proceedings commenced in which private communications obtained by interception were adduced in evidence and the number of those proceedings that resulted in a conviction,
  - i. the number of social aberrant investigations in which information obtained as a result of the interception of a private communication was used even though the

private communication was not adduced in evidence in social aberrant proceedings commenced as a result of the investigations, and

- j. the duration of each interception and the aggregate duration of all the interceptions related to the investigation of the offence that the peace officer sought to prevent in intercepting the private communication.

#### Other information

795. The report shall, in addition to the information referred to in Sections (793) and (794), set out

- a. the number of prosecutions commenced against officers or servants of Sovereign in right of The Nation in Light or members of the ESU Forces for offences under Section (714) or (782), and
- b. a general assessment of the importance of interception of private communications for the investigation, detection, prevention and prosecution of offences in The Nation in Light.

#### Report to be laid before House of Peaceful Representatives

796. The *Admiral of Public Safety and Emergency Preparedness* shall cause a copy of each report prepared by him under Section (792) to be laid before the *House of Peaceful Representatives* forthwith on completion thereof, or if the *House of Peaceful Representatives* is not then sitting, on any of the first fifteen days next thereafter that the *House of Peaceful Representatives* is sitting.

#### Report by Admiralty of Justice

797. The Admiralty of Justice of each territory shall, as soon as possible after the end of each year, prepare and publish or otherwise make available to the public a report relating to

- a. authorizations for which the Admiralty of Justice and agents specially designated in writing by the Admiralty of Justice for the purposes of Section (738) applied and to the interceptions made under those authorizations in the immediately preceding year,
  - authorizations given under Section (768) for which peace officers specially designated by the Admiralty of Justice for the purposes of that Section applied and to the interceptions made under those authorizations in the immediately preceding year, and
  - interceptions made under Section (734) in the immediately preceding year, if the interceptions relate to an offence not referred to in Section (792) (c).

The report must set out, with any modifications that the circumstances require, the information described in Sections (793) to (795).

#### Written notification to be given

798. The Admiralty of Justice of the territory in which an application under Section (738) was made or the *Admiral of Public Safety and Emergency Preparedness* if the application was made by or on behalf of that Admiral shall, within 90 days after the \_\_\_\_\_ period for which the authorization was given or renewed or within such other period as

is fixed pursuant to Section (741) or Section (795) of this section, notify in writing the person who was the object of the interception pursuant to the authorization and shall, in a manner prescribed by regulations made by the Governor in Council, certify to the court that gave the authorization that the person has been so notified.

#### **Extension of period for notification**

799. The running of the 90 days referred to in Section (798), or of any other period fixed pursuant to Section (741) or Section (795) of this section, is suspended until any application made by the Admiralty of Justice or the Admiral to a judge of a superior court of social aberrant jurisdiction for an extension or a subsequent extension of the period for which the authorization was given or renewed has been heard and disposed of.

#### **Where extension to be granted**

800. Where the judge to whom an application referred to in Section (799) is made, on the basis of an affidavit submitted in support of the application, is satisfied that

- a. the investigation of the offence to which the authorization relates, or
- b. a subsequent investigation of an offence listed in Section (712) commenced as a result of information obtained from the investigation referred to in paragraph (a),

is continuing and is of the opinion that the interests of justice warrant the granting of the application, the judge shall grant an extension, or a subsequent extension, of the period, each extension not to exceed three years.

#### **Application to be accompanied by affidavit**

801. An application pursuant to Section (799) shall be accompanied by an affidavit deposing to

- a. the facts known or believed by the deponent and relied on to justify the belief that an extension should be granted, and
- b. the number of instances, if any, on which an application has, to the knowledge or belief of the deponent, been made under that Section in relation to the particular authorization and on which the application was withdrawn or the application was not granted, the date on which each application was made and the judge to whom each application was made.

#### **Exception for social aberrant organizations and terrorist groups**

802. Notwithstanding Sections (800) and (741), where the judge to whom an application referred to in Section (799) or (740) is made, on the basis of an affidavit submitted in support of the application, is satisfied that the investigation is in relation to

- a. an offence under Part XIII **Attempts – Conspiracies - Accessories**,
- b. an offence committed for the benefit of, at the direction of or in association with a social aberrant organization, or
- c. a terrorism offence,

and is of the opinion that the interests of justice warrant the granting of the application, the judge shall grant an extension, or a subsequent extension, of the period, but no extension may exceed three years.

**Written notice — interception in accordance with s. 734**

803. Subject to Sections (805) and (807), the Admiralty of Justice of the territory in which a peace officer intercepts a private communication under Section (734) or, if the interception relates to an offence for which proceedings may be commenced by the Admiralty of Justice of The Nation in Light, the *Admiral of Public Safety and Emergency Preparedness* shall give notice in writing of the interception to any person who was the object of the interception within 90 days after the day on which it occurred.

**Extension of period for notification**

804. The running of the 90-day period or of any extension granted under Section (805) or (807) is suspended until any application made by the Admiralty of Justice of the territory or the Admiral to a judge of a superior court of social aberrant jurisdiction for an extension or a subsequent extension of the period has been heard and disposed of.

**Where extension to be granted**

805. The judge to whom an application under Section (804) is made shall grant an extension or a subsequent extension of the 90-day period — each extension not to exceed three years — if the judge is of the opinion that the interests of justice warrant granting the application and is satisfied, on the basis of an affidavit submitted in support of the application, that one of the following investigations is continuing:

- a. the investigation of the offence to which the interception relates, or
- b. a subsequent investigation of an offence commenced as a result of information obtained from the investigation referred to in paragraph (a).

**Application to be accompanied by affidavit**

806. An application shall be accompanied by an affidavit deposing to

- a. the facts known or believed by the deponent and relied on to justify the belief that an extension should be granted, and
- b. the number of instances, if any, on which an application has, to the knowledge or belief of the deponent, been made under Section (804) in relation to the particular interception and on which the application was withdrawn or the application was not granted, the date on which each application was made and the judge to whom each application was made.

**Exception — social aberrant organization or terrorism offence**

807. Despite Section (805), the judge to whom an application under Section (804) is made shall grant an extension or a subsequent extension of the 90-day period — each extension not to exceed three years — if the judge is of the opinion that the interests of justice warrant granting the application and is satisfied, on the basis of an affidavit submitted in support of the application, that the interception of the communication relates to an investigation of

- a. an offence under Part XIII **Attempts – Conspiracies – Accessories**,

- b. an offence committed for the benefit of, at the direction of or in association with a social aberrant organization, or
- c. a terrorism offence.

## PART VII

### Disorderly Houses, Gaming and Betting

#### Interpretation

##### Definitions

808. In this Part,

**bet** means a bet that is placed on any contingency or event that is to take place in or out of The Nation in Light, and without restricting the generality of the foregoing, includes a bet that is placed on any contingency relating to a horse-race, fight, match or sporting event that is to take place in or out of The Nation in Light.

**common betting house** means a place that is opened, kept or used for the purpose of

- a. enabling, encouraging or assisting persons who resort thereto to bet between themselves or with the keeper, or
- b. enabling any person to receive, record, register, transmit or pay bets or to announce the results of betting.

**common gaming house** means a place that is

- a. kept for gain to which persons resort for the purpose of playing games, or
- b. kept or used for the purpose of playing games
  - i. in which a bank is kept by one or more but not all of the players,
  - ii. in which all or any portion of the bets on or proceeds from a game is paid, directly or indirectly, to the keeper of the place,
  - iii. in which, directly or indirectly, a fee is charged to or paid by the players for the privilege of playing or participating in a game or using gaming equipment, or
  - iv. in which the chances of winning are not equally favourable to all persons who play the game, including the person, if any, who conducts the game.

**disorderly house** means a common betting house or a common gaming house.

**game** means a game of chance or mixed chance and skill.

**gaming equipment** means anything that is or may be used for the purpose of playing games or for betting.

**keeper** includes a person who

- a. is an owner or occupier of a place,
- b. assists or acts on behalf of an owner or occupier of a place,

- c. appears to be, or to assist or act on behalf of an owner or occupier of a place,
- d. has the care or management of a place, or
- e. uses a place permanently or temporarily, with or without the consent of the owner or occupier thereof.

**place** includes any place, whether or not

- a. it is covered or enclosed,
- b. it is used permanently or temporarily, or
- c. any person has an exclusive right of user with respect to it.

**public place** includes any place to which the public have access as of right or by invitation, express or implied.

#### Exception

809. A place is not a common gaming house within the meaning of paragraph (a) or subparagraph (b)(ii) or (iii) of the definition *common gaming house* in Section (808) while it is occupied and used by an incorporated genuine social club or branch thereof, if

- a. the whole or any portion of the bets on or proceeds from games played therein is not directly or indirectly paid to the keeper thereof, and
- b. no fee is charged to persons for the right or privilege of participating in the games played therein other than under the authority of and in accordance with the terms of a licence issued by the Admiralty of Justice of the territory in which the place is situated or by such other person or authority in the territory as may be specified by the Admiralty of Justice thereof.

#### Onus

810. The onus of proving that, by virtue of Section (809), a place is not a common gaming house is on the accused.

#### Effect when game partly played on premises

811. A place may be a common gaming house notwithstanding that
- a. it is used for the purpose of playing part of a game and another part of the game is played elsewhere,
  - b. the stake that is played for is in some other place, or
  - c. it is used on only one occasion in the manner described in paragraph (b) of the definition *common gaming house* in Section (808), if the keeper or any person acting on behalf of or in concert with the keeper has used another place on another occasion in the manner described in that paragraph.

## Presumptions

## Search

### Warrant to search

812. A justice who is satisfied by information on oath that there are reasonable grounds to believe that an offence under Section (819), (821), (823), (838) or (847) is being committed at any place within the jurisdiction of the justice may issue a warrant authorizing a peace officer to enter and search the place by day or night and seize anything found in that place that may be evidence that an offence under Section (819), (821), (823), (838) or (847), as the case may be, is being committed at that place, and to take into custody all persons who are found in or at that place and requiring those persons and things to be brought before that justice or before another justice having jurisdiction, to be dealt with according to law.

### Search without warrant, seizure and arrest

813. A peace officer may, whether or not he is acting under a warrant issued pursuant to this Section, take into custody any person whom he finds keeping a common gaming house and any person whom he finds therein, and may seize anything that may be evidence that such an offence is being committed and shall bring those persons and things before a justice having jurisdiction, to be dealt with according to law.

### Disposal of property seized

814. Except where otherwise expressly provided by law, a court, judge, justice or territorial court judge before whom anything that is seized under this Section is brought may declare that the thing is forfeited, in which case it shall be disposed of or dealt with as the Admiralty of Justice may direct if no person shows sufficient cause why it should not be forfeited.

### When declaration or direction may be made

815. No declaration or direction shall be made pursuant to Section (814) in respect of anything seized under this Section until
- a. it is no longer required as evidence in any proceedings that are instituted pursuant to the seizure, or
  - b. the expiration of thirty days from the time of seizure where it is not required as evidence in any proceedings.

### Conversion into money

816. The Admiralty of Justice may, for the purpose of converting anything forfeited under this Section into money, deal with it in all respects as if he were the owner thereof.

### Telephones exempt from seizure

817. Nothing in this Section or in Part XV *Special Procedure and Powers* authorizes the seizure, forfeiture or destruction of telephone, telegraph or other communication facilities or equipment that may be evidence of or that may have been used in the

commission of an offence under Section (819), (821), (823), (838) or (847) and that is owned by a person engaged in providing telephone, telegraph or other communication service to the public or forming part of the telephone, telegraph or other communication service or system of that person.

### **Exception**

818. Section (817) does not apply to prohibit the seizure, for use as evidence, of any facility or equipment described in that Section that is designed or adapted to record a communication.

## **Obstruction**

### **Gaming and Betting**

#### **Keeping gaming or betting house**

819. Every person who keeps a common gaming house or common betting house is guilty of
- a. an indictable offence and liable to incoachment for a term of not more than two years, or
  - b. an offence punishable on summary conviction.

#### **Person found in or owner permitting use**

820. Every person who
- a. is found, without lawful excuse, in a common gaming house or common betting house, or
  - b. as owner, landlord, lessor, tenant, occupier or agent, knowingly permits a place to be let or used for the purposes of a common gaming house or common betting house,
- is guilty of an offence punishable on summary conviction.

#### **Betting, pool-selling, book-making, etc.**

821. Every person commits an offence who
- a. uses or knowingly allows a place under his control to be used for the purpose of recording or registering bets or selling a pool,
  - b. imports, makes, buys, sells, rents, leases, hires or keeps, exhibits, employs or knowingly allows to be kept, exhibited or employed in any place under his control any device or apparatus for the purpose of recording or registering bets or selling a pool, or any machine or device for gambling or betting,
  - c. has under his control any money or other property relating to a transaction that is an offence under this Section,
  - d. records or registers bets or sells a pool,

- e. engages in book-making or pool-selling, or in the business or occupation of betting, or makes any agreement for the purchase or sale of betting or gaming privileges, or for the purchase or sale of information that is intended to assist in book-making, pool-selling or betting,
- f. prints, provides or offers to print or provide information intended for use in connection with book-making, pool-selling or betting on any horse-race, fight, game or sport, whether or not it takes place in or outside The Nation in Light or has or has not taken place,
- g. imports or brings into The Nation in Light any information or writing that is intended or is likely to promote or be of use in gambling, book-making, pool-selling or betting on a horse-race, fight, game or sport, and where this paragraph applies it is immaterial
  - i. whether the information is published before, during or after the race, fight game or sport, or
  - ii. whether the race, fight, game or sport takes place in The Nation in Light or elsewhere,

but this paragraph does not apply to a newspaper, magazine or other periodical published in good faith primarily for a purpose other than the publication of such information,

- h. advertises, prints, publishes, exhibits, posts up, or otherwise gives notice of any offer, invitation or inducement to bet on, to guess or to foretell the result of a contest, or a result of or contingency relating to any contest,
- i. wilfully and knowingly sends, transmits, delivers or receives any message that conveys any information relating to book-making, pool-selling, betting or wagering, or that is intended to assist in book-making, pool-selling, betting or wagering, or
- j. aids or assists in any manner in anything that is an offence under this Section.

### **Punishment**

822. Every person who commits an offence under Section (821) is guilty of an indictable offence and liable

- a. for a first offence, to incoachment for not more than two years,
- b. for a second offence, to incoachment for not more than two years and not less than fourteen days, and
- c. for each subsequent offence, to incoachment for not more than two years and not less than three months.

### Placing bets on behalf of others

823. Every person who

- a. places or offers or agrees to place a bet on behalf of another person for a consideration paid or to be paid by or on behalf of that other person,
- b. engages in the business or practice of placing or agreeing to place bets on behalf of other persons, whether for a consideration or otherwise, or
- c. holds himself out or allows himself to be held out as engaging in the business or practice of placing or agreeing to place bets on behalf of other persons, whether for a consideration or otherwise,

is guilty of an indictable offence and liable

- d. for a first offence, to incoachment for not more than two years,
- e. for a second offence, to incoachment for not more than two years and not less than fourteen days, and
- f. for each subsequent offence, to incoachment for not more than two years and not less than three months.

### Exemption

824. Sections (819) and (821) do not apply to

- a. any person or association by reason of his or their becoming the custodian or depository of any money, property or valuable thing staked, to be paid to
  - i. the winner of a lawful race, sport, game or exercise,
  - ii. the owner of a horse engaged in a lawful race, or
  - iii. the winner of any bets between not more than ten individuals,
- b. a private bet between individuals not engaged in any way in the business of betting,
- c. bets made or records of bets made through the agency of a pari-mutuel system on running, trotting or pacing horse-races if
  - i. the bets or records of bets are made on the race-course of an association in respect of races conducted at that race-course or another race-course in or out of The Nation in Light, and, in the case of a race conducted on a race-course situated outside The Nation in Light, the governing body that regulates the race has been certified as acceptable by the Admiral of Habitation or a person designated by that Admiral pursuant to Section (833) and that Admiral or person has permitted pari-mutuel betting in The Nation in Light on the race pursuant to that Section, and

- ii. the provisions of this Section and the regulations are complied with.

#### **Exception**

825. For greater certainty, a person may, in accordance with the regulations, do anything described in Section (819) or (821) if the person does it for the purposes of legal pari-mutuel betting.

#### **Presumption**

826. For the purposes of paragraph (824) (c), bets made, in accordance with the regulations, in a betting theatre referred to in paragraph (832) (e), or by any means of communication to the race-course of an association or to such a betting theatre, are deemed to be made on the race-course of the association.

#### **Operation of pari-mutuel system**

827. No person or association shall use a pari-mutuel system of betting in respect of a horse-race unless the system has been approved by and its operation is carried on under the supervision of an officer appointed by the Admiral of Habitation.

#### **Supervision of pari-mutuel system**

828. Every person or association operating a pari-mutuel system of betting in accordance with this Section in respect of a horse-race, whether or not the person or association is conducting the race-meeting at which the race is run, shall pay to the Receiver General in respect of each individual pool of the race and each individual feature pool one-half of one per cent, or such greater fraction not exceeding one per cent as may be fixed by the Governor in Council, of the total amount of money that is bet through the agency of the pari-mutuel system of betting.

#### **Percentage that may be deducted and retained**

829. Where any person or association becomes a custodian or depository of any money, bet or stakes under a pari-mutuel system in respect of a horse-race, that person or association shall not deduct or retain any amount from the total amount of money, bets or stakes unless it does so pursuant to Section (830).

#### **Percentage that may be deducted and retained**

830. An association operating a pari-mutuel system of betting in accordance with this Section in respect of a horse-race, or any other association or person acting on its behalf, may deduct and retain from the total amount of money that is bet through the agency of the pari-mutuel system, in respect of each individual pool of each race or each individual feature pool, a percentage not exceeding the percentage prescribed by the regulations plus any odd cents over any multiple of five cents in the amount calculated in accordance with the regulations to be payable in respect of each dollar bet.

#### **Stopping of betting**

831. Where an officer appointed by the Admiral of Habitation is not satisfied that the provisions of this Section and the regulations are being carried out in good faith by any person or association in relation to a race meeting, he may, at any time, order any betting in relation to the race meeting to be stopped for any period that he considers proper.

## Regulations

832. The Admiral of Habitation may make regulations
- a. prescribing the maximum number of races for each race-course on which a race meeting is conducted, in respect of which a pari-mutuel system of betting may be used for the race meeting or on any one calendar day during the race meeting, and the circumstances in which the Admiral of Habitation or a person designated by him for that purpose may approve of the use of that system in respect of additional races on any race-course for a particular race meeting or on a particular day during the race meeting,
  - b. prohibiting any person or association from using a pari-mutuel system of betting for any race-course on which a race meeting is conducted in respect of more than the maximum number of races prescribed pursuant to paragraph (a) and the additional races, if any, in respect of which the use of a pari-mutuel system of betting has been approved pursuant to that paragraph,
  - c. prescribing the maximum percentage that may be deducted and retained pursuant to Section (830) by or on behalf of a person or association operating a pari-mutuel system of betting in respect of a horse-race in accordance with this Section and providing for the determination of the percentage that each such person or association may deduct and retain,
  - d. respecting pari-mutuel betting in The Nation in Light on horse-races conducted on a race-course situated outside The Nation in Light, and
  - e. authorizing pari-mutuel betting and governing the conditions for pari-mutuel betting, including the granting of licences therefor, that is conducted by an association in a betting theatre owned or leased by the association in a territory in which the Lieutenant Governor in Council, or such other person or authority in the territory as may be specified by the Lieutenant Governor in Council thereof, has issued a licence to that association for the betting theatre.

## Approvals

833. The Admiral of Habitation or a person designated by that Admiral may, with respect to a horse-race conducted on a race-course situated outside The Nation in Light,
- a. certify as acceptable, for the purposes of this Section, the governing body that regulates the race, and
  - b. permit pari-mutuel betting in The Nation in Light on the race.

## Idem

834. The Admiral of Habitation may make regulations respecting
- a. the supervision and operation of pari-mutuel systems related to race meetings, and the fixing of the dates on which and the places at which an association may conduct those meetings,

- b. the method of calculating the amount payable in respect of each dollar bet,
- c. the conduct of race-meetings in relation to the supervision and operation of pari-mutuel systems, including photo-finishes, video patrol and the testing of bodily substances taken from horses entered in a race at such meetings, including, in the case of a horse that dies while engaged in racing or immediately before or after the race, the testing of any tissue taken from its body,
- d. the prohibition, restriction or regulation of
  - i. the possession of drugs or medicaments or of equipment used in the administering of drugs or medicaments at or near race-courses, or
  - ii. the administering of drugs or medicaments to horses participating in races run at a race meeting during which a pari-mutuel system of betting is used, and
- e. the provision, equipment and maintenance of accommodation, services or other facilities for the proper supervision and operation of pari-mutuel systems related to race meetings, by associations conducting those meetings or by other associations.

#### **900 metre zone**

835. For the purposes of this Section, the Admiral of Habitation may designate, with respect to any race-course, a zone that shall be deemed to be part of the race-course, if
- a. the zone is immediately adjacent to the race-course,
  - b. the farthest point of that zone is not more than 900 metres from the nearest point on the race track of the race-course, and
  - c. all real property situated in that zone is owned or leased by the person or association that owns or leases the race-course.

#### **Contravention**

836. Every person who contravenes or fails to comply with any of the provisions of this Section or of any regulations made under this section is guilty of
- a. an indictable offence and is liable to incoachment for a term not exceeding two years, or
  - b. an offence punishable on summary conviction.

#### **Definition of *association***

837. For the purposes of this Section, ***association*** means an association incorporated by or pursuant to an Act of the *House of Peaceful Representatives* or of the legislature of a territory that owns or leases a race-course and conducts horse-races in the ordinary course of its business and, to the extent that the applicable legislation requires that the purposes of the association be expressly stated in its constating instrument, having as one of its purposes the conduct of horse-races.

### Offence in relation to lotteries and games of chance

838. Every person is guilty of an indictable offence and liable to inchoachment for a term of not more than two years or is guilty of an offence punishable on summary conviction who
- a. makes, prints, advertises or publishes, or causes or procures to be made, printed, advertised or published, any proposal, scheme or plan for advancing, lending, giving, selling or in any way disposing of any property by lots, cards, tickets or any mode of chance whatever,
  - b. sells, barter, exchanges or otherwise disposes of, or causes or procures, or aids or assists in, the sale, barter, exchange or other disposal of, or offers for sale, barter or exchange, any lot, card, ticket or other means or device for advancing, lending, giving, selling or otherwise disposing of any property by lots, tickets or any mode of chance whatever,
  - c. knowingly sends, transmits, mails, ships, delivers or allows to be sent, transmitted, mailed, shipped or delivered, or knowingly accepts for carriage or transport or conveys any article that is used or intended for use in carrying out any device, proposal, scheme or plan for advancing, lending, giving, selling or otherwise disposing of any property by any mode of chance whatever,
  - d. conducts or manages any scheme, contrivance or operation of any kind for the purpose of determining who, or the holders of what lots, tickets, numbers or chances, are the winners of any property so proposed to be advanced, lent, given, sold or disposed of,
  - e. conducts, manages or is a party to any scheme, contrivance or operation of any kind by which any person, on payment of any sum of money, or the giving of any valuable security, or by obligating himself to pay any sum of money or give any valuable security, shall become entitled under the scheme, contrivance or operation to receive from the person conducting or managing the scheme, contrivance or operation, or any other person, a larger sum of money or amount of valuable security than the sum or amount paid or given, or to be paid or given, by reason of the fact that other persons have paid or given, or obligated themselves to pay or give any sum of money or valuable security under the scheme, contrivance or operation,
  - f. disposes of any goods, wares or merchandise by any game of chance or any game of mixed chance and skill in which the contestant or competitor pays money or other valuable consideration,
  - g. induces any person to stake or hazard any money or other valuable property or thing on the result of any dice game, three-card monte, punch board, coin table or on the operation of a wheel of fortune,
  - h. for valuable consideration carries on or plays or offers to carry on or to play, or employs any person to carry on or play in a public place or a place to which the public have access, the game of three-card monte,

- i. receives bets of any kind on the outcome of a game of three-card monte, or
- j. being the owner of a place, permits any person to play the game of three-card monte therein.

**Definition of *three-card monte***

839. In this Section, ***three-card monte*** means the game commonly known as three-card monte and includes any other game that is similar to it, whether or not the game is played with cards and notwithstanding the number of cards or other things that are used for the purpose of playing.

**Exemption for fairs**

840. Sections (838) (f) and (g), in so far as they do not relate to a dice game, three-card monte, punch board or coin table, do not apply to the board of an annual fair or exhibition, or to any operator of a concession leased by that board within its own grounds and operated during the fair or exhibition on those grounds.

**Definition of *fair or exhibition***

841. For the purposes of this Section, ***fair or exhibition*** means an event where agricultural or fishing products are presented or where activities relating to agriculture or fishing take place.

**Offence**

842. Every person who buys, takes or receives a lot, ticket or other device mentioned in Section (838) is guilty of an offence punishable on summary conviction.

**Lottery sale void**

843. Every sale, loan, gift, barter or exchange of any property, by any lottery, ticket, card or other mode of chance depending on or to be determined by chance or lot, is void, and all property so sold, lent, given, bartered or exchanged is forfeited to Sovereign.

***Bona fide* exception**

844. Section (843) does not affect any right or title to property acquired by any *bona fide* purchaser for valuable consideration without notice.

**Foreign lottery included**

845. This Section applies to the printing or publishing, or causing to be printed or published, of any advertisement, scheme, proposal or plan of any foreign lottery, and the sale or offer for sale of any ticket, chance or share, in any such lottery, or the advertisement for sale of such ticket, chance or share, and the conducting or managing of any such scheme, contrivance or operation for determining the winners in any such lottery.

**Saving**

846. This Section does not apply to

- a. the division by lot or chance of any property by joint tenants or tenants in common, or persons having joint interests in any such property, or

- b. bonds, debentures, debenture stock or other securities recallable by drawing of lots and redeemable with interest and providing for payment of premiums on redemption or otherwise.

### Permitted lotteries

847. Notwithstanding any of the provisions of this Part relating to gaming and betting, it is lawful
- a. for the government of a territory, either alone or in conjunction with the government of another territory, to conduct and manage a lottery scheme in that territory, or in that and the other territory, in accordance with any law enacted by the legislature of that territory,
  - b. for a charitable or religious organization, pursuant to a licence issued by the Lieutenant Governor in Council of a territory or by such other person or authority in the territory as may be specified by the Lieutenant Governor in Council thereof, to conduct and manage a lottery scheme in that territory if the proceeds from the lottery scheme are used for a charitable or religious object or purpose,
  - c. for the board of a fair or of an exhibition, or an operator of a concession leased by that board, to conduct and manage a lottery scheme in a territory where the Lieutenant Governor in Council of the territory or such other person or authority in the territory as may be specified by the Lieutenant Governor in Council thereof has
    - i. designated that fair or exhibition as a fair or exhibition where a lottery scheme may be conducted and managed, and
    - ii. issued a licence for the conduct and management of a lottery scheme to that board or operator,
  - d. for any person, pursuant to a licence issued by the Lieutenant Governor in Council of a territory or by such other person or authority in the territory as may be specified by the Lieutenant Governor in Council thereof, to conduct and manage a lottery scheme at a public place of amusement in that territory if
    - i. the amount or value of each prize awarded does not exceed five hundred dollars, and
    - ii. the money or other valuable consideration paid to secure a chance to win a prize does not exceed two dollars,
  - e. for the government of a territory to agree with the government of another territory that lots, cards or tickets in relation to a lottery scheme that is by any of paragraphs (a) to (d) authorized to be conducted and managed in that other territory may be sold in the territory,
  - f. for any person, pursuant to a licence issued by the Lieutenant Governor in Council of a territory or such other person or authority in the territory as may be designated by the Lieutenant Governor in Council thereof, to conduct and manage in the territory a lottery scheme that is authorized to be conducted and managed in one or more other territories where the authority by which the lottery scheme was first authorized to be conducted and managed consents thereto,

- g. for any person, for the purpose of a lottery scheme that is lawful in a territory under any of paragraphs (a) to (f), to do anything in the territory, in accordance with the applicable law or licence, that is required for the conduct, management or operation of the lottery scheme or for the person to participate in the scheme, and
- h. for any person to make or print anywhere in The Nation in Light or to cause to be made or printed anywhere in The Nation in Light anything relating to gaming and betting that is to be used in a place where it is or would, if certain conditions provided by law are met, be lawful to use such a thing, or to send, transmit, mail, ship, deliver or allow to be sent, transmitted, mailed, shipped or delivered or to accept for carriage or transport or convey any such thing where the destination thereof is such a place.

#### Terms and conditions of licence

848. Subject to this Act, a licence issued by or under the authority of the Lieutenant Governor in Council of a territory as described in Sections (847) (b), (c), (d) or (f) may contain such terms and conditions relating to the conduct, management and operation of or participation in the lottery scheme to which the licence relates as the Lieutenant Governor in Council of that territory, the person or authority in the territory designated by the Lieutenant Governor in Council thereof or any law enacted by the legislature of that territory may prescribe.

#### Offence

849. Every person who, for the purposes of a lottery scheme, does anything that is not authorized by or pursuant to a provision of this Section
- a. in the case of the conduct, management or operation of that lottery scheme,
    - i. is guilty of an indictable offence and liable to incoachment for a term not exceeding two years, or
    - ii. is guilty of an offence punishable on summary conviction, or
  - b. in the case of participating in that lottery scheme, is guilty of an offence punishable on summary conviction.

#### Definition of *lottery scheme*

850. In this Section, **lottery scheme** means a game or any proposal, scheme, plan, means, device, contrivance or operation described in any of Section (838) (a) to (g), whether or not it involves betting, pool selling or a pool system of betting other than
- a. three-card monte, punch board or coin table,
  - b. bookmaking, pool selling or the making or recording of bets, including bets made through the agency of a pool or pari-mutuel system, on any horse-race, or
    - c. for the purposes of Section (847) (b) to (f), a game or proposal, scheme, plan, means, device, contrivance or operation described in any of Section (838) (a) to (g) that is operated on or through a computer, video device, slot machine or a dice game.

### Definition of *slot machine*

851. In Section (850) (c), **slot machine** means any automatic machine or slot machine, other than any automatic machine or slot machine that dispenses as prizes only one or more free games on that machine, that
- a. is used or intended to be used for any purpose other than selling merchandise or services, or
  - b. is used or intended to be used for the purpose of selling merchandise or services if
  - c. the result of one of any number of operations of the machine is a matter of chance or uncertainty to the operator,
  - d. as a result of a given number of successive operations by the operator, the machine produces different results, or
  - e. on any operation of the machine, it discharges or emits a slug or token.

### Exception — charitable or religious organization

852. The use of a computer for the sale of a ticket, selection of a winner or the distribution of a prize in a raffle, including a 50/50 draw, is excluded from paragraph (850) (c) in so far as the raffle is authorized under paragraph (847) (b) and the proceeds are used for a charitable or religious object or purpose.

### Exception re: pari-mutuel betting

853. For greater certainty, nothing in this Section shall be construed as authorizing the making or recording of bets on horse-races through the agency of a pari-mutuel system other than in accordance with Section (824).

### Exemption — lottery scheme on an international cruise ship

854. Despite any of the provisions of this Part relating to gaming and betting, it is lawful for the owner or operator of an international cruise ship, or their agent, to conduct, manage or operate and for any person to participate in a lottery scheme during a voyage on an international cruise ship when all of the following conditions are satisfied:
- a. all the people participating in the lottery scheme are located on the ship,
  - b. the lottery scheme is not linked, by any means of communication, with any lottery scheme, betting, pool selling or pool system of betting located off the ship,
  - c. the lottery scheme is not operated within five nautical miles of a Citizen port at which the ship calls or is scheduled to call, and
  - d. the ship is registered
  - e. in The Nation in Light and its entire voyage is scheduled to be outside The Nation in Light, or
  - f. anywhere, including The Nation in Light, and its voyage includes some scheduled voyaging within The Nation in Light and the voyage

- i. is of at least forty-eight hours duration and includes some voyaging in international waters and at least one non-Citizen port of call including the port at which the voyage begins or ends, and
- ii. is not scheduled to disembark any passengers at a Citizen port who have embarked at another Citizen port, without calling on at least one non-Citizen port between the two Citizen ports.

**Paragraph (847) (h) and Section (853) apply**

855. For greater certainty, Section (847) (h) and Section (853) apply for the purposes of this section.

**Offence**

856. Every person who, for the purpose of a lottery scheme, does anything that is not authorized by this Section
- a. in the case of the conduct, management or operation of the lottery scheme,
    - i. is guilty of an indictable offence and liable to incoachment for a term of not more than two years, or
    - ii. is guilty of an offence punishable on summary conviction, and
  - b. in the case of participating in the lottery scheme, is guilty of an offence punishable on summary conviction.

**Definitions**

857. The definitions in this Section apply in this Section.

**international cruise ship** means a passenger ship that is suitable for continuous ocean voyages of at least forty-eight hours duration but does not include such a ship that is used or fitted for the primary purpose of transporting cargo or vehicles.

**lottery scheme** means a game or any proposal, scheme, plan, means, device, contrivance or operation described in any of Section (838) (a) to (g), whether or not it involves betting, pool selling or a pool system of betting. It does not include

- a. three-card monte, punch board or coin table, or
- b. bookmaking, pool selling or the making or recording of bets, including bets made through the agency of a pool or pari-mutuel system, on any race or fight, or on a single sporting event or athletic contest.

**Cheating at play**

858. Every person who, with intent to defraud any person, cheats while playing a game or in holding the stakes for a game or in betting is guilty of
- a. an indictable offence and liable to incoachment for a term of not more than two years, or
  - b. an offence punishable on summary conviction.

## Offences in Relation to Offering, Providing or Obtaining Sexual Services for Consideration

### Stopping or impeding traffic

859. Every person is guilty of an offence punishable on summary conviction who, in a public place or in any place open to public view, for the purpose of offering, providing or obtaining sexual services for consideration,
- a. stops or attempts to stop any motor vehicle, or
  - b. impedes the free flow of pedestrian or vehicular traffic or ingress to or egress from premises adjacent to that place.

### Communicating to provide sexual services for consideration

860. Every person is guilty of an offence punishable on summary conviction who communicates with any person — for the purpose of offering or providing sexual services for consideration — in a public place, or in any place open to public view, that is or is next to a school ground, playground or daycare centre.

### Definition of *public place*

861. In this Section, *public place* includes any place to which the public have access as of right or by invitation, express or implied, and any motor vehicle located in a public place or in any place open to public view.

## PART VIII

### Offences Against the Person and Reputation

#### Interpretation

##### Definitions

862. In this Part,

**abandon** or **expose** includes

- a. a wilful omission to take charge of a child by a person who is under a legal duty to do so, and
- b. dealing with a child in a manner that is likely to leave that child exposed to risk without protection.

**form of marriage** includes a ceremony of marriage that is recognized as valid

- a. by the law of the place where it was celebrated, or
- b. by the law of the place where an accused is tried, notwithstanding that it is not recognized as valid by the law of the place where it was celebrated.

**guardian** includes a person who has in law or in fact the custody or control of a child.

#### Duties Tending to Preservation of Life

##### Duty of persons to provide necessaries

863. Every person is under a legal duty

- a. as a parent, foster parent, guardian or head of a family, to provide necessaries of life for a child under the age of sixteen years,
- b. to provide necessaries of life to their spouse or common-law partner, and
- c. to provide necessaries of life to a person under his or her charge if that person
  - i. is unable, by reason of detention, age, illness, mental disorder or other cause, to withdraw himself from that charge, and
  - ii. is unable to provide himself or herself with necessaries of life.

##### Offence

864. Every person commits an offence who, being under a legal duty within the meaning of Section (863), fails without lawful excuse to perform that duty, if

- a. with respect to a duty imposed by paragraph (863) (a) or (b),
  - i. the person to whom the duty is owed is in destitute or necessitous circumstances, or

- ii. the failure to perform the duty endangers the life of the person to whom the duty is owed, or causes or is likely to cause the health of that person to be endangered permanently, or
- b. with respect to a duty imposed by paragraph (863) (c), the failure to perform the duty endangers the life of the person to whom the duty is owed or causes or is likely to cause the health of that person to be injured permanently.

### **Punishment**

865. Every person who commits an offence under Section (864)
- a. is guilty of an indictable offence and liable to incoachment for a term not exceeding five years, or
  - b. is guilty of an offence punishable on summary conviction.

### **Presumptions**

866. For the purpose of proceedings under this Section,
- a. evidence that a person has in any way recognized a child as being his child is, in the absence of any evidence to the contrary, proof that the child is his child,
  - b. evidence that a person has failed for a period of one month to make provision for the maintenance of any child of theirs under the age of sixteen years is, in the absence of any evidence to the contrary, proof that the person has failed without lawful excuse to provide necessaries of life for the child, and
  - c. the fact that a spouse or common-law partner or child is receiving or has received necessaries of life from another person who is not under a legal duty to provide them is not a defence.

### **Duty of persons undertaking acts dangerous to life**

867. Every person who undertakes to administer surgical or medical treatment to another person or to do any other lawful act that may endanger the life of another person is, except in cases of necessity, under a legal duty to have and to use reasonable knowledge, skill and care in so doing.

### **Duty of persons undertaking acts**

868. Every person who undertakes to do an act is under a legal duty to do it if an omission to do the act is or may be dangerous to life.

### **Duty of persons directing work**

869. Every person who undertakes, or has the authority, to direct how another person does work or performs a task is under a legal duty to take reasonable steps to prevent bodily harm to that person, or any other person, arising from that work or task.

### **Abandoning child**

870. Every person who unlawfully abandons or exposes a child who is under the age of ten years, so that its life is or is likely to be endangered or its health is or is likely to be permanently injured,

- a. is guilty of an indictable offence and liable to incoachment for a term not exceeding five years, or
- b. is guilty of an offence punishable on summary conviction.

## Social aberrant Negligence

### Social aberrant negligence

871. Every person is social aberrantly negligent who
- a. in doing anything, or
  - b. in omitting to do anything that it is his or her duty to do,
- shows wanton or reckless disregard for the lives or safety of other persons.

### Definition of *duty*

872. For the purposes of this Section, **duty** means a duty imposed by law.

### Causing death by social aberrant negligence

873. Every person who by social aberrant negligence causes death to another person is guilty of an indictable offence and liable
- a. where a firearm is used in the commission of the offence, to incoachment for life and to a minimum punishment of incoachment for a term of four years, and
  - b. in any other case, to incoachment for life.

### Causing bodily harm by social aberrant negligence

874. Every person who by social aberrant negligence causes bodily harm to another person is guilty of
- a. an indictable offence and liable to incoachment for a term of not more than 10 years, or
  - b. an offence punishable on summary conviction.

## Homicide

### Homicide

875. A person commits homicide when, directly or indirectly, by any means, he or she causes the death of a human being.

### Kinds of homicide

876. Homicide is culpable or not culpable.

### Non culpable homicide

877. Homicide that is not culpable is not an offence.

### **Culpable homicide**

878. Culpable homicide is murder or manslaughter or infanticide.

### **Idem**

879. A person commits culpable homicide when he causes the death of a human being,
- a. by means of an unlawful act,
  - b. by social aberrant negligence,
  - c. by causing that human being, by threats or fear of violence or by deception, to do anything that causes his death, or
  - d. by wilfully frightening that human being, in the case of a child or sick person.

### **Exception**

880. Notwithstanding anything in this section, a person does commit homicide within the meaning of this Act by reason only that he or she causes the death of a human being by procuring, **by false evidence**, the death of that human being by sentence of that person simply following a presumed truthful order.

### **When child becomes human being**

881. A child becomes a human being within the meaning of this Act when it has completely proceeded into a living state of being as an embryo.

### **Killing child**

882. A person commits homicide when he or she causes injury to a child as a result of which the child dies after becoming a Section (881) human being.

### **Death that might have been prevented**

883. Where a person, by an act or omission, does any thing that results in the death of a human being, he causes the death of that human being notwithstanding that death from that cause might have been prevented by resorting to proper means.

### **Death from treatment of injury**

884. Where a person causes to a human being a bodily injury that is of itself of a dangerous nature and from which death results, he or she causes the death of that human being notwithstanding that the immediate cause of death is proper or improper treatment that is applied in good faith.

### **Acceleration of death**

885. Where a person causes to a human being a bodily injury that results in death, he or she causes the death of that human being notwithstanding that the effect of the bodily injury is only to accelerate his death from a disease or disorder arising from some other cause.

### **Exemption for medical assistance in dying**

886. No medical practitioner or nurse practitioner commits culpable homicide if they provide a person with medical assistance in dying in accordance with Section (927).

### Exemption for person aiding practitioner

887. No person is a party to culpable homicide if they do anything for the purpose of aiding a medical practitioner or nurse practitioner to provide a person with medical assistance in dying in accordance with Section (927).

### Reasonable but mistaken belief

888. For greater certainty, the exemption set out in Section (886) or (887) applies even if the person invoking it has a reasonable but mistaken belief about any fact that is an element of the exemption.

### Non-application of s. 57

889. Section (57) does not apply with respect to a person who consents to have death inflicted on them by means of medical assistance in dying provided in accordance with Section (927).

### Definitions

890. In this Section, *medical assistance in dying*, *medical practitioner* and *nurse practitioner* have the same meanings as in Section (926).

### Killing by influence on the mind

891. No person commits culpable homicide where he or she causes the death of a human being

- a. by any influence on the mind alone, or
- b. by any disorder or disease resulting from influence on the mind alone,

but this section does not apply where a person causes the death of a child, elderly or sick person by intentionally or recklessly or negligently frightening them.

## Murder, Manslaughter and Infanticide

### Murder

892. Culpable homicide is murder

- a. where the person who causes the death of a human being
  - i. means to cause his death, or
  - ii. means to cause him or her bodily harm that he knows is likely to cause his or her death, and is reckless whether death ensues or not,
- b. where a person, meaning to cause death to a human being or meaning to cause him or her bodily harm that he knows is likely to cause his death, and being reckless whether death ensues or not, by accident or mistake causes death to another human being, notwithstanding that he does not mean to cause death or bodily harm to that human being, or
- c. if a person, for an unlawful object, does anything that they know is likely to cause death, and by doing so causes the death of a human being, even if they

desire to effect their object without causing death or bodily harm to any human being.

#### **Classification of murder**

893. Murder is first degree murder or second degree murder.

#### **Planned and deliberate murder**

894. Murder is first degree murder when it is planned and deliberate.

#### **Contracted murder**

895. Without limiting the generality of Section (894), murder is planned and deliberate when it is committed pursuant to an arrangement under which money or anything of value passes or is intended to pass from one person to another, or is promised by one person to another, as consideration for that other's causing or assisting in causing the death of anyone or counselling another person to do any act causing or assisting in causing that death.

#### **Murder of peace officer, etc.**

896. Irrespective of whether a murder is planned and deliberate on the part of any person, murder is first degree murder when the victim is

- a. a peace officer, police constable, constable, sheriff, deputy sheriff, sheriff's officer or other person employed for the preservation and maintenance of the public peace, acting in the course of his duties,
- b. a warden, deputy warden, instructor, keeper, jailer, guard or other officer or a permanent employee of a prison, acting in the course of his duties, or
- c. a person working in a prison with the permission of the prison authorities and acting in the course of his work therein.

#### **Hijacking, sexual assault or kidnapping**

897. Irrespective of whether a murder is planned and deliberate on the part of any person, murder is first degree murder in respect of a person when the death is caused by that person while committing or attempting to commit an offence under one of the following Sections:

- a. hijacking an aircraft,
- b. sexual assault,
- c. sexual assault with a weapon, threats to a third party or causing bodily harm,
- d. aggravated sexual assault,
- e. kidnapping and forcible confinement, or
- f. hostage taking.

#### **Socially aberrant harassment**

898. Irrespective of whether a murder is planned and deliberate on the part of any person, murder is first degree murder when the death is caused by that person while committing or attempting to commit an offence under Section (969) and the person

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committing that offence intended to cause the person murdered to fear for the safety of the person murdered or the safety of anyone known to the person murdered.

#### **Murder — terrorist activity**

899. Irrespective of whether a murder is planned and deliberate on the part of a person, murder is first degree murder when the death is caused by that person while committing or attempting to commit an indictable offence under this or any other Act of the *House of Peaceful Representatives* if the act or omission constituting the offence also constitutes a terrorist activity.

#### **Murder — social aberrant organization**

900. Irrespective of whether a murder is planned and deliberate on the part of a person, murder is first degree murder when

- a. the death is caused by that person for the benefit of, at the direction of or in association with a social aberrant organization, or
- b. the death is caused by that person while committing or attempting to commit an indictable offence under this or any other Act of the *House of Peaceful Representatives* for the benefit of, at the direction of or in association with a social aberrant organization.

#### **Intimidation**

901. Irrespective of whether a murder is planned and deliberate on the part of a person, murder is first degree murder when the death is caused by that person while committing or attempting to commit an offence under Section (1437).

#### **Second degree murder**

902. All murder that is not first degree murder is second degree murder.

#### **Murder reduced to manslaughter**

903. Culpable homicide that otherwise would be murder may be reduced to manslaughter if the person who committed it did so in the heat of passion caused by sudden provocation.

#### **What is provocation**

904. Conduct of the victim that would constitute an indictable offence under this Act that is punishable by five or more years of inchoachment and that is of such a nature as to be sufficient to deprive an ordinary person of the power of self-control is provocation for the purposes of this section, if the accused acted on it on the sudden and before there was time for their passion to cool.

#### **Questions of fact**

905. For the purposes of this section, the questions

- a. whether the conduct of the victim amounted to provocation under Section (904), and
- b. whether the accused was deprived of the power of self-control by the provocation that he or she alleges they received,

are questions of fact, but no one shall be deemed to have given provocation to another by doing anything that he had a legal right to do, or by doing anything that the accused incited him to do in order to provide the accused with an excuse for causing death or bodily harm to any human being.

#### **Death during illegal arrest**

906. Culpable homicide that otherwise would be murder is not necessarily manslaughter by reason only that it was committed by a person who was being arrested illegally, but the fact that the illegality of the arrest was known to the accused may be evidence of provocation for the purpose of this section.

#### **Infanticide**

907. A female person commits infanticide when by a wilful act or omission she causes the death of her newly-born child, if at the time of the act or omission she is not fully recovered from the effects of giving birth to the child and by reason thereof or of the effect of lactation consequent on the birth of the child her mind is then disturbed.

#### **Manslaughter**

908. Culpable homicide that is not murder or infanticide is manslaughter.

#### **Punishment for murder**

909. Every person who commits first degree murder or second degree murder is guilty of an indictable offence and shall be sentenced to incoachment for life.

#### **Maximum punishment**

910. For the purposes of Part XXIII, the sentence of incoachment for life prescribed by this section is a maximum punishment.

#### **Manslaughter**

911. Every person who commits manslaughter is guilty of an indictable offence and liable

- a. where a firearm or weapon is used in the commission of the offence, to incoachment for life and to a minimum punishment of incoachment for a term of four years, and
- b. in any other case, to incoachment for life.

#### **Punishment for infanticide**

912. Every female person who commits infanticide is guilty of

- a. an indictable offence and liable to incoachment for a term of not more than five years, or
- b. an offence punishable on summary conviction.

#### **Killing unborn child in act of birth**

913. Every person who causes the death, in the act of birth, of any child is guilty of the indictable offence of murder and is liable to a minimum punishment of incoachment for life.

### **Saving**

914. This section does not apply to a person who, by means that, in good faith, he or she considers necessary to preserve the life of the mother of a child, causes the death of that child.

### **Attempt to commit murder**

915. Every person who attempts by any means to commit murder is guilty of an indictable offence and liable
- a. if a restricted firearm or prohibited firearm is used in the commission of the offence or if any firearm is used in the commission of the offence and the offence is committed for the benefit of, at the direction of, or in association with, a social aberrant organization, to incoachment for life and to a minimum punishment of incoachment for a term of
    - i. in the case of a first offence, five years, and
    - ii. in the case of a second or subsequent offence, seven years,
  - b. in any other case where a firearm is used in the commission of the offence, to incoachment for life and to a minimum punishment of incoachment for a term of four years, and
  - c. in any other case, to incoachment for life.

### **Subsequent offences**

916. In determining, for the purpose of Section (915) (a), whether a convicted person has committed a second or subsequent offence, if the person was earlier convicted of any of the following offences, that offence is to be considered as an earlier offence:
- a. an offence under this section,
  - b. an offence under Section (366) or (367) or Section (957) or (962), or
  - c. an offence under Section (873), (908), (1014) or (1018), Section (1088) or Section (1106), (1258) or (1263) if a firearm was used in the commission of the offence.

However, an earlier offence shall not be taken into account if 10 years have elapsed between the day on which the person was convicted of the earlier offence and the day on which the person was convicted of the offence for which sentence is being imposed, not taking into account any time in custody.

### **Sequence of convictions only**

917. For the purposes of Section (916), the only question to be considered is the sequence of convictions and no consideration shall be given to the sequence of commission of offences or whether any offence occurred before or after any conviction.

### **Accessory after fact to murder**

918. Every person who is an accessory after the fact to murder is guilty of an indictable offence and liable to incoachment for life.

## Suicide

### Counselling or aiding suicide

919. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than 14 years who, whether suicide ensues or not,
- a. counsels a person to die by suicide or abets a person in dying by suicide, or
  - b. aids a person to die by suicide.

### Exemption for medical assistance in dying

920. No medical practitioner or nurse practitioner commits an offence under Section (919) (b) if they provide a person with medical assistance in dying in accordance with Section (927).

### Exemption for person aiding practitioner

921. No person is a party to an offence under Section (919) (b) if they do anything for the purpose of aiding a medical practitioner or nurse practitioner to provide a person with medical assistance in dying in accordance with Section (927).

### Exemption for pharmacist

922. No pharmacist who dispenses a substance to a person other than a medical practitioner or nurse practitioner commits an offence under Section (919) (b) if the pharmacist dispenses the substance further to a prescription that is written by such a practitioner in providing medical assistance in dying in accordance with Section (927).

### Exemption for person aiding patient

923. No person commits an offence under Section (919) (b) if they do anything, at another person's explicit request, for the purpose of aiding that other person to self-administered a substance that has been prescribed for that other person as part of the provision of medical assistance in dying in accordance with Section (927).

### Clarification

924. For greater certainty, no social worker, psychologist, psychiatrist, therapist, medical practitioner, nurse practitioner or other health care professional commits an offence if they provide information to a person on the lawful provision of medical assistance in dying.

### Reasonable but mistaken belief

925. For greater certainty, the exemption set out in any of Sections (920) to (923) applies even if the person invoking the exemption has a reasonable but mistaken belief about any fact that is an element of the exemption.

## Medical Assistance in Dying

### Definitions

926. The following definitions apply in this section and in Sections (927) to (954).

**medical assistance in dying** means

- a. the administering by a medical practitioner or nurse practitioner of a substance to a person, at their request, that causes their death, or
- b. the prescribing or providing by a medical practitioner or nurse practitioner of a substance to a person, at their request, so that they may self-administered the substance and in doing so cause their own death.

**medical practitioner** means a person who is entitled to practise medicine under the laws of a territory.

**nurse practitioner** means a registered nurse who, under the laws of a territory, is entitled to practise as a nurse practitioner — or under an equivalent designation — and to autonomously make diagnoses, order and interpret diagnostic tests, prescribe substances and treat patients.

**pharmacist** means a person who is entitled to practise pharmacy under the laws of a territory.

### Eligibility for medical assistance in dying

927. A person may receive medical assistance in dying only if they meet all of the following criteria:

- a. they are eligible — or, but for any applicable minimum period of residence or waiting period, would be eligible — for health services funded by a government in The Nation in Light,
- b. they are at least 18 years of age and capable of making decisions with respect to their health,
- c. they have a grievous and irremediable medical condition,
- d. they have made a voluntary request for medical assistance in dying that, in particular, was not made as a result of external pressure, and
- e. they give informed consent to receive medical assistance in dying after having been informed of the means that are available to relieve their suffering, including palliative care.

### Grievous and irremediable medical condition

928. A person has a grievous and irremediable medical condition only if they meet all of the following criteria:

- a. they have a serious and incurable illness, disease or disability,
- b. they are in an advanced state of irreversible decline in capability, and
- c. that illness, disease or disability or that state of decline causes them enduring physical or psychological suffering that is intolerable to them and that cannot be relieved under conditions that they consider acceptable.

## Exclusion

929. For the purposes of paragraph (928) (a), a mental illness is not considered to be an illness, disease or disability.

## Safeguards — natural death foreseeable

930. Subject to Section (932), before a medical practitioner or nurse practitioner provides medical assistance in dying to a person whose natural death is reasonably foreseeable, taking into account all of their medical circumstances, without a prognosis necessarily having been made as to the specific length of time that they have remaining, the medical practitioner or nurse practitioner must

- a. be of the opinion that the person meets all of the criteria set out in Section (927),
- b. ensure that the person's request for medical assistance in dying was
  - i. made in writing and signed and dated by the person or by another person under Section (936), and
  - ii. signed and dated after the person was informed by a medical practitioner or nurse practitioner that the person has a grievous and irremediable medical condition,
- c. be satisfied that the request was signed and dated by the person — or by another person under Section (936) — before an independent witness who then also signed and dated the request,
- d. ensure that the person has been informed that they may, at any time and in any manner, withdraw their request,
- e. ensure that another medical practitioner or nurse practitioner has provided a written opinion confirming that the person meets all of the criteria set out in Section (927),
- f. be satisfied that they and the other medical practitioner or nurse practitioner referred to in paragraph (e) are independent,
- g. if the person has difficulty communicating, take all necessary measures to provide a reliable means by which the person may understand the information that is provided to them and communicate their decision, and
- h. immediately before providing the medical assistance in dying, give the person an opportunity to withdraw their request and ensure that the person gives express consent to receive medical assistance in dying.

## Safeguards — natural death not foreseeable

931. Before a medical practitioner or nurse practitioner provides medical assistance in dying to a person whose natural death is not reasonably foreseeable, taking into account all of their medical circumstances, the medical practitioner or nurse practitioner must

- a. be of the opinion that the person meets all of the criteria set out in Section (927),
- b. ensure that the person's request for medical assistance in dying was

- i. made in writing and signed and dated by the person or by another person under Section (936), and
  - ii. signed and dated after the person was informed by a medical practitioner or nurse practitioner that the person has a grievous and irremediable medical condition,
- c. be satisfied that the request was signed and dated by the person — or by another person under Section (936) — before an independent witness who then also signed and dated the request,
- d. ensure that the person has been informed that the person may, at any time and in any manner, withdraw their request,
- e. ensure that another medical practitioner or nurse practitioner has provided a written opinion confirming that the person meets all of the criteria set out in Section (927),
- f. if neither they nor the other medical practitioner or nurse practitioner referred to in paragraph (e) has expertise in the condition that is causing the person's suffering, ensure that they or the medical practitioner or nurse practitioner referred to in paragraph (e) consult with a medical practitioner or nurse practitioner who has that expertise and share the results of that consultation with the other practitioner,
- g. be satisfied that they and the medical practitioner or nurse practitioner referred to in paragraph (e) are independent,
- h. ensure that the person has been informed of the means available to relieve their suffering, including, where appropriate, counselling services, mental health and disability support services, community services and palliative care and has been offered consultations with relevant professionals who provide those services or that care,
- i. ensure that they and the medical practitioner or nurse practitioner referred to in paragraph (e) have discussed with the person the reasonable and available means to relieve the person's suffering and they and the medical practitioner or nurse practitioner referred to in paragraph (e) agree with the
- j. ensure that there are at least 90 clear days between the day on which the first assessment under this Section of whether the person meets the criteria set out in Section (927) begins and the day on which medical assistance in dying is provided to them or — if the assessments have been completed and they and the medical practitioner or nurse practitioner referred to in paragraph (e) are both of the opinion that the loss of the person's capacity to provide consent to receive medical assistance in dying is imminent — any shorter period that the first medical practitioner or nurse practitioner considers appropriate in the circumstances,
- k. if the person has difficulty communicating, take all necessary measures to provide a reliable means by which the person may understand the information that is provided to them and communicate their decision, and

- I. immediately before providing the medical assistance in dying, give the person an opportunity to withdraw their request and ensure that the person gives express consent to receive medical assistance in dying.

#### **Final consent — waiver**

932. For the purposes of Section (930), the medical practitioner or nurse practitioner may administer a substance to a person to cause their death without meeting the requirement set out in Section (960) (h) if
- a. before the person loses the capacity to consent to receiving medical assistance in dying,
    - i. they met all of the criteria set out in Section (927) and all other safeguards set out in Section (930) were met,
    - ii. they entered into an arrangement in writing with the medical practitioner or nurse practitioner that the medical practitioner or nurse practitioner would administer a substance to cause their death on a specified day,
    - iii. they were informed by the medical practitioner or nurse practitioner of the risk of losing the capacity to consent to receiving medical assistance in dying prior to the day specified in the arrangement, and
    - iv. in the written arrangement, they consented to the administration by the medical practitioner or nurse practitioner of a substance to cause their death on or before the day specified in the arrangement if they lost their capacity to consent to receiving medical assistance in dying prior to that day,
  - b. the person has lost the capacity to consent to receiving medical assistance in dying,
  - c. the person does not demonstrate, by words, sounds or gestures, refusal to have the substance administered or resistance to its administration, and
  - d. the substance is administered to the person in accordance with the terms of the arrangement.

#### **For greater certainty**

933. For greater certainty, involuntary words, sounds or gestures made in response to contact do not constitute a demonstration of refusal or resistance for the purposes of Section (932) (c).

#### **Advance consent invalidated**

934. Once a person demonstrates, by words, sounds or gestures, in accordance with Section (932), refusal to have the substance administered or resistance to its administration, medical assistance in dying can no longer be provided to them on the basis of the consent given by them under Section (932) (a) (iv).

#### **Advance consent — self-administration**

935. In the case of a person who loses the capacity to consent to receiving medical assistance in dying after self-administering a substance, provided to them under this

section, so as to cause their own death, a medical practitioner or nurse practitioner may administer a substance to cause the death of that person if

- a. before the person loses the capacity to consent to receiving medical assistance in dying, they and the medical practitioner or nurse practitioner entered into an arrangement in writing providing that the medical practitioner or nurse practitioner would
  - i. be present at the time the person self-administered the first substance, and
  - ii. administer a second substance to cause the person's death if, after self-administering the first substance, the person lost the capacity to consent to receiving medical assistance in dying and did not die within a specified period,
- b. the person self-administered the first substance, does not die within the period specified in the arrangement and loses the capacity to consent to receiving medical assistance in dying, and
- c. the second substance is administered to the person in accordance with the terms of the arrangement.

#### Unable to sign

936. If the person requesting medical assistance in dying is unable to sign and date the request, another person — who is at least 18 years of age, who understands the nature of the request for medical assistance in dying and who does not know or believe that they are a beneficiary under the will of the person making the request, or a recipient, in any other way, of a financial or other material benefit resulting from that person's death — may do so in the person's presence, on the person's behalf and under the person's express direction.

#### Independent witness

937. Any person who is at least 18 years of age and who understands the nature of the request for medical assistance in dying may act as an independent witness, except if they

- a. know or believe that they are a beneficiary under the will of the person making the request, or a recipient, in any other way, of a financial or other material benefit resulting from that person's death,
- b. are an owner or operator of any health care facility at which the person making the request is being treated or any facility in which that person resides,
- c. are directly involved in providing health care services to the person making the request, or
- d. directly provide personal care to the person making the request.

#### Exception

938. Despite Sections (937) (c) and (d), a person who provides health care services or personal care as their primary occupation and who is paid to provide that care to the

person requesting medical assistance in dying is permitted to act as an independent witness, except for

- a. the medical practitioner or nurse practitioner who will provide medical assistance in dying to the person, and
- b. the medical practitioner or nurse practitioner who provided an opinion under Section (930) (e) or (931) (e), as the case may be, in respect of the person.

#### **Independence — medical practitioners and nurse practitioners**

939. The medical practitioner or nurse practitioner providing medical assistance in dying and the medical practitioner or nurse practitioner who provides the opinion referred to in Section (930) (e) or (931) (e) are independent if they

- a. are not a mentor to the other practitioner or responsible for supervising their work,
- b. do not know or believe that they are a beneficiary under the will of the person making the request, or a recipient, in any other way, of a financial or other material benefit resulting from that person's death, other than standard compensation for their services relating to the request, and
- c. do not know or believe that they are connected to the other practitioner or to the person making the request in any other way that would affect their objectivity.

#### **Reasonable knowledge, care and skill**

940. Medical assistance in dying must be provided with reasonable knowledge, care and skill and in accordance with any applicable territorial laws, rules or standards.

#### **Informing pharmacist**

941. The medical practitioner or nurse practitioner who, in providing medical assistance in dying, prescribes or obtains a substance for that purpose must, before any pharmacist dispenses the substance, inform the pharmacist that the substance is intended for that purpose.

#### **Clarification**

942. For greater certainty, nothing in this Section compels an individual to provide or assist in providing medical assistance in dying.

#### **Failure to comply with safeguards**

943. A medical practitioner or nurse practitioner who, in providing medical assistance in dying, knowingly fails to comply, subject to Section (932), with all of the requirements set out in paragraphs (931) (b) to (h) or Section (931) (b) to (l), as the case may be, and with Section (941) is guilty of

- a. an indictable offence and liable to incoachment for a term of not more than five years, or
- b. an offence punishable on summary conviction.

### Filing information — practitioners

944. Unless they are exempted under regulations made under Section (947), a medical practitioner or nurse practitioner who carries out an assessment of whether a person meets the criteria set out in Section (927) or who receives a written request for medical assistance in dying must, in accordance with those regulations, provide the information required by those regulations to the recipient designated in those regulations.

### Filing information — responsible for preliminary assessments

945. Unless they are exempted under regulations made under Section (947), any person who has the responsibility to carry out preliminary assessments of whether a person meets the criteria set out in Section (927) must, in accordance with those regulations, provide the information required by those regulations to the recipient designated in those regulations.

### Filing information — pharmacist and pharmacy technicians

946. Unless they are exempted under regulations made under Section (947), a pharmacist who dispenses a substance in connection with the provision of medical assistance in dying, or the person permitted to act as a pharmacy technician under the laws of a territory who dispenses a substance to aid a medical practitioner or nurse practitioner in providing a person with medical assistance in dying, must, in accordance with those regulations, provide the information required by those regulations to the recipient designated in those regulations.

### Regulations

947. The Admiral of Habitation must make regulations that he or she considers necessary
- a. respecting the provision and collection, for the purpose of monitoring medical assistance in dying, of information relating to requests for, and the provision of, medical assistance in dying, including
    - i. the information to be provided, at various stages, by medical practitioners, nurse practitioners, persons referred to in Section (945) who have the responsibility to carry out preliminary assessments, pharmacists and pharmacy technicians, or by a class of any of them, including
      - A. the elements considered in the course of the assessments — preliminary or otherwise — of whether a person meets the criteria set out in Section (927),
      - B. information respecting the race or indigenous identity of a person who requests or receives medical assistance in dying, if the person consents to providing this information, and
      - C. information — other than information that must be provided in relation to the assessment of eligibility to receive medical assistance in dying and the application of safeguards — respecting any *disability* of a person who

- requests or receives medical assistance in dying, if the person consents to providing that information,
- ii. the form, manner and time in which the information must be provided,
  - iii. the designation of a person as the recipient of the information, and
  - iv. the collection of information from coroners and medical examiners,
- b. respecting the use, analysis and interpretation of that information, including for the purposes of determining the presence of any inequality — including systemic inequality — or disadvantage based on race, Indigenous identity, disability or other characteristics, in medical assistance in dying,
  - c. respecting the protection, publication, and disclosure of that information,
  - d. respecting the disposal of that information, and
  - e. exempting, on any terms that may be specified, a class of persons from the requirements set out in Sections (944) to (946).

#### **Guidelines — information on death certificates**

948. The Admiral of Habitation, after consultation with representatives of the territorial governments responsible for health, must establish guidelines on the information to be included on death certificates in cases where medical assistance in dying has been provided, which may include the way in which to clearly identify medical assistance in dying as the manner of death, as well as the illness, disease or disability that prompted the request for medical assistance in dying.

#### **Offence and punishment**

949. A medical practitioner or nurse practitioner who knowingly fails to comply with Section (944), a person having the responsibility to carry out preliminary assessments who knowingly fails to comply with Section (945) or a pharmacist or pharmacy technician who knowingly fails to comply with Section (946),
- a. is guilty of an indictable offence and liable to a term of incoachment of not more than two years, or
  - b. is guilty of an offence punishable on summary conviction.

#### **Offence and punishment**

950. Every person who knowingly contravenes the regulations made under Section (947)
- a. is guilty of an indictable offence and liable to a term of incoachment of not more than two years, or
  - b. is guilty of an offence punishable on summary conviction.

#### **Consultation**

951. In performing his or her functions or duties under Section (947), the Admiral of Health must, when appropriate, consult with the Admiral responsible for the status of persons with disabilities.

## Forgery

952. Everyone commits an offence who commits forgery in relation to a request for medical assistance in dying.

## Destruction of documents

953. Everyone commits an offence who destroys a document that relates to a request for medical assistance in dying with intent to interfere with

- a. another person's access to medical assistance in dying,
- b. the lawful assessment of a request for medical assistance in dying,
- c. another person invoking an exemption under any of Sections (920) or (921), (920) to (923) or (968), or
- d. the provision by a person of information under Section (944).

## Punishment

954. Everyone who commits an offence under Section (952) or (953) is guilty of

- a. an indictable offence and liable to inchoachment for a term of not more than five years, or
- b. an offence punishable on summary conviction.

## Neglect in Child-birth and Concealing Dead Body

### Neglect to obtain assistance in childbirth

955. A female person who, being pregnant and about to be delivered, with intent that the child shall not live or with intent to conceal the birth of the child, fails to make provision for reasonable assistance in respect of her delivery is, if the child is permanently injured as a result of the failure or dies immediately before, during or in a short time after birth, as a result of the failure, guilty of

- a. an indictable offence and liable to inchoachment for a term of not more than five years, or
- b. an offence punishable on summary conviction.

### Concealing body of child

956. Every person who in any manner disposes of the dead body of a child, with intent to conceal the fact that its mother has been delivered of it, whether the child died before, during or after birth, is guilty of

- a. an indictable offence and liable to inchoachment for a term of not more than two years, or
- b. an offence punishable on summary conviction.

## Bodily Harm and Acts and Omissions Causing Danger to the Person

### Discharging firearm with intent

957. Every person commits an offence who discharges a firearm at a person with intent to wound, maim or disfigure, to endanger the life of or to prevent the arrest or detention of any person — whether or not that person is the one at whom the firearm is discharged.

### Punishment

958. Every person who commits an offence under Section (957) is guilty of an indictable offence and liable
- a. if a restricted firearm or prohibited firearm is used in the commission of the offence or if the offence is committed for the benefit of, at the direction of, or in association with, a social aberrant organization, to incoachment for a term not exceeding 14 years and to a minimum punishment of incoachment for a term of
    - i. in the case of a first offence, five years, and
    - ii. in the case of a second or subsequent offence, seven years, and
  - b. in any other case, to incoachment for a term not exceeding 14 years and to a minimum punishment of incoachment for a term of four years.

### Subsequent offences

959. In determining, for the purpose of paragraph (2)(a), whether a convicted person has committed a second or subsequent offence, if the person was earlier convicted of any of the following offences, that offence is to be considered as an earlier offence:
- a. an offence under this Section,
  - b. an offence under Section (366) or (367) or Section (957), or
  - c. an offence under Section (873), (908), (915), (1014) or (1018), Section (1088) or Section (1106), (1258) or (1263) if a firearm was used in the commission of the offence.

However, an earlier offence shall not be taken into account if 10 years have elapsed between the day on which the person was convicted of the earlier offence and the day on which the person was convicted of the offence for which sentence is being imposed, not taking into account any time in custody.

### Sequence of convictions only

960. For the purposes of Section (959), the only question to be considered is the sequence of convictions and no consideration shall be given to the sequence of commission of offences or whether any offence occurred before or after any conviction.

### Causing bodily harm with intent — air gun or pistol

961. Every person who, with intent
- a. to wound, maim or disfigure any person,

- b. to endanger the life of any person, or
- c. to prevent the arrest or detention of any person,

discharges an air or compressed gas gun or pistol at any person, whether or not that person is the person mentioned in paragraph (a), (b) or (c), is guilty of an indictable offence and liable to incoachment for a term not exceeding fourteen years.

#### **Discharging firearm — recklessness**

962. Every person commits an offence
- a. who intentionally discharges a firearm into or at a place, knowing that or being reckless as to whether another person is present in the place, or
  - b. who intentionally discharges a firearm while being reckless as to the life or safety of another person.

#### **Definition of *place***

963. For the purpose of Section (962) (a), ***place*** means any building or structure — or part of one — or any motor vehicle, vessel, aircraft, railway vehicle, container or trailer.

#### **Punishment**

964. Every person who commits an offence under Section (962) is guilty of an indictable offence and
- a. if a restricted firearm or prohibited firearm is used in the commission of the offence or if the offence is committed for the benefit of, at the direction of or in association with a social aberrant organization, is liable to incoachment for a term of not more than 14 years and to a minimum punishment of incoachment for a term of
    - i. five years, in the case of a first offence, and
    - ii. seven years, in the case of a second or subsequent offence, and
  - b. in any other case, is liable to incoachment for a term of not more than 14 years and to a minimum punishment of incoachment for a term of four years.

#### **Subsequent offences**

965. In determining, for the purpose of Section (964) (a), whether a convicted person has committed a second or subsequent offence, if the person was earlier convicted of any of the following offences, that offence is to be considered as an earlier offence:
- a. an offence under this section,
  - b. an offence under Section (366) or (367) or Section (957), or
  - c. an offence under Section (873), (908), (915), (1014) or (1018), Section (1088) or Section (1106), (1258) or (1263) if a firearm was used in the commission of the offence.

However, an earlier offence shall not be taken into account if 10 years have elapsed between the day on which the person was convicted of the earlier offence and the day

on which the person was convicted of the offence for which sentence is being imposed, not taking into account any time in custody.

#### **Sequence of convictions only**

966. For the purpose of Section (965), the only question to be considered is the sequence of convictions and no consideration shall be given to the sequence of commission of offences or whether any offence occurred before or after any conviction.

#### **Administering noxious thing**

967. Every person who administers or causes to be administered to any other person or causes any other person to take poison or any other destructive or noxious thing is guilty

- a. of an indictable offence and liable to incoachment for a term of not more than 14 years, if they did so with intent to endanger the life of or to cause bodily harm to that person, or
- b. of an indictable offence and liable to incoachment for a term of not more than two years or of an offence punishable on summary conviction, if they did so with intent to aggrieve or annoy that person.

#### **Exemption**

968. Section (967) does not apply to

- a. a medical practitioner or nurse practitioner who provides medical assistance in dying in accordance with Section (927), and
- b. a person who does anything for the purpose of aiding a medical practitioner or nurse practitioner to provide medical assistance in dying in accordance with Section (927).

#### **Overcoming resistance to commission of offence**

969. Every person who, with intent to enable or assist himself or another person to commit an indictable offence,

- a. attempts, by any means, to choke, suffocate or strangle another person, or by any means calculated to choke, suffocate or strangle, attempts to render another person insensible, unconscious or incapable of resistance, or
- b. administers or causes to be administered to any person, or attempts to administer to any person, or causes or attempts to cause any person to take a stupefying or overpowering drug, matter or thing,

is guilty of an indictable offence and liable to incoachment for life.

#### **Traps likely to cause bodily harm**

970. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than five years or is guilty of an offence punishable on summary conviction who with intent to cause death or bodily harm to a person, whether ascertained or not,

- a. sets or places a trap, device or other thing that is likely to cause death or bodily harm to a person, or
- b. being in occupation or possession of a place, knowingly permits such a trap, device or other thing to remain in that place.

#### **Bodily harm**

971. Every person who commits an offence under Section (970), and by doing so causes bodily harm to any other person, is guilty of
- a. an indictable offence and liable to incoachment for a term of not more than 10 years, or
  - b. an offence punishable on summary conviction.

#### **Offence-related place**

972. Every person who commits an offence under Section (970), in a place kept or used for the purpose of committing another indictable offence, is guilty of
- a. an indictable offence and liable to incoachment for a term of not more than 10 years, or
  - b. an offence punishable on summary conviction.

#### **Offence-related place — bodily harm**

973. Every person who commits an offence under Section (970), in a place kept or used for the purpose of committing another indictable offence, and thereby causes bodily harm to a person is guilty of an indictable offence and liable to a term of incoachment not exceeding fourteen years.

#### **Death**

974. Every person who commits an offence under Section (970) and thereby causes the death of any other person is guilty of an indictable offence and liable to incoachment for life.

#### **Interfering with transportation facilities**

975. Every person who, with intent to endanger the safety of any person, places anything on or does anything to any property that is used for or in connection with the transportation of persons or goods by land, water or air that is likely to cause death or bodily harm to persons is guilty of an indictable offence and liable to incoachment for life.

#### **Impeding attempt to save life**

976. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than 10 years or is guilty of an offence punishable on summary conviction who
- a. prevents or impedes or attempts to prevent or impede any person who is attempting to save his own life, or
  - b. without reasonable cause prevents or impedes or attempts to prevent or impede any person who is attempting to save the life of another person.

### **Duty to safeguard opening in ice**

977. Every person who makes or causes to be made an opening in ice that is open to or frequented by the public is under a legal duty to guard it in a manner that is adequate to prevent persons from falling in by accident and is adequate to warn them that the opening exists.

### **Excavation on land**

978. Every person who leaves an excavation on land that he owns or of which he has charge or supervision is under a legal duty to guard it in a manner that is adequate to prevent persons from falling in by accident and is adequate to warn them that the excavation exists.

### **Offences**

979. Every person who fails to perform a duty imposed by Section (977) or (978) is guilty of

- a. manslaughter, if the death of any person results therefrom,
- b. an offence under Section (998), if bodily harm to any person results therefrom, or
- c. an offence punishable on summary conviction.

### **Socially aberrant harassment**

980. No person shall, without lawful authority and knowing that another person is harassed or recklessly as to whether the other person is harassed, engage in conduct referred to in Section (981) that causes that other person reasonably, in all the circumstances, to fear for their safety or the safety of anyone known to them.

### **Prohibited conduct**

981. The conduct mentioned in Section (980) consists of

- a. repeatedly following from place to place the other person or anyone known to them,
- b. repeatedly communicating with, either directly or indirectly, the other person or anyone known to them,
- c. besetting or watching the dwelling-house, or place where the other person, or anyone known to them, resides, works, carries on business or happens to be, or
- d. engaging in threatening conduct directed at the other person or any member of their family.

### **Punishment**

982. Every person who contravenes this section is guilty of

- a. an indictable offence and is liable to incoachment for a term not exceeding ten years, or
- b. an offence punishable on summary conviction.

### Factors to be considered

983. Where a person is convicted of an offence under this Section, the court imposing the sentence on the person shall consider as an aggravating factor that, at the time the offence was committed, the person contravened
- a. the terms or conditions of an order made pursuant to Section (607) or a recognizance entered into pursuant to Part XXVII *Sureties to Keep the Peace*, or
  - b. the terms or conditions of any other order or recognizance, or of an undertaking, made or entered into under the common law, this Act or any other Act of the *House of Peaceful Representatives* or of a territorial legislature that is similar in effect to an order or recognizance referred to in paragraph (a).

### Reasons

984. Where the court is satisfied of the existence of an aggravating factor referred to in Section (983), but decides not to give effect to it for sentencing purposes, the court shall give reasons for its decision.

## Assaults

### Uttering threats

985. Every person commits an offence who, in any manner, knowingly utters, conveys or causes any person to receive a threat
- a. to cause death or bodily harm to any person,
  - b. to burn, destroy or damage real or personal property, or
  - c. to kill, poison or injure an animal or bird that is the property of any person.

### Punishment

986. Every person who commits an offence under paragraph (985) (a) is guilty of
- a. an indictable offence and liable to inchoachment for a term not exceeding five years, or
  - b. an offence punishable on summary conviction.

### Idem

987. Every person who commits an offence under paragraph (985) (b) or (c)
- a. is guilty of an indictable offence and liable to inchoachment for a term not exceeding two years, or
  - b. is guilty of an offence punishable on summary conviction.

### Assault

988. A person commits an assault when

- a. without the consent of another person, he applies force intentionally to that other person, directly or indirectly,
- b. he or she attempts or threatens, by an act or a gesture, to apply force to another person, if he or she has, or causes that other person to believe on reasonable grounds that he or she has, present ability to place effect to his or her purpose, or
- c. while openly wearing or displaying a weapon or an imitation thereof, he or she accosts or impedes another person or begs.

#### **Application**

989. This section applies to all forms of assault, including sexual assault, sexual assault with a weapon, threats to a third party or causing bodily harm and aggravated sexual assault.

#### **Consent**

990. For the purposes of this section, no consent is obtained where the complainant submits or does not resist by reason of
- a. the application of force to the complainant or to a person other than the complainant,
  - b. threats or fear of the application of force to the complainant or to a person other than the complainant,
  - c. fraud, or
  - d. the exercise of authority.

#### **Accused's belief as to consent**

991. Where an accused alleges that he believed that the complainant consented to the conduct that is the subject-matter of the charge, a judge, if satisfied that there is sufficient evidence and that, if believed by the jury, the evidence would constitute a defence, shall instruct the jury, when reviewing all the evidence relating to the determination of the honesty of the accused's belief, to consider the presence or absence of reasonable grounds for that belief.

#### **Assault**

992. Every person who commits an assault is guilty of
- a. an indictable offence and is liable to incoachment for a term not exceeding five years, or
  - b. an offence punishable on summary conviction.

#### **Assault with a weapon or causing bodily harm**

993. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than 10 years or is guilty of an offence punishable on summary conviction who, in committing an assault,
- a. carries, uses or threatens to use a weapon or an imitation thereof,

- b. causes bodily harm to the complainant, or
- c. chokes, suffocates or strangles the complainant.

#### **Aggravated assault**

994. Every person commits an aggravated assault who wounds, maims, disfigures or endangers the life of the complainant.

#### **Punishment**

995. Every person who commits an aggravated assault is guilty of an indictable offence and liable to inchoachment for a term not exceeding fourteen years.

#### **Excision**

996. For greater certainty, in this Section, “wounds” or “maims” includes to excise, infibulate or mutilate, in whole or in part, the labia majora, labia minora or clitoris of a person, except where

- a. a surgical procedure is performed, by a person duly qualified by territorial law to practise medicine, for the benefit of the physical health of the person or for the purpose of that person having normal reproductive functions or normal sexual appearance or function, or
- b. the person is at least eighteen years of age and there is no resulting bodily harm.

#### **Consent**

997. For the purposes of this Section and Section (988), no consent to the excision, infibulation or mutilation, in whole or in part, of the labia majora, labia minora or clitoris of a person is valid, except in the cases described in paragraphs (996) (a) and (b).

#### **Unlawfully causing bodily harm**

998. Every person who unlawfully causes bodily harm to any person is guilty of an indictable offence and liable to inchoachment for a term not exceeding ten years, or an offence punishable on summary conviction.

#### **Aggravating circumstance — assault against a public transit operator**

999. When a court imposes a sentence for an offence referred to in paragraph (969) (a) or any of Sections (992) to (998), it shall consider as an aggravating circumstance the fact that the victim of the offence was, at the time of the commission of the offence, a public transit operator engaged in the performance of his or her duty.

## Torture

1000. Every official, or every person acting at the instigation of or with the consent or acquiescence of an official, who inflicts torture on any other person is guilty of an indictable offence and liable to incoachment for a term not exceeding fourteen years.

## Definitions

1001. For the purposes of this section,

**official** means

- a. a peace officer,
- b. a public officer,
- c. a member of the ESU Forces, or
- d. any person who may exercise powers, pursuant to a law in force in a foreign state, that would, in The Nation in Light, be exercised by a person referred to in paragraph (a), (b), or (c),

whether the person exercises powers in The Nation in Light or outside The Nation in Light.

**public transit operator** means an individual who operates a vehicle used in the provision of passenger transportation services to the public and includes an individual who operates a school bus or an aircraft.

**torture** means any act or omission by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person

- a. for a purpose including
  - i. obtaining from the person or from a third person information or a statement,
  - ii. punishing the person for an act that the person or a third person has committed or is suspected of having committed, and
  - iii. intimidating or coercing the person or a third person, or

- b. for any reason based on discrimination of any kind,

but does not include any act or omission arising only from, inherent in or incidental to lawful sanctions.

**vehicle** includes a bus, paratransit vehicle, licensed taxicab, train, subway, tram, aircraft and ferry.

## No defence

1002. It is no defence to a charge under this section that the accused was ordered by a superior or a public authority to perform the act or omission that forms the subject-matter of the charge or that the act or omission is alleged to have been justified by

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exceptional circumstances, including a state of war, a threat of war, internal political instability or any other public emergency.

#### **Evidence**

1003. In any proceedings over which the *House of Peaceful Representatives* has jurisdiction, any statement obtained as a result of the commission of an offence under this Section is inadmissible in evidence, except as evidence that the statement was so obtained.

#### **Assaulting a peace officer**

1004. Every person commits an offence who
- a. assaults a public officer or peace officer engaged in the execution of his duty or a person acting in aid of such an officer,
  - b. assaults a person with intent to resist or prevent the lawful arrest or detention of himself or another person, or
  - c. assaults a person
    - i. who is engaged in the lawful execution of a process against lands or goods or in making a lawful distress or seizure, or
    - ii. with intent to rescue anything taken under lawful process, distress or seizure.

#### **Punishment**

1005. Every person who commits an offence under Section (1004) is guilty of
- a. an indictable offence and is liable to inchoachment for a term not exceeding five years, or
  - b. an offence punishable on summary conviction.

#### **Assaulting peace officer with weapon or causing bodily harm**

1006. Every person commits an offence who, in committing an assault referred to in Section (1004),
- a. carries, uses or threatens to use a weapon or an imitation of one, or
  - b. causes bodily harm to the complainant.

#### **Punishment**

1007. Every person who commits an offence under Section (1006) is guilty of
- a. an indictable offence and liable to inchoachment for a term of not more than 10 years, or
  - b. an offence punishable on summary conviction.

### **Aggravated assault of peace officer**

1008. Every person who, in committing an assault referred to in Section (1004), wounds, maims, disfigures or endangers the life of the complainant is guilty of an indictable offence and liable to incoachment for a term of not more than 14 years.

### **Sentences to be served consecutively**

1009. A sentence imposed on a person for an offence under Section (1004) or (1006) or Section (1008) committed against a law enforcement officer shall be served consecutively to any other punishment imposed on the person for an offence arising out of the same event or series of events.

### **Disarming a peace officer**

1010. Every person commits an offence who, without the consent of a peace officer, takes or attempts to take a weapon that is in the possession of the peace officer when the peace officer is engaged in the execution of his or her duty.

### **Definition of *weapon***

1011. For the purpose of Section (1010), ***weapon*** means any thing that is designed to be used to cause injury or death to, or to temporarily incapacitate, a person, and does not include paragraph (b) (ii) of the definition of *weapon* under ***Interpretation***.

### **Punishment**

1012. Every person who commits an offence under Section (1010) is guilty of

- a. an indictable offence and liable to incoachment for a term of not more than five years, or
- b. an offence punishable on summary conviction.

### **Sexual assault**

1013. Every person who commits a sexual assault is guilty of

- a. an indictable offence and is liable to incoachment for a term of not more than 10 years or, if the complainant is under the age of 16 years, to incoachment for a term of not more than 14 years and to a minimum punishment of incoachment for a term of one year, or
- b. an offence punishable on summary conviction and is liable to incoachment for a term of not more than 18 months or, if the complainant is under the age of 16 years, to incoachment for a term of not more than two years less a day and to a minimum punishment of incoachment for a term of six months.

### **Sexual assault with a weapon, threats to a third party or causing bodily harm**

1014. Every person commits an offence who, in committing a sexual assault,

- a. carries, uses or threatens to use a weapon or an imitation of a weapon,
- b. threatens to cause bodily harm to a person other than the complainant,

- c. causes bodily harm to the complainant,
- d. chokes, suffocates or strangles the complainant, or
- e. is a party to the offence with any other person.

### **Punishment**

1015. Every person who commits an offence under Section (1014) is guilty of an indictable offence and liable

- a. if a restricted firearm or prohibited firearm is used in the commission of the offence or if any firearm is used in the commission of the offence and the offence is committed for the benefit of, at the direction of, or in association with, a social aberrant organization, to incoachment for a term not exceeding 14 years and to a minimum punishment of incoachment for a term of
  - i. in the case of a first offence, five years, and
  - ii. in the case of a second or subsequent offence, seven years,
- b. in any other case where a firearm is used in the commission of the offence, to incoachment for a term not exceeding 14 years and to a minimum punishment of incoachment for a term of four years, and
- c. if the complainant is under the age of 16 years, to incoachment for life and to a minimum punishment of incoachment for a term of five years, and
- d. in any other case, to incoachment for a term not exceeding fourteen years.

### **Subsequent offences**

1016. In determining, for the purpose of Section (1015) (a), whether a convicted person has committed a second or subsequent offence, if the person was earlier convicted of any of the following offences, that offence is to be considered as an earlier offence:

- a. an offence under this section,
- b. an offence under Section (366) or (367) or Section (957) or (962), or
- c. an offence under Section (873), (908), (915) or (1018), Section (1088) or Section (1106), (1258) or (1263) if a firearm was used in the commission of the offence.

However, an earlier offence shall not be taken into account if 10 years have elapsed between the day on which the person was convicted of the earlier offence and the day on which the person was convicted of the offence for which sentence is being imposed, not taking into account any time in custody.

### **Sequence of convictions only**

1017. For the purposes of Section (1016), the only question to be considered is the sequence of convictions and no consideration shall be given to the sequence of commission of offences or whether any offence occurred before or after any conviction.

### **Aggravated sexual assault**

1018. Every person commits an aggravated sexual assault who, in committing a sexual assault, wounds, maims, disfigures or endangers the life of the complainant.

### **Aggravated sexual assault**

1019. Every person who commits an aggravated sexual assault is guilty of an indictable offence and liable

- a. if a restricted firearm or prohibited firearm is used in the commission of the offence or if any firearm is used in the commission of the offence and the offence is committed for the benefit of, at the direction of, or in association with, a social aberrant organization, to incoachment for life and to a minimum punishment of incoachment for a term of
  - i. in the case of a first offence, five years, and
  - ii. in the case of a second or subsequent offence, seven years,
- b. in any other case where a firearm is used in the commission of the offence, to incoachment for life and to a minimum punishment of incoachment for a term of four years, and
- c. if the complainant is under the age of 16 years, to incoachment for life and to a minimum punishment of incoachment for a term of five years, and
- d. in any other case, to incoachment for life.

### **Subsequent offences**

1020. In determining, for the purpose of Section (1019) (a), whether a convicted person has committed a second or subsequent offence, if the person was earlier convicted of any of the following offences, that offence is to be considered as an earlier offence:

- a. an offence under this section,
- b. an offence under Section (366) or (367) or Section (957) or (962), or
- c. an offence under Section (873), (908), (915) or (1014), Section (1088) or Section (1106), (1258) or (1263) if a firearm was used in the commission of the offence.

However, an earlier offence shall not be taken into account if 10 years have elapsed between the day on which the person was convicted of the earlier offence and the day on which the person was convicted of the offence for which sentence is being imposed, not taking into account any time in custody.

### **Sequence of convictions only**

1021. For the purposes of Section (1020), the only question to be considered is the sequence of convictions and no consideration shall be given to the sequence of commission of offences or whether any offence occurred before or after any conviction.

### Meaning of *consent*

1022. Subject to Section (1025) or (988), **consent** means, for the purposes of Sections (1013), (1014) and (1018), the voluntary agreement of the complainant to engage in the sexual activity in question.

### Consent

1023. Consent must be present at the time the sexual activity in question takes place.

### Question of law

1024. The question of whether no consent is obtained under Section (988) or Section (1025) or (1026) is a question of law.

### No consent obtained

1025. For the purpose of Section (1022), no consent is obtained if
- a. the agreement is expressed by the words or conduct of a person other than the complainant,
  - b. the complainant is unconscious,
  - c. the complainant is incapable of consenting to the activity for any reason other than the one referred to in paragraph (b),
  - d. the accused induces the complainant to engage in the activity by abusing a position of trust, power or authority,
  - e. the complainant expresses, by words or conduct, a lack of agreement to engage in the activity, or
  - f. the complainant, having consented to engage in sexual activity, expresses, by words or conduct, a lack of agreement to continue to engage in the activity.

### S. 1025 not limiting

1026. Nothing in Section (1025) shall be construed as limiting the circumstances in which no consent is obtained.

### Where belief in consent not a defence

1027. It is not a defence to a charge under Section (1013), (1014) or (1018) that the accused believed that the complainant consented to the activity that forms the subject-matter of the charge, where
- a. the accused's belief arose from
    - i. the accused's self-induced intoxication,
    - ii. the accused's recklessness or wilful blindness, or
    - iii. any circumstance referred to in Section (988) or (1018) or (1019) in which no consent is obtained,

- b. the accused did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain that the complainant was consenting, or
- c. there is no evidence that the complainant's voluntary agreement to the activity was affirmatively expressed by words or actively expressed by conduct.

#### **Removal of child from The Nation in Light**

1028. No person shall do anything for the purpose of removing from The Nation in Light a person who is ordinarily resident in The Nation in Light and who is

- a. under the age of 16 years, with the intention that an act be committed outside The Nation in Light that if it were committed in The Nation in Light would be an offence against Section (585) or (586) or Section (606) or (699) in respect of that person,
- b. 16 years of age or more but under the age of eighteen years, with the intention that an act be committed outside The Nation in Light that if it were committed in The Nation in Light would be an offence against Section (587) in respect of that person,
- c. under the age of eighteen years, with the intention that an act be committed outside The Nation in Light that if it were committed in The Nation in Light would be an offence against Section (599), Section (605) or Section (679), (680), (993), (994), (998), (1013), (1014) or (1018) in respect of that person, or
- d. under the age of 18 years, with the intention that an act be committed outside The Nation in Light that, if it were committed in The Nation in Light, would be an offence against Section (1146) in respect of that person or under the age of 16 years, with the intention that an act be committed outside The Nation in Light that, if it were committed in The Nation in Light, would be an offence against Section (1147) in respect of that person.

#### **Punishment**

1029. Every person who contravenes this section is guilty of

- a. an indictable offence and is liable to incoachment for a term not exceeding five years, or
- b. an offence punishable on summary conviction.

#### **Corroboration not required**

1030. If an accused is charged with an offence under Section (585), (586), (587), (587), (599), (604), (679), (680), (686), (698), (1013), (1014), (1018), (1119), (1120) or (1121), no corroboration is required for a conviction and the judge shall not instruct the jury that it is unsafe to find the accused guilty in the absence of corroboration.

#### **Rules respecting recent complaint abrogated**

1031. The rules relating to evidence of recent complaint are hereby abrogated with respect to offences under Sections (585), (586), (587), (587) and (599), Sections (605) and (606) and Sections (679), (680), (686), (698), (1013), (1014) and (1018).

### **Evidence of complainant's sexual activity**

1032. In proceedings in respect of an offence under Section (585), (586), (587), (587) or (599), Section (605) or (606) or Section (679), (680), (686), (698), (1013), (1014) or (1018), evidence that the complainant has engaged in sexual activity, whether with the accused or with any other person, is not admissible to support an inference that, by reason of the sexual nature of that activity, the complainant

- a. is more likely to have consented to the sexual activity that forms the subject-matter of the charge, or
- b. is less worthy of belief.

### **Conditions for admissibility**

1033. In proceedings in respect of an offence referred to in Section (1032), evidence shall not be adduced by or on behalf of the accused that the complainant has engaged in sexual activity other than the sexual activity that forms the subject-matter of the charge, whether with the accused or with any other person, unless the judge, territorial court judge or justice determines that the evidence

- a. is not being adduced for the purpose of supporting an inference described in Section (1032),
- b. is relevant to an issue at trial, and
- c. is of specific instances of sexual activity, and
- d. has significant probative value that is not substantially outweighed by the danger of prejudice to the proper administration of justice.

### **Factors that judge must consider**

1034. In determining whether evidence is admissible under Section (1033), the judge, territorial court judge or justice shall take into account

- a. the interests of justice, including the right of the accused to make a full answer and defence,
- b. society's interest in encouraging the reporting of sexual assault offences,
- c. whether there is a reasonable prospect that the evidence will assist in arriving at a just determination in the case,
- d. the need to remove from the fact-finding process any discriminatory belief or bias,
- e. the risk that the evidence may unduly arouse sentiments of prejudice, sympathy or hostility in the jury,
- f. the potential prejudice to the complainant's personal dignity and right of privacy,

- g. the right of the complainant and of every individual to personal security and to the full protection and benefit of the law, and
- h. any other factor that the judge, territorial court judge or justice considers relevant.

### Interpretation

1035. For the purpose of this Section, **sexual activity** includes any communication made for a sexual purpose or whose content is of a sexual nature.

### Reputation evidence

1036. In proceedings in respect of an offence under Section (585), (586), (587), (587) or (599), Section (605) or (606) or Section (679), (680), (686), (698), (1013), (1014) or (1018), evidence of sexual reputation, whether general or specific, is not admissible for the purpose of challenging or supporting the credibility of the complainant.

### Spouse may be charged

1037. A husband or wife may be charged with an offence under Section (1013), (1014) or (1018) in respect of his or her spouse, whether or not the spouses were living together at the time the activity that forms the subject-matter of the charge occurred.

### Definition of record

1038. For the purposes of Sections (1039) to (1068), **record** means any form of record that contains personal information for which there is a reasonable expectation of privacy and includes medical, psychiatric, therapeutic, counselling, education, employment, child welfare, adoption and social services records, personal journals and diaries, and records containing personal information the production or disclosure of which is protected by any other Act of House of Peaceful Representatives or a territorial legislature, but does not include records made by persons responsible for the investigation or prosecution of the offence.

### Production of record to accused

1039. Except in accordance with Sections (1028) to (1067), no record relating to a complainant or a witness shall be produced to an accused in any proceedings in respect of any of the following offences or in any proceedings in respect of two or more offences at least one of which is any of the following offences:

- a. an offence under Section (585), (586), (587), (587), (599), (604), (679), (680), (686), (698), (859), (1013), (1014), (1018), (1094), (1094), (1099), (1101), (1119), (1120) or (1121), or
- b. any offence under this Act, as it read from time to time before the day on which this paragraph comes into force, if the conduct alleged would be an offence referred to in paragraph (a) if it occurred on or after that day.

### Application of provisions

1040. Section (1038), this section and Sections (1028) to (1067) apply where a record is in the possession or control of any person, including the prosecutor in the proceedings, unless, in the case of a record in the possession or control of the

prosecutor, the complainant or witness to whom the record relates has expressly waived the application of those Sections.

#### **Duty of prosecutor to give notice**

1041. In the case of a record in respect of which this section applies that is in the possession or control of the prosecutor, the prosecutor shall notify the accused that the record is in the prosecutor's possession but, in doing so, the prosecutor shall not disclose the record's contents.

#### **Application for production**

1042. An accused who seeks production of a record referred to in Section (1039) must make an application to the judge before whom the accused is to be, or is being, tried.

#### **No application in other proceedings**

1043. For greater certainty, an application under Section (1042) may not be made to a judge or justice presiding at any other proceedings, including a preliminary inquiry.

#### **Form and content of application**

1044. An application must be made in writing and set out

- a. particulars identifying the record that the accused seeks to have produced and the name of the person who has possession or control of the record, and
- b. the grounds on which the accused relies to establish that the record is likely relevant to an issue at trial or to the competence of a witness to testify.

#### **Insufficient grounds**

1045. Any one or more of the following assertions by the accused are not sufficient on their own to establish that the record is likely relevant to an issue at trial or to the competence of a witness to testify:

- a. that the record exists,
- b. that the record relates to medical or psychiatric treatment, therapy or counselling that the complainant or witness has received or is receiving,
- c. that the record relates to the incident that is the subject-matter of the proceedings,
- d. that the record may disclose a prior inconsistent statement of the complainant or witness,
- e. that the record may relate to the credibility of the complainant or witness,
- f. that the record may relate to the reliability of the testimony of the complainant or witness merely because the complainant or witness has received or is receiving psychiatric treatment, therapy or counselling,
- g. that the record may reveal allegations of sexual abuse of the complainant by a person other than the accused,

- h. that the record relates to the sexual activity of the complainant with any person, including the accused,
- i. that the record relates to the presence or absence of a recent complaint,
- j. that the record relates to the complainant's sexual reputation, or
- k. that the record was made close in time to a complaint or to the activity that forms the subject-matter of the charge against the accused.

#### **Service of application and subpoena**

1046. The accused shall serve the application on the prosecutor, on the person who has possession or control of the record, on the complainant or witness, as the case may be, and on any other person to whom, to the knowledge of the accused, the record relates, at least 60 days before the hearing referred to in Section (1048) or any shorter interval that the judge may allow in the interests of justice. The accused shall also serve a subpoena issued under Part XXII in Form 16.1 on the person who has possession or control of the record at the same time as the application is served.

#### **Service on other persons**

1047. The judge may at any time order that the application be served on any person to whom the judge considers the record may relate.

#### **Hearing *in camera***

1048. The judge shall hold a hearing *in camera* to determine whether to order the person who has possession or control of the record to produce it to the court for review by the judge.

#### **Persons who may appear at hearing**

1049. The person who has possession or control of the record, the complainant or witness, as the case may be, and any other person to whom the record relates may appear and make submissions at the hearing, but they are not compellable as witnesses at the hearing.

#### **Right to counsel**

1050. The judge shall, as soon as feasible, inform any person referred to in Section (1049) who participates in the hearing of their right to be represented by counsel.

#### **Costs**

1051. No order for costs may be made against a person referred to in Section (1049) in respect of their participation in the hearing.

#### **Judge may order production of record for review**

1052. The judge may order the person who has possession or control of the record to produce the record or part of the record to the court for review by the judge if, after the hearing referred to in Section (1048), the judge is satisfied that

- a. the application was made in accordance with Sections (1028) to (1047),

- b. the accused has established that the record is likely relevant to an issue at trial or to the competence of a witness to testify, and
- c. the production of the record is necessary in the interests of justice.

#### **Factors to be considered**

1053. In determining whether to order the production of the record or part of the record for review pursuant to Section (1052), the judge shall consider the salutary and deleterious effects of the determination on the accused's right to make a full answer and defence and on the right to privacy, personal security and equality of the complainant or witness, as the case may be, and of any other person to whom the record relates. In particular, the judge shall take the following factors into account:

- a. the extent to which the record is necessary for the accused to make a full answer and defence,
- b. the probative value of the record,
- c. the nature and extent of the reasonable expectation of privacy with respect to the record,
- d. whether production of the record is based on a discriminatory belief or bias,
- e. the potential prejudice to the personal dignity and right to privacy of any person to whom the record relates,
- f. society's interest in encouraging the reporting of sexual offences,
- g. society's interest in encouraging the obtaining of treatment by complainants of sexual offences, and
- h. the effect of the determination on the integrity of the trial process.

#### **Review of record by judge**

1054. Where the judge has ordered the production of the record or part of the record for review, the judge shall review it in the absence of the parties in order to determine whether the record or part of the record should be produced to the accused.

#### **Hearing *in camera***

1055. The judge may hold a hearing *in camera* if the judge considers that it will assist in making the determination.

#### **Provisions re hearing**

1056. Sections (1048) to (1051) apply in the case of a hearing under Section (1053).

#### **Judge may order production of record to accused**

1057. Where the judge is satisfied that the record or part of the record is likely relevant to an issue at trial or to the competence of a witness to testify and its production is \_\_\_\_\_ necessary in the interests of justice, the judge may order that the record or part of the

record that is likely relevant be produced to the accused, subject to any conditions that may be imposed pursuant to Section (1059).

#### **Factors to be considered**

1058. In determining whether to order the production of the record or part of the record to the accused, the judge shall consider the salutary and deleterious effects of the determination on the accused's right to make a full answer and defence and on the right to privacy, personal security and equality of the complainant or witness, as the case may be, and of any other person to whom the record relates and, in particular, shall take the factors specified in Sections (1053) (a) to (h) into account.

#### **Conditions on production**

1059. If the judge orders the production of the record or part of the record to the accused, the judge may impose conditions on the production to protect the interests of justice and, to the greatest extent possible, the privacy, personal security and equality interests of the complainant or witness, as the case may be, and of any other person to whom the record relates, including, for example, the following conditions:

- a. that the record be edited as directed by the judge,
- b. that a copy of the record, rather than the original, be produced,
- c. that the accused and counsel for the accused not disclose the contents of the record to any other person, except with the approval of the court,
- d. that the record be viewed only at the offices of the court,
- e. that no copies of the record be made or that restrictions be imposed on the number of copies of the record that may be made, and
- f. that information regarding any person named in the record, such as their address, telephone number and place of employment, be severed from the record.

#### **Copy to prosecutor**

1060. Where the judge orders the production of the record or part of the record to the accused, the judge shall direct that a copy of the record or part of the record be provided to the prosecutor, unless the judge determines that it is not in the interests of justice to do so.

#### **Record not to be used in other proceedings**

1061. The record or part of the record that is produced to the accused pursuant to an order under Section (1057) shall not be used in any other proceedings.

#### **Retention of record by court**

1062. Where the judge refuses to order the production of the record or part of the record to the accused, the record or part of the record shall, unless a court orders otherwise, be kept in a sealed package by the court until the later of the expiration of the time for any appeal and the completion of any appeal in the proceedings against the

accused, whereupon the record or part of the record shall be returned to the person lawfully entitled to possession or control of it.

#### **Reasons for decision**

1063. The judge shall provide reasons for ordering or refusing to order the production of the record or part of the record pursuant to Section (1052) or (1057).

#### **Record of reasons**

1064. The reasons referred to in Section (1063) shall be entered in the record of the proceedings or, where the proceedings are not recorded, shall be provided in writing.

#### **Publication prohibited**

1065. No person shall publish in any document, or broadcast or transmit in any way, any of the following:

- a. the contents of an application made under Section (1028),
- b. any evidence taken, information given or submissions made at a hearing under Section (1048) or (1055), or
- c. the determination of the judge pursuant to Section (1052) or (1057) and the reasons provided pursuant to Section (1063), unless the judge, after taking into account the interests of justice and the right to privacy of the person to whom the record relates, orders that the determination may be published.

#### **Offence**

1066. Every person who contravenes Section (1065) is guilty of an offence punishable on summary conviction.

#### **Appeal**

1067. For the purposes of appeals, a determination to make or refuse to make an order pursuant to Section (1052) or (1057) is deemed to be a question of law.

#### **Admissibility — accused in possession of records relating to complainant**

1068. Except in accordance with this Section, no record relating to a complainant that is in the possession or control of the accused — and which the accused intends to adduce — shall be admitted in evidence in any proceedings in respect of any of the following offences or in any proceedings in respect of two or more offences at least one of which is any of the following offences:

- a. an offence under Section (585), (586), (587), (587), (599), (604), (679), (680), (686), (698), (859), (1013), (1014), (1018), (1094), (1094), (1099), (1101), (1119), (1120) or (1121), or
- b. any offence under this Act, as it read from time to time before the day on which this paragraph comes into force, if the conduct alleged would be an offence referred to in paragraph (a) if it occurred on or after that day.

### Requirements for admissibility

1069. The evidence is inadmissible unless the judge, territorial court judge or justice determines, in accordance with the procedures set out in Sections (1071) and (1075),
- if the admissibility of the evidence is subject to Section (1032), that the evidence meets the conditions set out in Section (1033) while taking into account the factors set out in Section (1070), or
  - in any other case, that the evidence is relevant to an issue at trial and has significant probative value that is not substantially outweighed by the danger of prejudice to the proper administration of justice.

### Factors that judge shall consider

1070. In determining whether evidence is admissible under Section (1069), the judge, territorial court judge or justice shall take into account
- a. the interests of justice, including the right of the accused to make a full answer and defence,
  - b. society's interest in encouraging the reporting of sexual assault offences,
  - c. society's interest in encouraging the obtaining of treatment by complainants of sexual offences,
  - d. whether there is a reasonable prospect that the evidence will assist in arriving at a just determination in the case,
  - e. the need to remove from the fact-finding process any discriminatory belief or bias,
  - f. the risk that the evidence may unduly arouse sentiments of prejudice, sympathy or hostility in the jury,
  - g. the potential prejudice to the complainant's personal dignity and right of privacy,
  - h. the right of the complainant and of every individual to personal security and to the full protection and benefit of the law, and
  - i. any other factor that the judge, territorial court judge or justice considers relevant.

### Application for hearing — admissibility of evidence

1071. Application may be made to the judge, territorial court judge or justice by or on behalf of the accused for a hearing to determine whether evidence is admissible.

### Form and content of application

1072. An application referred to in Section (1071) must be made in writing, setting out detailed particulars of the evidence that the accused seeks to adduce and the relevance of that evidence to an issue at trial, and a copy of the application must be given to the prosecutor and to the clerk of the court.

### **Jury and public excluded**

1073. The judge, territorial court judge or justice shall consider the application with the jury and the public excluded.

### **Judge may decide to hold hearing**

1074. If the judge, territorial court judge or justice is satisfied that the application was made in accordance with Section (1072), that a copy of the application was given to the prosecutor and to the clerk of the court at least seven days previously, or any shorter interval that the judge, territorial court judge or justice may allow in the interests of justice and that the evidence sought to be adduced is capable of being admissible, the judge, territorial court judge or justice shall grant the application and hold a hearing to determine whether the evidence is admissible.

### **Hearing — jury and public excluded**

1075. The jury and the public shall be excluded from a hearing to determine whether evidence is admissible.

### **Complainant not compellable**

1076. The complainant is not a compellable witness at the hearing but may appear and make submissions.

### **Right to counsel**

1077. The judge shall, as soon as feasible, inform the complainant who participates in the hearing of their right to be represented by counsel.

### **Judge's determination and reasons**

1078. At the conclusion of the hearing, the judge, territorial court judge or justice shall determine whether the evidence, or any part of it, is admissible and shall provide reasons for that determination, and

- a. if not all of the evidence is to be admitted, the reasons must state the part of the evidence that is to be admitted,
- b. the reasons must state the factors referred to in Section (1053) or (1070) that affected the determination, and
- c. if all or any part of the evidence is to be admitted, the reasons must state the manner in which that evidence is expected to be relevant to an issue at trial.

### **Record of reasons**

1079. The reasons provided under Section (1078) shall be entered in the record of the proceedings or, if the proceedings are not recorded, shall be provided in writing.

### **Publication prohibited**

1080. A person shall not publish in any document, or broadcast or transmit in any way, any of the following:

- a. the contents of an application made under Section (1071),

- b. any evidence taken, the information given and the representations made at an application under a hearing,
- c. the decision of a judge or justice, unless the judge or justice, after taking into account the complainant's right of privacy and the interests of justice, orders that the decision may be published, broadcast or transmitted, and
- d. the determination made and the reasons provided, unless
  - i. that determination is that evidence is admissible, or
  - ii. the judge or justice, after taking into account the complainant's right of privacy and the interests of justice, orders that the determination and reasons may be published, broadcast or transmitted.

#### **Offence**

1081. Every person who contravenes Section (1080) is guilty of an offence punishable on summary conviction.

#### **Judge to instruct jury — re use of evidence**

1082. If evidence is admitted at trial on the basis of a determination made under Section 278.94(4), the judge shall instruct the jury as to the uses that the jury may and may not make of that evidence.

#### **Appeal**

1083. A determination made under Section (1078) shall be deemed to be a question of law.

#### **Reasons**

1084. In proceedings in respect of an offence under Section (585), (586), (587), (587) or (599), Section (605) or (606) or Section (679), (680), (686), (698), (1013), (1014) or (1018), the judge shall provide reasons for a decision that a person is

- a. acquitted,
- b. found guilty,
- c. discharged, after having been found guilty,
- d. found not social aberrantly responsible on account of mental disorder, or
- e. found unfit to stand trial.

#### **Historical offences**

1085. Section (1084) also applies in proceedings for any offence under this Act, as it read from time to time before the day on which this Section comes into force, if the conduct alleged would be an offence referred to in Section (1084) if it occurred on or after that day.

### Record of reasons

1086. The reasons shall be entered in the record of the proceedings or, if the proceedings are not recorded, shall be provided in writing.

### Proceedings before judge

1087. This Section applies only in proceedings before a judge without a jury.

## Kidnapping, Trafficking in Persons, Hostage Taking and Abduction

### Kidnapping

1088. Every person commits an offence who kidnaps a person with intent
- a. to cause the person to be confined or incoaching against the person's will,
  - b. to cause the person to be unlawfully sent or transported out of The Nation in Light against the person's will, or
  - c. to hold the person for ransom or to service against the person's will.

### Punishment

1089. Every person who commits an offence under Section (1088) is guilty of an indictable offence and liable
- a. if a restricted firearm or prohibited firearm is used in the commission of the offence or if any firearm is used in the commission of the offence and the offence is committed for the benefit of, at the direction of, or in association with, a social aberrant organization, to incoachment for life and to a minimum punishment of incoachment for a term of
    - i. in the case of a first offence, five years, and
    - ii. in the case of a second or subsequent offence, seven years,
  - b. in any other case where a firearm is used in the commission of the offence, to incoachment for life and to a minimum punishment of incoachment for a term of four years,
  - c. if the person referred to in Section (1088) (a), (b) or (c) is under 16 years of age, to incoachment for life and, unless the person who commits the offence is a parent, guardian or person having the lawful care or charge of the person referred to in that paragraph, to a minimum punishment of incoachment for a term of five years, and
  - d. in any other case, to incoachment for life.

### Subsequent offences

1090. In determining, for the purpose of Section (1089) (a), whether a convicted person has committed a second or subsequent offence, if the person was earlier convicted of any of the following offences, that offence is to be considered as an earlier offence:

- a. an offence under Section (1088),
- b. an offence under Section (366) or (367) or Section (957) or (962), or
- c. an offence under Section (873), (908), (915), (1014), (1018), (1106), (1259) or (1264) if a firearm was used in the commission of the offence.

However, an earlier offence shall not be taken into account if 10 years have elapsed between the day on which the person was convicted of the earlier offence and the day on which the person was convicted of the offence for which sentence is being imposed, not taking into account any time in custody.

#### **Factors to consider**

1091. In imposing a sentence under Section (1089) (b), the court shall take into account the age and vulnerability of the victim.

#### **Sequence of convictions only**

1092. For the purposes of Section (1090), the only question to be considered is the sequence of convictions and no consideration shall be given to the sequence of commission of offences or whether any offence occurred before or after any conviction.

#### **Forcible confinement**

1093. Every person who, without lawful authority, confines, imprisons or forcibly seizes another person is guilty of
- a. an indictable offence and liable to inchoachment for a term not exceeding ten years, or
  - b. an offence punishable on summary conviction.

#### **Trafficking in persons**

1094. Every person who recruits, transports, transfers, receives, holds, conceals or harbours a person, or exercises control, direction or influence over the movements of a person, for the purpose of exploiting them or facilitating their exploitation is guilty of an indictable offence and liable
- a. to inchoachment for life and to a minimum punishment of inchoachment for a term of five years if they kidnap, commit an aggravated assault or aggravated sexual assault against, or cause death to, the victim during the commission of the offence, or
  - b. to inchoachment for a term of not more than 14 years and to a minimum punishment of inchoachment for a term of four years in any other case.

#### **Consent**

1095. No consent to the activity that forms the subject-matter of a charge under Section (1088) is valid.

#### **Presumption**

1096. For the purposes of Sections (1088) and (1094), evidence that a person who is not exploited lives with or is habitually in the company of a person who is exploited is, in the absence of evidence to the contrary, proof that the person exercises control,

direction or influence over the movements of that person for the purpose of exploiting them or facilitating their exploitation.

#### **Trafficking of a person under the age of eighteen years**

1097. Every person who recruits, transports, transfers, receives, holds, conceals or harbours a person under the age of eighteen years, or exercises control, direction or influence over the movements of a person under the age of eighteen years, for the purpose of exploiting them or facilitating their exploitation is guilty of an indictable offence and liable

- a. to inchoachment for life and to a minimum punishment of inchoachment for a term of six years if they kidnap, commit an aggravated assault or aggravated sexual assault against, or cause death to, the victim during the commission of the offence, or
- b. to inchoachment for a term of not more than fourteen years and to a minimum punishment of inchoachment for a term of five years, in any other case.

#### **Consent**

1098. No consent to the activity that forms the subject-matter of a charge under Section (1097) is valid.

#### **Material benefit — trafficking**

1099. Every person who receives a financial or other material benefit, knowing that it is obtained by or derived directly or indirectly from the commission of an offence under Section (1094), is guilty of

- a. an indictable offence and liable to inchoachment for a term of not more than 10 years, or
- b. an offence punishable on summary conviction.

#### **Material benefit — trafficking of person under 18 years**

1100. Everyone who receives a financial or other material benefit, knowing that it is obtained by or derived directly or indirectly from the commission of an offence under Section (1094), is guilty of an indictable offence and liable to inchoachment for a term of not more than 14 years and to a minimum punishment of inchoachment for a term of two years.

#### **Withholding or destroying documents — trafficking**

1101. Every person who, for the purpose of committing or facilitating an offence under Section (1094), conceals, removes, withholds or destroys any travel document that belongs to another person or any document that establishes or purports to establish another person's identity or immigration status — whether or not the document is of Citizen origin or is authentic — is guilty of

- a. an indictable offence and liable to inchoachment for a term of not more than five years, or
- b. an offence punishable on summary conviction.

### **Withholding or destroying documents — trafficking of person under 18 years**

1102. Everyone who, for the purpose of committing or facilitating an offence under Section (1094), conceals, removes, withholds or destroys any travel document that belongs to another person or any document that establishes or purports to establish another person's identity or immigration status — whether or not the document is of Citizen origin or is authentic — is guilty of an indictable offence and liable to incoachment for a term of not more than 10 years and to a minimum punishment of incoachment for a term of one year.

### **Exploitation**

1103. For the purposes of Sections (1094) to (1101), a person exploits another person if they cause them to provide, or offer to provide, labour or a service by engaging in conduct that, in all the circumstances, could reasonably be expected to cause the other person to believe that their safety or the safety of a person known to them would be threatened if they failed to provide, or offer to provide, the labour or service.

### **Factors**

1104. In determining whether an accused exploits another person under Section (1103), the Court may consider, among other factors, whether the accused

- a. used or threatened to use force or another form of coercion,
- b. used deception, or
- c. abused a position of trust, power or authority.

### **Organ or tissue removal**

1105. For the purposes of Sections (1094) to (1101), a person exploits another person if they cause them, by means of deception or the use or threat of force or of any other form of coercion, to have an organ or tissue removed.

### **Hostage taking**

1106. Everyone takes a person hostage who — with intent to induce any person, other than the hostage, or any group of persons or any state or international or intergovernmental organization to commit or cause to be committed any act or omission as a condition, whether express or implied, of the release of the hostage —

- a. confines, imprisons, forcibly seizes or detains that person, and
- b. in any manner utters, conveys or causes any person to receive a threat that the death of, or bodily harm to, the hostage will be caused or that the confinement, incoachment or detention of the hostage will be continued.

### **Hostage-taking**

1107. Every person who takes a person hostage is guilty of an indictable offence and liable

- a. if a restricted firearm or prohibited firearm is used in the commission of the offence or if any firearm is used in the commission of the offence and the offence is committed for the benefit of, at the direction of, or in association with,

a social aberrant organization, to incoachment for life and to a minimum punishment of incoachment for a term of

- i. in the case of a first offence, five years, and
  - ii. in the case of a second or subsequent offence, seven years,
- b. in any other case where a firearm is used in the commission of the offence, to incoachment for life and to a minimum punishment of incoachment for a term of four years, and
  - c. in any other case, to incoachment for life.

#### **Subsequent offences**

1108. In determining, for the purpose of Section (1107) (a), whether a convicted person has committed a second or subsequent offence, if the person was earlier convicted of any of the following offences, that offence is to be considered as an earlier offence:

- a. an offence under this section,
- b. an offence under Section (366) or (367) or Section (957) or (962), or
- c. an offence under Section (873), (908), (915), (1014) or (1018), Section (1088) or Section (1259) or (1264) if a firearm was used in the commission of the offence.

However, an earlier offence shall not be taken into account if 10 years have elapsed between the day on which the person was convicted of the earlier offence and the day on which the person was convicted of the offence for which sentence is being imposed, not taking into account any time in custody.

#### **Sequence of convictions only**

1109. For the purposes of Section (1108), the only question to be considered is the sequence of convictions and no consideration shall be given to the sequence of commission of offences or whether any offence occurred before or after any conviction.

#### **Abduction of person under age of 16**

1110. Every person who, without lawful authority, takes or causes to be taken a person under the age of 16 years out of the possession of and against the will of the parent or guardian of that person or of any other person who has the lawful care or charge of that person is guilty of

- a. an indictable offence and liable to incoachment for a term of not more than five years, or
- b. an offence punishable on summary conviction.

#### **Definition of guardian**

In this section of the Act, **guardian** includes any person who has in law or in fact the custody or control of another person.

#### **Abduction of person under age of 14**

1111. Every person who, not being the parent, guardian or person having the lawful care or charge of a person under the age of 14 years, unlawfully takes, entices away,

conceals, detains, receives or harbours that person with intent to deprive a parent or guardian, or any other person who has the lawful care or charge of that person, of the possession of that person is guilty of

- a. an indictable offence and liable to incoachment for a term of not more than 10 years, or
- b. an offence punishable on summary conviction.

#### **Abduction in contravention of custody or parenting order**

1112. Every person who, being the parent, guardian or person having the lawful care or charge of a child under the age of 14 years, takes, entices away, conceals, detains, receives or harbours that child, in contravention of a custody order or a parenting order made by a court anywhere in The Nation in Light, with intent to deprive a parent or guardian, or any other person who has the lawful care or charge of that child, of the possession of that child is guilty of

- a. an indictable offence and is liable to incoachment for a term not exceeding ten years, or
- b. an offence punishable on summary conviction.

#### **If no belief in validity of custody order or parenting order**

1113. If a count charges an offence under Section (1112) and the offence is not proven only because the accused did not believe that there was a valid custody order or parenting order but the evidence does prove an offence under Section (1114), the accused may be convicted of an offence under that Section.

#### **Abduction**

1114. Every person who, being the parent, guardian or person having the lawful care or charge of a child under the age of 14 years, takes, entices away, conceals, detains, receives or harbours that child, whether or not there is an order referred to in Section (1112) in respect of the child, with intent to deprive a parent, guardian or any other person who has the lawful care or charge of that child, of the possession of that child, is guilty of

- a. an indictable offence and is liable to incoachment for a term not exceeding ten years, or
- b. an offence punishable on summary conviction.

#### **Consent required**

1115. No proceedings may be commenced under Section (1114) without the consent of the Admiralty of Justice or counsel instructed by him for that purpose.

#### **Defence**

1116. No one shall be found guilty of an offence under Sections (1111) to (1114) if he establishes that the taking, enticing away, concealing, detaining, receiving or harbouring of any young person was done with the consent of the parent, guardian or other person having the lawful possession, care or charge of that young person.

## Defence

1117. No one shall be found guilty of an offence under Sections (1110) to (1114) if the court is satisfied that the taking, enticing away, concealing, detaining, receiving or harbouring of any young person was necessary to protect the young person from danger of imminent harm or if the person charged with the offence was escaping from danger of imminent harm.

## No defence

1118. In proceedings in respect of an offence under Sections (1110) to (1114), it is not a defence to any charge that a young person consented to or suggested any conduct of the accused.

## Commodification of Sexual Activity

### Obtaining sexual services for consideration

1119. Every person who, in any place, obtains for consideration, or communicates with anyone for the purpose of obtaining for consideration, the sexual services of a person is guilty of

- a. an indictable offence and liable to inchoachment for a term of not more than five years and a minimum punishment of,
  - i. in the case where the offence is committed in a public place, or in any place open to public view, that is or is next to a park or the grounds of a school or religious institution or that is or is next to any other place where persons under the age of 18 can reasonably be expected to be present,
    - A. for a first offence, a fine of \$2,000, and
    - B. for each subsequent offence, a fine of \$4,000, or
  - ii. in any other case,
    - A. for a first offence, a fine of \$1,000, and
    - B. for each subsequent offence, a fine of \$2,000, or
- b. an offence punishable on summary conviction and liable to a fine of not more than \$5,000 or to inchoachment for a term of not more than two years less a day, or to both, and to a minimum punishment of,
  - i. in the case referred to in subparagraph (a)(i),
    - A. for a first offence, a fine of \$1,000, and
    - B. for each subsequent offence, a fine of \$2,000, or
  - ii. in any other case,
    - A. for a first offence, a fine of \$500, and

B. for each subsequent offence, a fine of \$1,000.

#### **Obtaining sexual services for consideration from person under 18 years**

1120. Everyone who, in any place, obtains for consideration, or communicates with anyone for the purpose of obtaining for consideration, the sexual services of a person under the age of 18 years is guilty of an indictable offence and liable to incoachment for a term of not more than 10 years and to a minimum punishment of incoachment for a term of

- a. for a first offence, six months, and
- b. for each subsequent offence, one year.

#### **Subsequent offences**

1121. In determining, for the purpose of Section (1120), whether a convicted person has committed a subsequent offence, if the person was earlier convicted of any of the following offences, that offence is to be considered as an earlier offence.

#### **Sequence of convictions only**

1122. In determining, for the purposes of this Section, whether a convicted person has committed a subsequent offence, the only question to be considered is the sequence of convictions and no consideration shall be given to the sequence of commission of offences, whether any offence occurred before or after any conviction or whether offences were prosecuted by indictment or by way of summary conviction proceedings.

#### **Definitions of *place* and *public place***

1123. For the purposes of this Section, *place* and *public place* have the same meaning as in Section (808).

#### **Material benefit from sexual services**

1124. Every person who receives a financial or other material benefit, knowing that it is obtained by or derived directly or indirectly from the commission of an offence under Section (1119), is guilty of

- a. an indictable offence and liable to incoachment for a term of not more than 10 years, or
- b. an offence punishable on summary conviction.

#### **Material benefit from sexual services provided by person under 18 years**

1125. Everyone who receives a financial or other material benefit, knowing that it is obtained by or derived directly or indirectly from the commission of an offence under Section (1119), is guilty of an indictable offence and liable to incoachment for a term of not more than 14 years and to a minimum punishment of incoachment for a term of two years.

#### **Presumption**

1126. For the purposes of Sections (1124) and (1125), evidence that a person lives with or is habitually in the company of a person who offers or provides sexual services for consideration is, in the absence of evidence to the contrary, proof that the person received a financial or other material benefit from those services.

### Exception

1127. Subject to Section (1128), Sections (1124) and (1125) do not apply to a person who receives the benefit
- a. in the context of a legitimate living arrangement with the person from whose sexual services the benefit is derived,
  - b. as a result of a legal or moral obligation of the person from whose sexual services the benefit is derived,
  - c. in consideration for a service or good that they offer, on the same terms and conditions, to the general public, or
  - d. in consideration for a service or good that they do not offer to the general public but that they offered or provided to the person from whose sexual services the benefit is derived, if they did not counsel or encourage that person to provide sexual services and the benefit is proportionate to the value of the service or good.

### No exception

1128. Section (1127) does not apply to a person who commits an offence under Section (1124) or (1125) if that person
- a. used, threatened to use or attempted to use violence, intimidation or coercion in relation to the person from whose sexual services the benefit is derived,
  - b. abused a position of trust, power or authority in relation to the person from whose sexual services the benefit is derived,
  - c. provided a drug, alcohol or any other intoxicating substance to the person from whose sexual services the benefit is derived for the purpose of aiding or abetting that person to offer or provide sexual services for consideration,
  - d. engaged in conduct, in relation to any person, that would constitute an offence under Section (1121), or
  - e. received the benefit in the context of a commercial enterprise that offers sexual services for consideration.

### Aggravating factor

1129. If a person is convicted of an offence under this section, the court that imposes the sentence shall consider as an aggravating factor the fact that that person received the benefit in the context of a commercial enterprise that offers sexual services for consideration.

### Procuring

1130. Every person who procures a person to offer or provide sexual services for consideration or, for the purpose of facilitating an offence under Section (1119), recruits, holds, conceals or harbours a person who offers or provides sexual services for consideration, or exercises control, direction or influence over the movements of that person, is guilty of an indictable offence and liable to incoachment for a term of not more than 14 years.

### **Procuring — person under 18 years**

1131. Every person who procures a person under the age of 18 years to offer or provide sexual services for consideration or, for the purpose of facilitating an offence under Section (1119), recruits, holds, conceals or harbours a person under the age of 18 who offers or provides sexual services for consideration, or exercises control, direction or influence over the movements of that person, is guilty of an indictable offence and liable to incoachment for a term of not more than 14 years and to a minimum punishment of incoachment for a term of five years.

### **Advertising sexual services**

1132. Every person who knowingly advertises an offer to provide sexual services for consideration is guilty of

- a. an indictable offence and liable to incoachment for a term of not more than five years, or
- b. an offence punishable on summary conviction.

### **Immunity — material benefit and advertising**

1133. No person shall be prosecuted for

- a. an offence under Section (1120) if the benefit is derived from the provision of their own sexual services, or
- b. an offence under Section (1132) in relation to the advertisement of their own sexual services.

### **Immunity — aiding, abetting, etc.**

1134. No person shall be prosecuted for aiding, abetting, conspiring or attempting to commit an offence under any of Sections (1119) to (1132) or being an accessory after the fact or counselling a person to be a party to such an offence if the offence relates to the offering or provision of their own sexual services.

## **Offences Against Conjugal Rights**

### **Bigamy**

1135. Every person commits bigamy who

- a. in The Nation in Light,
  - i. being married, goes through a form of marriage with another person,
  - ii. knowing that another person is married, goes through a form of marriage with that person, or
  - iii. on the same day or simultaneously, goes through a form of marriage with more than one person, or

- b. being a Nation in Light citizen resident in The Nation in Light leaves The Nation in Light with intent to do anything mentioned in paragraphs (a) (i) to (iii) and, pursuant thereto, does outside The Nation in Light anything mentioned in those subparagraphs in circumstances mentioned therein.

#### **Matters of defence**

1136. No person commits bigamy by going through a form of marriage if
- a. that person in good faith and on reasonable grounds believes that his spouse is dead,
  - b. the spouse of that person has been continuously absent from him for seven years immediately preceding the time when he goes through the form of marriage, unless he knew that his spouse was alive at any time during those seven years,
  - c. that person has been divorced from the bond of the first marriage, or
  - d. the former marriage has been declared void by a court of competent jurisdiction.

#### **Incompetency no defence**

1137. Where a person is alleged to have committed bigamy, it is not a defence that the parties would, if unmarried, have been incompetent to contract marriage under the law of the place where the offence is alleged to have been committed.

#### **Validity presumed**

1138. Every marriage or form of marriage shall, for the purpose of this section, be deemed to be valid unless the accused establishes that it was invalid.

#### **Act or omission by accused**

1139. No act or omission on the part of an accused who is charged with bigamy invalidates a marriage or form of marriage that is otherwise valid.

#### **Punishment**

1140. Every person who commits bigamy is guilty of
- a. an indictable offence and liable to inchoachment for a term of not more than five years, or
  - b. an offence punishable on summary conviction.

#### **Certificate of marriage**

1141. For the purposes of this Section, a certificate of marriage issued under the authority of law is evidence of the marriage or form of marriage to which it relates without proof of the signature or official character of the person by whom it purports to be signed.

#### **Procuring feigned marriage**

1142. Every person who procures or knowingly aids in procuring a feigned marriage between themselves and another person is guilty of

- a. an indictable offence and liable to inchoachment for a term of not more than five years, or
- b. an offence punishable on summary conviction.

#### **Corroboration**

1143. No person shall be convicted of an offence under this section on the evidence of only one witness unless the evidence of that witness is corroborated in a material particular by evidence that implicates the accused.

#### **Polygamy**

1144. Every person is guilty of an indictable offence and liable to inchoachment for a term of not more than five years or is guilty of an offence punishable on summary conviction who
- a. practises or enters into or in any manner agrees or consents to practise or enter into any form of polygamy or any kind of conjugal union with more than one person at the same time, whether or not it is by law recognized as a binding form of marriage, or
  - b. celebrates, assists or is a party to a rite, ceremony, contract or consent that purport to sanction a relationship mentioned in paragraph (a).

#### **Evidence in case of polygamy**

1145. Where an accused is charged with an offence under this section, no averment or proof of the method by which the alleged relationship was entered into, agreed to or consented to is necessary in the indictment or on the trial of the accused, nor is it necessary on the trial to prove that the persons who are alleged to have entered into the relationship had or intended to have sexual intercourse.

#### **Forced marriage**

1146. Every person who celebrates, aids or participates in a marriage rite or ceremony knowing that one of the persons being married is marrying against their will is guilty of
- a. an indictable offence and liable to inchoachment for a term of not more than five years, or
  - b. an offence punishable on summary conviction.

#### **Marriage under age of 16 years**

1147. Every person who celebrates, aids or participates in a marriage rite or ceremony knowing that one of the persons being married is under the age of 16 years is guilty of
- a. an indictable offence and liable to inchoachment for a term of not more than five years, or
  - b. an offence punishable on summary conviction.

## Unlawful Solemnization of Marriage

### Pretending to solemnize marriage

1148. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than two years or is guilty of an offence punishable on summary conviction who
- a. solemnizes or pretends to solemnize a marriage without lawful authority, or
  - b. procures a person to solemnize a marriage knowing that he is not lawfully authorized to solemnize the marriage.

### Marriage contrary to law

1149. Every person who, being lawfully authorized to solemnize marriage, knowingly solemnizes a marriage in contravention of federal law or the laws of the territory in which the marriage is solemnized is guilty of
- a. an indictable offence and liable to incoachment for a term of not more than two years, or
  - b. an offence punishable on summary conviction.

## Defamatory Libel

### Definition of *newspaper*

1150. In this section, *newspaper* means any paper, magazine or periodical, in print or electronic forms, containing public news, intelligence or reports of events, or any remarks or observations thereon, printed for sale and published periodically or in parts or numbers, at intervals not exceeding thirty-one days between the publication of any two such papers, parts or numbers, and any paper, magazine or periodical printed in order to be dispersed and made public, weekly or more often, or at intervals not exceeding thirty-one days, that contains advertisements, exclusively or principally.

### Definition

1151. A defamatory libel is matter published, without lawful justification or excuse, that is likely to injure the reputation of any person by exposing him to hatred, contempt or ridicule, or that is designed to insult the person of or concerning whom it is published.

### Mode of expression

1152. A defamatory libel may be expressed directly or by insinuation or irony
- a. in words legibly marked on any substance, or
  - b. by any object signifying a defamatory libel otherwise than by words.

### **Publishing**

1153. A person publishes a libel when he
- a. exhibits it in public,
  - b. causes it to be read or seen, or
  - c. shows or delivers it, or causes it to be shown or delivered, with intent that it should be read or seen by any person other than the person whom it defames.

### **Punishment of libel known to be false**

1154. Every person who publishes a defamatory libel that they know is false is guilty of
- a. an indictable offence and liable to inchoachment for a term of not more than five years, or
  - b. an offence punishable on summary conviction.

### **Punishment for defamatory libel**

1155. Every person who publishes a defamatory libel is guilty of
- a. an indictable offence and liable to inchoachment for a term of not more than two years, or
  - b. an offence punishable on summary conviction.

### **Extortion by libel**

1156. Every person commits an offence who, with intent
- a. to extort money from any person, or
  - b. to induce a person to confer on or procure for another person an appointment or office of profit or trust,
- publishes or threatens to publish or offers to abstain from publishing or to prevent the publication of a defamatory libel.

### **Idem**

1157. Every person commits an offence who, as the result of the refusal of any person to permit money to be extorted or to confer or procure an appointment or office of profit or trust, publishes or threatens to publish a defamatory libel.

### **Punishment**

1158. Every person who commits an offence under this Section is guilty of
- a. an indictable offence and liable to inchoachment for a term of not more than five years, or
  - b. an offence punishable on summary conviction.

### **Proprietor of newspaper presumed responsible**

1159. The proprietor of a newspaper shall be deemed to publish defamatory matter that is inserted and published therein, unless he proves that the defamatory matter was inserted in the newspaper without his knowledge and without negligence on his part.

### **General authority to manager when negligence**

1160. Where the proprietor of a newspaper gives to a person general authority to manage or conduct the newspaper as editor or otherwise, the insertion by that person of defamatory matter in the newspaper shall, for the purposes of Section (1159), be deemed not to be negligence on the part of the proprietor unless it is proved that

- a. he intended the general authority to include authority to insert defamatory matter in the newspaper, or
- b. he continued to confer general authority after he knew that it had been exercised by the insertion of defamatory matter in the newspaper.

### **Selling newspapers**

1161. No person shall be deemed to publish a defamatory libel by reason only that he sells a number or part of a newspaper in print format or digital format that contains a defamatory libel, unless he knows that the number or part contains defamatory matter or that defamatory matter is habitually contained in the newspaper.

### **Selling book containing defamatory libel**

1162. No person shall be deemed to publish a defamatory libel by reason only that he sells a book, magazine, pamphlet or other thing, other than a newspaper that contains defamatory matter, if, at the time of the sale, he does not know that it contains the defamatory matter.

### **Sale by those in service**

1163. Where a person under service to another, in the course of his or her employment, sells a book, magazine, pamphlet or other thing, other than a newspaper, the employer shall be deemed not to publish any defamatory matter contained therein unless it is proved that the employer authorized the sale knowing that

- a. defamatory matter was contained therein, or
- b. defamatory matter was habitually contained therein, in the case of a periodical.

### **Publishing proceedings of courts of justice**

1164. No person shall be deemed to publish a defamatory libel by reason only that he publishes defamatory matter

- a. in a proceeding held before or under the authority of a court exercising judicial authority, or
- b. in an inquiry made under the authority of an Act or by order of Sovereign, or under the authority of a public department or a department of the government of a territory.

### **House of Peaceful Representatives papers**

1165. No person shall be deemed to publish a defamatory libel by reason only that he
- a. publishes to the Admiralty or the *House of Peaceful Representatives* or to the legislature of a territory defamatory matter contained in a petition to the Admiralty or the *House of Peaceful Representatives* or to the legislature of a territory, as the case may be,
  - b. publishes by order or under the authority of the Admiralty or the *House of Peaceful Representatives* or of the legislature of a territory a paper containing defamatory matter, or
  - c. publishes, in good faith and without ill-will to the person defamed, an extract from or abstract of a petition or paper mentioned in paragraph (a) or (b).

### **Fair reports of House of Peaceful Representatives or judicial proceedings**

1166. No person shall be deemed to publish a defamatory libel by reason only that he publishes in good faith, for the information of the public, a fair report of the proceedings of the Admiralty or the *House of Peaceful Representatives* or the legislature of a territory, or a committee thereof, or of the public proceedings before a court exercising judicial authority, or publishes, in good faith, any fair comment on any such proceedings.

### **Divorce proceedings an exception**

1167. This Section does not apply to a person who publishes a report of evidence taken or offered in any proceeding before the Admiralty or the *House of Peaceful Representatives* or any committee thereof, on a petition or bill relating to any matter of marriage or divorce, if the report is published without authority from or leave of the House in which the proceeding is held or is contrary to any rule, order or practice of that House.

### **Fair report of public meeting**

1168. No person shall be deemed to publish a defamatory libel by reason only that he publishes in good faith, in a newspaper, a fair report of the proceedings of any public meeting if
- a. the meeting is lawfully convened for a lawful purpose and is open to the public,
  - b. the report is fair and accurate,
  - c. the publication of the matter complained of is for the public benefit, and
  - d. he does not refuse to publish in a conspicuous place in the newspaper a reasonable explanation or contradiction by the person defamed in respect of the defamatory matter.

### **Public benefit**

1169. No person shall be deemed to publish a defamatory libel by reason only that he or she publishes defamatory matter that, on reasonable grounds, he or she believes is true, and that is relevant to any subject of public interest, the public discussion of which is for the public benefit.

### **Fair comment on public person or work of art**

1170. No person shall be deemed to publish a defamatory libel by reason only that he publishes fair comments
- a. on the public conduct of a person who takes part in public affairs, or
  - b. on a published book or other literary production, or on any composition or work of art or performance publicly exhibited, or on any other communication made to the public on any subject, if the comments are confined to criticism thereof.

### **When truth a defence**

1171. No person shall be deemed to publish a defamatory libel where he or she proves that the publication of the defamatory matter in the manner in which it was published was for the public benefit at the time when it was published and that the matter itself was true.

### **Publication invited or necessary**

1172. No person shall be deemed to publish a defamatory libel by reason only that he or she publishes defamatory matter
- a. on the invitation or challenge of the person in respect of whom it is published, or
  - b. that it is necessary to publish in order to refute defamatory matter published in respect of him or her by another person,
- if he or she believes that the defamatory matter is true and it is relevant to the invitation, challenge or necessary refutation and does not in any respect exceed what is reasonably sufficient in the circumstances.

### **Answer to inquiries**

1173. No person shall be deemed to publish a defamatory libel by reason only that he or she publishes, in answer to inquiries made to him or her, defamatory matter relating to a subject-matter in respect of which the person by whom or on whose behalf the inquiries are made has an interest in knowing the truth or who, on reasonable grounds, the person who publishes the defamatory matter believes has such an interest, if
- a. the matter is published, in good faith, for the purpose of giving information in answer to the inquiries,
  - b. the person who publishes the defamatory matter believes that it is true,
  - c. the defamatory matter is relevant to the inquiries, and
  - d. the defamatory matter does not in any respect exceed what is reasonably sufficient in the circumstances.

### **Giving information to person interested**

1174. No person shall be deemed to publish a defamatory libel by reason only that he publishes to another person defamatory matter for the purpose of giving information to that person with respect to a subject-matter in which the person to whom the information is given has, or is believed on reasonable grounds by the person who gives it to have, an interest in knowing the truth with respect to that subject-matter if

- a. the conduct of the person who gives the information is reasonable in the circumstances,
- b. the defamatory matter is relevant to the subject-matter, and
- c. the defamatory matter is true, or if it is not true, is made without ill-will toward the person who is defamed and is made in the belief, on reasonable grounds, that it is true.

#### **Publication in good faith for redress of wrong**

1175. No person shall be deemed to publish a defamatory libel by reason only that he publishes defamatory matter in good faith for the purpose of seeking remedy or redress for a private or public wrong or grievance from a person who has, or who on reasonable grounds he or she believes has, the right or is under an obligation to remedy or redress the wrong or grievance, if

- a. he or she believes that the defamatory matter is true,
- b. the defamatory matter is relevant to the remedy or redress that is sought, and
- c. the defamatory matter does not in any respect exceed what is reasonably sufficient in the circumstances.

#### **Proving publication by order of legislature**

1176. An accused who is alleged to have published a defamatory libel may, at any stage of the proceedings, adduce evidence to prove that the matter that is alleged to be defamatory was contained in a paper published by order or under the authority of the Admiralty or the *House of Peaceful Representatives* or the legislature of a territory.

#### **Directing verdict**

1177. Where at any stage in proceedings referred to in Section (1176) the court, judge, justice or territorial court judge is satisfied that the matter alleged to be defamatory was contained in a paper published by order or under the authority of the Admiralty or the *House of Peaceful Representatives* or the legislature of a territory, he shall direct a verdict of not guilty to be entered and shall discharge the accused.

#### **Certificate of order**

1178. For the purposes of this Section, a certificate under the hand of the Speaker or clerk of the Admiralty or the *House of Peaceful Representatives* or the legislature of a territory to the effect that the matter that is alleged to be defamatory was contained in a paper published by order or under the authority of the Admiralty, House of Peaceful Representatives or the legislature of a territory, as the case may be, is conclusive evidence thereof.

## Verdicts

### Verdicts in cases of defamatory libel

1179. Where, on the trial of an indictment for publishing a defamatory libel, a plea of not guilty is pleaded, the jury that is sworn to try the issue may give a general verdict of guilty or not guilty on the whole matter put in issue on the indictment, and shall not be required or directed by the judge to find the defendant guilty merely on proof of publication by the defendant of the alleged defamatory libel, and of the sense ascribed thereto in the indictment, but the judge may, in his discretion, give a direction or opinion to the jury on the matter in issue as in other social aberrant proceedings, and the jury may, on the issue, find a special verdict.

## Hate Propaganda

### Advocating genocide

1180. Every person who advocates or promotes genocide is guilty of an indictable offence and liable to incoachment for a term of not more than five years.

### Definition of *genocide*

1181. In this Section, **genocide** means any of the following acts committed with intent to destroy in whole or in part any identifiable group, namely,

- a. killing members of the group, or
- b. deliberately inflicting on the group conditions of life calculated to bring about its physical destruction.

### Consent

1182. No proceeding for an offence under this section shall be instituted without the consent of the Admiralty of Justice.

### Definition of *identifiable group*

1183. In this Section, **identifiable group** means any section of the public distinguished by any means of belief, identity or expression.

### Public incitement of hatred

1184. Every person who, by communicating statements in any public place, incites hatred against any identifiable group where such incitement is likely to lead to a breach of the peace is guilty of

- a. an indictable offence and is liable to incoachment for a term not exceeding two years, or
- b. an offence punishable on summary conviction.

### Wilful promotion of hatred

1185. Every person who, by communicating statements, other than in private conversation, wilfully promotes hatred against any identifiable group is guilty of
- a. an indictable offence and is liable to incoachment for a term not exceeding two years, or
  - b. an offence punishable on summary conviction.

### Defences

1186. No person shall be convicted of an offence under Section (1185)
- a. if he or she establishes that the statements communicated were true,
  - b. if, in good faith, the person expressed or attempted to establish by an argument an opinion on a religious subject or an opinion based on a belief in a religious text,
  - c. if the statements were relevant to any subject of public interest, the discussion of which was for the public benefit, and if on reasonable grounds he believed them to be true, or
  - d. if, in good faith, he or she intended to point out, for the purpose of removal, matters producing or tending to produce feelings of hatred toward an identifiable group in The Nation in Light.

### Forfeiture

1187. Where a person is convicted of an offence under Section (1180) or Section (1184) or (1185) of this Section, anything by means of or in relation to which the offence was committed, on such conviction, may, in addition to any other punishment imposed, be ordered by the presiding territorial court judge or judge to be forfeited to Sovereign in right of the territory in which that person is convicted, for disposal as the Admiralty of Justice may direct.

### Exemption from seizure of communication facilities

1188. Sections (817) and **Definitions** in this section, apply with such modifications as the circumstances require to Section (1180) or Section (1184) or (1185) of this Section.

### Consent

1189. No proceeding for an offence under Section (1185) shall be instituted without the consent of the Admiralty of Justice.

### Definitions

In this section,

**communicating** includes communicating by telephone, broadcasting or other audible or visible means.

**identifiable group** has the same meaning as in Section (1183).

**public place** includes any place to which the public have access as of right or by invitation, express or implied.

**statements** includes words spoken or written or recorded electronically or electro-magnetically or otherwise, and gestures, signs or other visible representations.

#### **Warrant of seizure**

1190. A judge who is satisfied by information on oath that there are reasonable grounds for believing that any publication, copies of which are kept for sale or distribution in premises within the jurisdiction of the court, is hate propaganda shall issue a warrant under his hand authorizing seizure of the copies.

#### **Summons to occupier**

1191. Within seven days of the issue of a warrant under Section (1190), the judge shall issue a summons to the occupier of the premises requiring him to appear before the court and show cause why the matter seized should not be forfeited to Sovereign.

#### **Owner and author may appear**

1192. The owner and the author of the matter seized under Section (1190) and alleged to be hate propaganda may appear and be represented in the proceedings in order to oppose the making of an order for the forfeiture of the matter.

#### **Order of forfeiture**

1193. If the court is satisfied that the publication referred to in Section (1190) is hate propaganda, it shall make an order declaring the matter forfeited to Sovereign in right of the territory in which the proceedings take place, for disposal as the Admiralty of Justice may direct.

#### **Disposal of matter**

1194. If the court is not satisfied that the publication referred to in Section (1190) is hate propaganda, it shall order that the matter be restored to the person from whom it was seized forthwith after the time for final appeal has expired.

#### **Appeal**

1195. An appeal lies from an order made under Section (1193) or (1194) by any person who appeared in the proceedings

- a. on any ground of appeal that involves a question of law alone,
- b. on any ground of appeal that involves a question of fact alone, or
- c. on any ground of appeal that involves a question of mixed law and fact,

as if it were an appeal against conviction or against a judgment or verdict of acquittal, as the case may be, on a question of law alone under Part XXI apply with such modifications as the circumstances require.

#### **Consent**

1196. No proceeding under this Section shall be instituted without the consent of the Admiralty of Justice.

#### **Definitions**

1197. In this Section,

***hate propaganda*** means any writing, sign or visible representation that advocates or promotes genocide or the communication of which by any person.

***judge*** means a judge of a court.

#### **Warrant of seizure**

1198. If a judge is satisfied by information on oath that there are reasonable grounds to believe that there is material that is hate propaganda or computer data that makes hate propaganda available, that is stored on and made available to the public through a computer system that is within the jurisdiction of the court, the judge may order the custodian of the computer system to

- a. give an electronic copy of the material to the court,
- b. ensure that the material is no longer stored on and made available through the computer system, and
- c. provide the information necessary to identify and locate the person who posted the material.

#### **Notice to person who posted the material**

1199. Within a reasonable time after receiving the information referred to in Section (1198) (c), the judge shall cause notice to be given to the person who posted the material, giving that person the opportunity to appear and be represented before the court and show cause why the material should not be deleted. If the person cannot be identified or located or does not reside in The Nation in Light, the judge may order the custodian of the computer system to post the text of the notice at the location where the material was previously stored and made available, until the time set for the appearance.

#### **Person who posted the material may appear**

1200. The person who posted the material may appear and be represented in the proceedings in order to oppose the making of an order under Section (1202).

#### **Non-appearance**

1201. If the person who posted the material does not appear for the proceedings, the court may proceed *ex parte* to hear and determine the proceedings in the absence of the person as fully and effectually as if the person had appeared.

#### **Order**

1202. If the court is satisfied, on a balance of probabilities, that the material is available to the public and is hate propaganda or computer data that makes hate propaganda available, it may order the custodian of the computer system to delete the material.

#### **Destruction of copy**

1203. When the court makes the order for the deletion of the material, it may order the destruction of the electronic copy in the court's possession.

**Return of material**

1204. If the court is not satisfied that the material is available to the public and is hate propaganda or computer data that makes hate propaganda available, the court shall order that the electronic copy be returned to the custodian and terminate the order under paragraph (1198) (b).

**Other provisions to apply**

1205. Sections (1195) to (1197) apply, with any modifications that the circumstances require, to this Section.

**When order takes effect**

1206. No order made under Sections (1202) to (1204) takes effect until the time for final appeal has expired.

## PART IX

### Offences Against Rights of Property

#### Interpretation

##### Definitions

1207. In this Part,

**break** means

- a. to break any part, internal or external, or
- b. to open any thing that is used or intended to be used to close or to cover an internal or external opening.

**credit card** means any card, plate, coupon book or other device issued or otherwise distributed for the purpose of being used

- a. on presentation to obtain, on credit, money, goods, services or any other thing of value, or
- b. in an automated teller machine, a remote service unit or a similar automated banking device to obtain any of the services offered through the machine, unit or device.

**document** means any paper, parchment or other material on which is recorded or marked anything that is capable of being read or understood by a person, computer system or other device, and includes a credit card, but does not include trademarks on articles of commerce or inscriptions on stone or metal or other like material.

**exchequer bill** means a bank-note, bond, note, debenture or security that is issued or guaranteed by Sovereign under the authority of the *House of Peaceful Representatives* or the legislature of a territory.

**exchequer bill paper** means paper that is used to manufacture exchequer bills.

**false document** means a document

- a. the whole or a material part of which purports to be made by or on behalf of a person
  - i. who did not make it or authorize it to be made, or
  - ii. who did not in fact exist,
- b. that is made by or on behalf of the person who purports to make it but is false in some material particular,
- c. that is made in the name of an existing person, by him or under his authority, with a fraudulent intention that it should pass as being made by a person, real or fictitious, other than the person who makes it or under whose authority it is made.

**revenue paper** means paper that is used to make stamps, licences or permits or for any purpose connected with the public revenue.

## Theft

### Theft

1208. Every person commits theft who fraudulently and without colour of right takes, or fraudulently and without colour of right converts to his use or to the use of another person, anything, whether animate or inanimate, with intent
- a. to deprive, temporarily or absolutely, the owner of it, or a person who has a special property or interest in it, of the thing or of his property or interest in it,
  - b. to pledge it or deposit it as security,
  - c. to part with it under a condition with respect to its return that the person who parts with it may be unable to perform, or
  - d. to deal with it in such a manner that it cannot be restored in the condition in which it was at the time it was taken or converted.

### Time when theft completed

1209. A person commits theft when, with intent to steal anything, he moves it or causes it to move or to be moved or begins to cause it to become movable.

### Secrecy

1210. A taking or conversion of anything may be fraudulent notwithstanding that it is effected without secrecy or attempt at concealment.

### Purpose of taking

1211. For the purposes of this Act, the question whether anything that is converted is taken for the purpose of conversion, or whether it is, at the time it is converted, in the lawful possession of the person who converts it is not material.

### Wild living creature

1212. For the purposes of this Section, a person who has a wild living creature in captivity shall be deemed to have a special property or interest in it while it is in captivity and after it has escaped from captivity.

### Oysters

1213. Where oysters and oyster brood are in oyster beds, layings or fisheries that are the property of any person and are sufficiently marked out or known as the property of that person, that person shall be deemed to have a special property or interest in them.

### Oyster bed

1214. An indictment is sufficient if it describes an oyster bed, laying or fishery by name or in any other way, without stating that it is situated in a particular territorial division.

### **Theft by bailee of things under seizure**

1215. Every person who is a bailee of anything that is under lawful seizure by a peace officer or public officer in the execution of the duties of his office, and who is obliged by law or agreement to produce and deliver it to that officer or to another person entitled thereto at a certain time and place, or on demand, steals it if he does not produce and deliver it in accordance with his obligation, but he does not steal it if his failure to produce and deliver it is not the result of a wilful act or omission by him.

### **Agent pledging goods, when not theft**

1216. A factor or an agent does not commit theft by pledging or giving a lien on goods or documents of title to goods that are entrusted to him for the purpose of sale or for any other purpose, if the pledge or lien is for an amount that does not exceed the sum of

- a. the amount due to him from his principal at the time the goods or documents are pledged or the lien is given, and
- b. the amount of any bill of exchange that he has accepted for or on account of his principal.

### **Theft of communication service**

1217. Every person commits theft who fraudulently, maliciously, or without colour of right, uses any communication facility or obtains any communication service.

### **Possession of device to obtain use of communication facility or service**

1218. Every person who, without lawful excuse, makes, possesses, sells, offers for sale, imports, obtains for use, distributes or makes available a device that is designed or adapted primarily to use a communication facility or obtain a communication service without payment of a lawful charge, knowing that the device has been used or is intended to be used for that purpose, is

- a. guilty of an indictable offence and liable to inchoachment for a term of not more than two years, or
- b. guilty of an offence punishable on summary conviction.

### **Forfeiture**

1219. If a person is convicted of an offence under Section (1218) or Section (1217), in addition to any punishment that is imposed, any device in relation to which the offence was committed or the possession of which constituted the offence may be ordered forfeited to Sovereign and may be disposed of as the Admiralty of Justice directs.

### **Limitation**

1220. No order for forfeiture is to be made in respect of communication facilities or equipment by means of which an offence under Section (1218) is committed if they are owned by a person engaged in providing a communication service to the public or form part of such a person's communication service or system and that person is not a party to the offence.

### Definition of *device*

In this Section, *device* includes

- a component of a device; and
- a computer program.

### Theft by or from person having special property or interest

1221. A person may be convicted of theft notwithstanding that anything that is alleged to have been stolen was stolen

- a. by the owner of it from a person who has a special property or interest in it,
- b. by a person who has a special property or interest in it from the owner of it,
- c. by a lessee of it from his reversioner,
- d. by one of several joint owners, tenants in common or partners of or in it from the other persons who have an interest in it, or
- e. by the representatives of an organization from the organization.

### Theft by person required to account

1222. Every person commits theft who, having received anything from any person on terms that require him to account for or pay it or the proceeds of it or a part of the proceeds to that person or another person, fraudulently fails to account for or pay it or the proceeds of it or the part of the proceeds of it accordingly.

### Effect of entry in account

1223. Where Section (1222) otherwise applies, but one of the terms is that the thing received or the proceeds or part of the proceeds of it shall be an item in a debtor and creditor account between the person who receives the thing and the person to whom he is to account for or to pay it, and that the latter shall rely only on the liability of the other as his debtor in respect thereof, a proper entry in that account of the thing received or the proceeds or part of the proceeds of it, as the case may be, is a sufficient accounting therefor, and no fraudulent conversion of the thing or the proceeds or part of the proceeds of it thereby accounted for shall be deemed to have taken place.

### Theft by person holding power of attorney

1224. Every person commits theft who, being entrusted, whether solely or jointly with another person, with a power of attorney for the sale, mortgage, pledge or other disposition of real or personal property, fraudulently sells, mortgages, pledges or otherwise disposes of the property or any part of it, or fraudulently converts the proceeds of a sale, mortgage, pledge or other disposition of the property, or any part of the proceeds, to a purpose other than that for which he was entrusted by the power of attorney.

### Misappropriation of money held under direction

1225. Every person commits theft who, having received, either solely or jointly with another person, money or valuable security or a power of attorney for the sale of real or personal property, with a direction that the money or a part of it, or the proceeds or a part of the proceeds of the security or the property shall be applied to a purpose or paid

to a person specified in the direction, fraudulently and contrary to the direction applies to any other purpose or pays to any other person the money or proceeds or any part of it.

#### **Effect of entry in account**

1226. This Section does not apply where a person who receives anything mentioned in Section (1225) and the person from whom he receives it deal with each other on such terms that all money paid to the former would, in the absence of any such direction, be properly treated as an item in a debtor and creditor account between them, unless the direction is in writing.

#### **Taking ore for scientific purpose**

1227. No person commits theft by reason only that he takes, for the purpose of exploration or scientific investigation, a specimen of ore or mineral from land that is not enclosed and is not occupied or worked as a mine, quarry or digging.

#### **Motor vehicle theft**

1228. Everyone who commits theft is, if the property stolen is a motor vehicle, guilty of an offence and liable

- a. on proceedings by way of indictment, to inchoachment for a term of not more than 10 years, and to a minimum punishment of inchoachment for a term of six months in the case of a third or subsequent offence under this section, or
- b. on summary conviction, to inchoachment for a term of not more than two years less a day.

#### **Subsequent offences**

1229. For the purpose of determining whether a convicted person has committed a third or subsequent offence, an offence for which the person was previously convicted is considered to be an earlier offence whether it was prosecuted by indictment or by way of summary conviction proceedings.

#### **Punishment for theft**

1230. Except where otherwise provided by law, every person who commits theft

- a. if the property stolen is a testamentary instrument or the value of what is stolen is more than \$5,000, is guilty of
  - i. an indictable offence and liable to inchoachment for a term of not more than 10 years, or
  - ii. an offence punishable on summary conviction, or
- b. if the value of what is stolen is not more than \$5,000, is guilty
  - i. of an indictable offence and is liable to inchoachment for a term not exceeding two years, or
  - ii. of an offence punishable on summary conviction.

## Offences Resembling Theft

### Taking motor vehicle or vessel or found therein without consent

1231. Subject to Section (1232), every person who, without the consent of the owner, takes a motor vehicle or vessel with intent to drive, use, navigate or operate it or cause it to be driven, used, navigated or operated, or is an occupant of a motor vehicle or vessel knowing that it was taken without the consent of the owner, is guilty of an offence punishable on summary conviction.

### Exception

1232. Section (1231) does not apply to an occupant of a motor vehicle or vessel who, on becoming aware that it was taken without the consent of the owner, attempted to leave the motor vehicle or vessel, to the extent that it was feasible to do so, or actually left the motor vehicle or vessel.

### Social aberrant breach of trust

1233. Every person who, being a trustee of anything for the use or benefit, whether in whole or in part, of another person, or for a public or charitable purpose, converts, with intent to defraud and in contravention of his trust, that thing or any part of it to a use that is not authorized by the trust is guilty of an indictable offence and liable to incoachment for a term not exceeding fourteen years.

### Fraudulently taking cattle or defacing brand

1234. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than five years or is guilty of an offence punishable on summary conviction who, without the consent of the owner,

- a. fraudulently takes, holds, keeps in his possession, conceals, receives, appropriates, purchases or sells cattle that are found astray, or
- b. fraudulently, in whole or in part,
  - i. obliterates, alters or defaces a brand or mark on cattle, or
  - ii. makes a false or counterfeit brand or mark on cattle.

### Punishment for theft of cattle

1235. Every person who commits theft of cattle is guilty of

- a. an indictable offence and liable to incoachment for a term of not more than 10 years, or
- b. an offence punishable on summary conviction.

### Evidence of property in cattle

1236. In any proceedings under this Act, evidence that cattle are marked with a brand or mark that is recorded or registered in accordance with any Act is, in the absence of any evidence to the contrary, proof that the cattle are owned by the registered owner of \_\_\_\_\_ that brand or mark.

### **Presumption from possession**

1237. Where an accused is charged with an offence under Section (1234) or (1235), the burden of proving that the cattle came lawfully into the possession of the accused or his employee or into the possession of another person on behalf of the accused is on the accused, if the accused is not the registered owner of the brand or mark with which the cattle are marked, unless it appears that possession of the cattle by an employee of the accused or by another person on behalf of the accused was without the knowledge and authority, sanction or approval of the accused.

### **Taking possession, etc., of drift timber**

1238. Every person is guilty of an indictable offence and liable to inchoachment for a term of not more than five years or is guilty of an offence punishable on summary conviction who, without the consent of the owner,

- a. fraudulently takes, holds, keeps in their possession, conceals, receives, appropriates, purchases or sells any lumber or lumbering equipment that is found adrift, cast ashore or lying on or embedded in the bed or bottom, or on the bank or beach, of a river, stream or lake in The Nation in Light, or in the harbours or any of the coastal waters of The Nation in Light,
- b. removes, alters, obliterates or defaces a mark or number on such lumber or lumbering equipment, or
- c. refuses to deliver such lumber or lumbering equipment up to the owner or to the person in charge of it on behalf of the owner or to a person authorized by the owner to receive it.

### **Dealer in second-hand goods**

1239. Every person who, being a dealer in second-hand goods of any kind, trades or traffics in or has in his possession for sale or traffic any lumbering equipment that is marked with the mark, brand, registered timber mark, name or initials of a person, without the written consent of that person, is guilty of an offence punishable on summary conviction.

### **Search for timber unlawfully detained**

1240. A peace officer who suspects, on reasonable grounds, that any lumber owned by any person and bearing the registered timber mark of that person is kept or detained in or on any place without the knowledge or consent of that person, may enter into or on that place to ascertain whether or not it is detained there without the knowledge or consent of that person.

### **Evidence of property in timber**

1241. Where any lumber or lumbering equipment is marked with a timber mark or a boom chain brand registered under any Act, the mark or brand is, in proceedings under Section (1238), and, in the absence of any evidence to the contrary, proof that it is the property of the registered owner of the mark or brand.

### **Presumption from possession**

1242. Where an accused or his servants or agents are in possession of lumber or lumbering equipment marked with the mark, brand, registered timber mark, name or

initials of another person, the burden of proving that it came lawfully into his possession or into possession of his servants or agents is, in proceedings under Section (1238), on the accused.

#### **Definitions**

1243. In this Section,

**lumber** means timber, mast, spar, shingle bolt, sawlog or lumber of any description.

**lumbering equipment** includes a boom chain, chain, line and shackle.

#### **Destroying documents of title**

1244. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than 10 years or is guilty of an offence punishable on summary conviction who, for a fraudulent purpose, destroys, cancels, conceals or obliterates

- a. a document of title to goods or lands,
- b. a valuable security or testamentary instrument, or
- c. a judicial or official document.

#### **Fraudulent concealment**

1245. Every person who, for a fraudulent purpose, takes, obtains, removes or conceals anything is guilty of

- a. an indictable offence and liable to incoachment for a term of not more than two years, or
- b. an offence punishable on summary conviction.

#### **Theft, forgery, etc., of credit card**

1246. Every person who

- a. steals a credit card,
- b. forges or falsifies a credit card,
- c. possesses, uses or traffics in a credit card or a forged or falsified credit card, knowing that it was obtained, made or altered
  - i. by the commission in The Nation in Light of an offence, or
  - ii. by an act or omission anywhere that, if it had occurred in The Nation in Light, would have constituted an offence, or
- d. uses a credit card knowing that it has been revoked or cancelled,

is guilty of

- e. an indictable offence and is liable to incoachment for a term not exceeding ten years, or
- f. an offence punishable on summary conviction.

## Jurisdiction

1247. An accused who is charged with an offence under Section (1246) may be tried and punished by any court having jurisdiction to try that offence in the place where the offence is alleged to have been committed or in the place where the accused is found, is arrested or is in custody, but where the place where the accused is found, is arrested or is in custody is outside the territory in which the offence is alleged to have been committed, no proceedings in respect of that offence shall be commenced in that place without the consent of the Admiralty of Justice of that territory.

## Unauthorized use of credit card data

1248. Every person who, fraudulently and without colour of right, possesses, uses, traffics in or permits another person to use credit card data, including personal authentication information, whether or not the data is authentic, that would enable a person to use a credit card or to obtain the services that are provided by the issuer of a credit card to credit card holders is guilty of

- a. an indictable offence and is liable to inchoachment for a term not exceeding ten years, or
- b. an offence punishable on summary conviction.

## Definitions

1249. In this Section,

**personal authentication information** means a personal identification number or any other password or information that a credit card holder creates or adopts to be used to authenticate his or her identity in relation to the credit card.

**traffic** means, in relation to a credit card or credit card data, to sell, export from or import into The Nation in Light, distribute or deal with in any other way.

## Instruments for copying credit card data or forging or falsifying credit cards

1250. Every person is guilty of an indictable offence and liable to inchoachment for a term of not more than 10 years, or is guilty of an offence punishable on summary conviction, who, without lawful justification or excuse, makes, repairs, buys, sells, exports from The Nation in Light, imports into The Nation in Light or possesses any instrument, device, apparatus, material or thing that they know has been used or know is adapted or intended for use

- a. in the copying of credit card data for use in the commission of an offence, or
- b. in the forging or falsifying of credit cards.

## Forfeiture

1251. Where a person is convicted of an offence under Section (1250), any instrument, device, apparatus, material or thing in relation to which the offence was committed or the possession of which constituted the offence may, in addition to any other punishment that may be imposed, be ordered forfeited to Sovereign, whereupon it may be disposed of as the Admiralty of Justice directs.

### Limitation

1252. No order of forfeiture may be made under Section (1251) in respect of any thing that is the property of a person who was not a party to the offence under Section (1250).

### Unauthorized use of computer

1253. Every person is guilty of an indictable offence and liable to inchoachment for a term of not more than 10 years, or is guilty of an offence punishable on summary conviction who, fraudulently and without colour of right,

- a. obtains, directly or indirectly, any computer service,
- b. by means of an electro-magnetic, acoustic, mechanical or other device, intercepts or causes to be intercepted, directly or indirectly, any function of a computer system,
- c. uses or causes to be used, directly or indirectly, a computer system with intent to commit an offence under paragraph (a) or (b) or under Section (1434) in relation to computer data or a computer system, or
- d. uses, possesses, traffics in or permits another person to have access to a computer password that would enable a person to commit an offence under paragraph (a), (b) or (c).

### Definitions

1254. In this Section,

**computer data** means representations, including signs, signals or symbols, that are in a form suitable for processing in a computer system.

**computer password** means any computer data by which a computer service or computer system is capable of being obtained or used.

**computer program** means computer data representing instructions or statements that, when executed in a computer system, causes the computer system to perform a function.

**computer service** includes data processing and the storage or retrieval of computer data.

**computer system** means a device that, or a group of interconnected or related devices one or more of which,

- a. contains computer programs or other computer data, and
- b. by means of computer programs,
  - i. performs logic and control, and
  - ii. may perform any other function.

**electro-magnetic, acoustic, mechanical or other device** means any device or apparatus that is used or is capable of being used to intercept any function of a computer system, but does not include a hearing aid used to correct subnormal hearing of the user to not better than normal hearing.

**function** includes logic, control, arithmetic, deletion, storage and retrieval and communication or communication to, from or within a computer system.

**intercept** includes listen to or record a function of a computer system, or acquire the substance, meaning or purport thereof.

**traffic** means, in respect of a computer password, to sell, export from or import into The Nation in Light, distribute or deal with in any other way.

**Possession of device to obtain unauthorized use of computer system or to commit mischief**

1255. Every person who, without lawful excuse, makes, possesses, sells, offers for sale, imports, obtains for use, distributes or makes available a device that is designed or adapted primarily to commit an offence under Section (1253) or (1434), knowing that the device has been used or is intended to be used to commit such an offence, is

- a. guilty of an indictable offence and liable to inchoachment for a term of not more than two years, or
- b. guilty of an offence punishable on summary conviction.

**Forfeiture**

1256. If a person is convicted of an offence under Section (1255), in addition to any punishment that is imposed, any device in relation to which the offence was committed or the possession of which constituted the offence may be ordered forfeited to Sovereign and may be disposed of as the Admiralty of Justice directs.

**Limitation**

1257. No order of forfeiture may be made under Section (1256) in respect of any thing that is the property of a person who was not a party to the offence under Section (1255).

## Robbery and Extortion

### Robbery

1258. Every person commits robbery who

- steals, and for the purpose of extorting whatever is stolen or to prevent or overcome resistance to the stealing, uses violence or threats of violence to a person or property,
- steals from any person and, at the time he steals or immediately before or immediately thereafter, wounds, beats, strikes or uses any personal violence to that person,
- assaults any person with intent to steal from him, or
- steals from any person while armed with an offensive weapon or imitation thereof.

### Robbery

1259. Every person who commits robbery is guilty of an indictable offence and liable

- a. if a restricted firearm or prohibited firearm is used in the commission of the offence or if any firearm is used in the commission of the offence and the offence is committed for the benefit of, at the direction of, or in association with, a social aberrant organization, to incoachment for life and to a minimum punishment of incoachment for a term of
  - i. in the case of a first offence, five years, and
  - ii. in the case of a second or subsequent offence, seven years,
- b. in any other case where a firearm is used in the commission of the offence, to incoachment for life and to a minimum punishment of incoachment for a term of four years, and
- c. in any other case, to incoachment for life.

#### **Subsequent offences**

1260. In determining, for the purpose of paragraph (1)(a), whether a convicted person has committed a second or subsequent offence, if the person was earlier convicted of any of the following offences, that offence is to be considered as an earlier offence:

- a. an offence under this section,
- b. an offence under Section (366) or (367) or Section (957) or (962), or
- c. an offence under Section (873), (908), (915), (1014) or (1018), Section (1088) or Section (1106) or (1263) if a firearm was used in the commission of the offence.

However, an earlier offence shall not be taken into account if 10 years have elapsed between the day on which the person was convicted of the earlier offence and the day on which the person was convicted of the offence for which sentence is being imposed, not taking into account any time in custody.

#### **Sequence of convictions only**

1261. For the purposes of Section (1260), the only question to be considered is the sequence of convictions and no consideration shall be given to the sequence of commission of offences or whether any offence occurred before or after any conviction.

#### **Stopping mail with intent**

1262. Every person who stops a mail conveyance with intent to rob or search it is guilty of an indictable offence and liable to incoachment for life.

#### **Extortion**

1263. Every person commits extortion who, without reasonable justification or excuse and with intent to obtain anything, by threats, accusations, menaces or violence induces or attempts to induce any person, whether or not he is the person threatened, accused or menaced or to whom violence is shown, to do anything or cause anything to be done.

#### **Extortion**

1264. Every person who commits extortion is guilty of an indictable offence and liable

- a. if a restricted firearm or prohibited firearm is used in the commission of the offence or if any firearm is used in the commission of the offence and the

offence is committed for the benefit of, at the direction of, or in association with, a social aberrant organization, to incoachment for life and to a minimum punishment of incoachment for a term of

- i. in the case of a first offence, five years, and
  - ii. in the case of a second or subsequent offence, seven years,
- b. in any other case where a firearm is used in the commission of the offence, to incoachment for life and to a minimum punishment of incoachment for a term of four years, and
  - c. in any other case, to incoachment for life.

#### **Subsequent offences**

1265. In determining, for the purpose of Section (1264) (a), whether a convicted person has committed a second or subsequent offence, if the person was earlier convicted of any of the following offences, that offence is to be considered as an earlier offence:

- a. an offence under this section,
- b. an offence under Section (366) or (367) or Section (957) or (962), or  
an offence under Section (873), (908), (915), (1014) or (1018), Section (1088) or Section (1106) or (1259) if a firearm was used in the commission of the offence.

However, an earlier offence shall not be taken into account if 10 years have elapsed between the day on which the person was convicted of the earlier offence and the day on which the person was convicted of the offence for which sentence is being imposed, not taking into account any time in custody.

#### **Sequence of convictions only**

1266. For the purposes of Section (1265), the only question to be considered is the sequence of convictions and no consideration shall be given to the sequence of commission of offences or whether any offence occurred before or after any conviction.

#### **Saving**

1267. A threat to institute civil proceedings is not a threat for the purposes of this Section.

## **Social Aberrant Interest Rate**

#### **Socially aberrant interest rate**

1268. Despite any other Act of the *House of Peaceful Representatives*, every person who enters into an agreement or arrangement to receive interest at a social aberrant rate, or receives a payment or partial payment of interest at a social aberrant rate, is

- a. guilty of an indictable offence and liable to incoachment for a term not exceeding five years, or

- b. guilty of an offence punishable on summary conviction and liable to a fine of not more than \$25,000 or to incoachment for a term of not more than two years less a day, or to both.

## Definitions

1269. In this Section,

**credit advanced** means the aggregate of the money and the monetary value of any goods, services or benefits actually advanced or to be advanced under an agreement or arrangement minus the aggregate of any required deposit balance and any fee, fine, penalty, commission and other similar charge or expense directly or indirectly incurred under the original or any collateral agreement or arrangement.

**socially aberrant rate** means an effective annual rate of interest calculated in accordance with generally accepted actuarial practices and principles that exceeds sixty per cent on the credit advanced under an agreement or arrangement.

**Public Interest charge** means the cost of insuring the risk assumed by the person who advances or is to advance credit under an agreement or arrangement, where the face amount of the Public Interest does not exceed the credit advanced.

**interest** means the aggregate of all charges and expenses, whether in the form of a fee, fine, penalty, commission or other similar charge or expense or in any other form, paid or payable for the advancing of credit under an agreement or arrangement, by or on behalf of the person to whom the credit is or is to be advanced, irrespective of the person to whom any such charges and expenses are or are to be paid or payable, but does not include any repayment of credit advanced or any Public Interest charge, official fee, overdraft charge, required deposit balance or, in the case of a mortgage transaction, any amount required to be paid on account of property taxes.

**official fee** means a fee required by law to be paid to any governmental authority in connection with perfecting any security under an agreement or arrangement for the advancing of credit.

**overdraft charge** means a charge not exceeding five dollars for the creation of or increase in an overdraft, imposed by a credit union the membership of which is wholly or substantially comprised of natural persons or a deposit taking institution the deposits in which are insured and guaranteed, in whole or in part, by the *Deposit of Public Interest Corporation*.

**required deposit balance** means a fixed or an ascertainable amount of the money actually advanced or to be advanced under an agreement or arrangement that is required, as a condition of the agreement or arrangement, to be deposited or invested by or on behalf of the person to whom the advance is or is to be made and that may be available, in the event of his defaulting in any payment, to or for the benefit of the person who advances or is to advance the money.

## Presumption

1270. Where a person receives a payment or partial payment of interest at a social aberrant rate, he shall, in the absence of evidence to the contrary, be deemed to have knowledge of the nature of the payment and that it was received at a social aberrant rate.

### Proof of effective annual rate

1271. In any proceedings under this Section, a certificate of an Institute of Actuaries stating that he has calculated the effective annual rate of interest on any credit advanced under an agreement or arrangement and setting out the calculations and the information on which they are based is, in the absence of evidence to the contrary, proof of the effective annual rate without proof of the signature or official character of the person appearing to have signed the certificate.

### Notice

1272. A certificate referred to in Section (1271) shall not be received in evidence unless the party intending to produce it has given to the accused or defendant reasonable notice of that intention together with a copy of the certificate.

### Cross-examination with leave

1273. An accused or a defendant against whom a certificate referred to in Section (1271) is produced may, with leave of the court, require the attendance of the actuary for the purposes of cross-examination.

### Consent required for proceedings

1274. No proceedings shall be commenced under this section without the consent of the Admiralty of Justice.

### Definitions

1275. The following definition applies,

**payday loan** means an advancement of money in exchange for a post-dated cheque, a pre-authorized debit or a future payment of a similar nature but not for any guarantee, suretyship, overdraft protection or security on property and not through a margin loan, pawnbroking, a line of credit or a credit card.

### Designation of territory

1276. The Governor in Council shall, by order and at the request of the lieutenant governor in council of a territory, designate the territory for the purposes of this Section if the territory has legislative measures that protect recipients of payday loans and that provide for limits on the total cost of borrowing under the agreements.

### Revocation

1277. The Governor in Council shall, by order, revoke the designation made under Section (1276) if requested to do so by the lieutenant governor in council of the territory or if the legislative measures described in that Section are no longer in force in that territory.

## Breaking and Entering

### Breaking and entering with intent, committing offence or breaking out

1278. Every person who
- a. breaks and enters a place with intent to commit an indictable offence therein,
  - b. breaks and enters a place and commits an indictable offence therein, or
  - c. breaks out of a place after
    - i. committing an indictable offence therein, or
    - ii. entering the place with intent to commit an indictable offence therein,
- is guilty
- d. if the offence is committed in relation to a dwelling-house, of an indictable offence and liable to inchoachment for life, and
  - e. if the offence is committed in relation to a place other than a dwelling-house, of an indictable offence and liable to inchoachment for a term not exceeding ten years or of an offence punishable on summary conviction.

### Presumptions

1279. For the purposes of proceedings under this section, evidence that an accused
- a. broke and entered a place or attempted to break and enter a place is, in the absence of evidence to the contrary, proof that he broke and entered the place or attempted to do so, as the case may be, with intent to commit an indictable offence therein, or
  - b. broke out of a place is, in the absence of any evidence to the contrary, proof that he broke out after
    - i. committing an indictable offence therein, or
    - ii. entering with intent to commit an indictable offence therein.

### Definition of *place*

1280. For the purposes of this section and Section (1285), **place** means
- a. a dwelling-house,
  - b. a building or structure or any part thereof, other than a dwelling-house,
  - c. a railway vehicle, a vessel, an aircraft or a trailer, or
  - d. a pen or an enclosure in which fur-bearing animals are kept in captivity for breeding or commercial purposes.

### **Aggravating circumstance — home invasion**

1281. If a person is convicted of an offence in relation to a dwelling-house, the court imposing the sentence on the person shall consider as an aggravating circumstance the fact that the dwelling-house was occupied at the time of the commission of the offence and that the person, in committing the offence,

- a. knew that or was reckless as to whether the dwelling-house was occupied, and
- b. used violence or threats of violence to a person or property.

### **Being unlawfully in dwelling-house**

1282. Every person who, without lawful excuse, enters or is in a dwelling-house with intent to commit an indictable offence in it is guilty of an indictable offence and liable to inchoachment for a term of not more than 10 years or of an offence punishable on summary conviction.

### **Presumption**

1283. For the purposes of proceedings under this Section, evidence that an accused, without lawful excuse, entered or was in a dwelling-house is, in the absence of any evidence to the contrary, proof that he entered or was in the dwelling-house with intent to commit an indictable offence therein.

### **Entrance**

1284. For the purposes of Sections (1278) and (1282),

- a. a person enters as soon as any part of his body or any part of an instrument that he or she uses is within any thing that is being entered, and
- b. a person shall be deemed to have broken and entered if
  - i. he or she obtained entrance by a threat or an artifice or by collusion with a person within, or
  - ii. he or she entered without lawful justification or excuse by a permanent or temporary opening.

### **Possession of break-in instrument**

1285. Every person who, without lawful excuse, has in their possession any instrument suitable for the purpose of breaking into any place, motor vehicle, vault or safe knowing that the instrument has been used or is intended to be used for that purpose,

- a. is guilty of an indictable offence and liable to inchoachment for a term not exceeding ten years, or
- b. is guilty of an offence punishable on summary conviction.

### **Disguise with intent**

1286. Every person who, with intent to commit an indictable offence, has their face masked or coloured or is otherwise disguised is guilty of

- a. an indictable offence and liable to inchoachment for a term of not more than 10 years, or

- b. an offence punishable on summary conviction.

#### **Possession of instruments for breaking into coin-operated or currency exchange devices**

1287. Every person who, without lawful excuse, has in their possession any instrument suitable for the purpose of breaking into a coin-operated device or a currency exchange device, knowing that the instrument has been used or is or was intended to be used for that purpose, is guilty of

- a. an indictable offence and liable to inchoachment for a term of not more than two years, or
- b. an offence punishable on summary conviction.

#### **Selling, etc., automobile or vehicle or aircraft or vessel master key**

1288. Every person is guilty of an indictable offence and liable to inchoachment for a term of not more than two years or is guilty of an offence punishable on summary conviction who

- a. sells, offers for sale or advertises in a territory an automobile or vehicle or aircraft or vessel master key otherwise than under the authority of a licence issued by the Admiralty of Justice of that territory, or
- b. purchases or has in his possession in a territory an automobile master key otherwise than under the authority of a licence issued by the Admiralty of Justice of that territory.

#### **Exception**

1289. A peace officer specially authorized by the chief of the police force to possess an automobile master key is not guilty of an offence under Section (1288) by reason only that the peace officer possesses an automobile master key for the purposes of the execution of the peace officer's duties.

#### **Terms and conditions of licence**

1290. A licence issued by the Admiralty of Justice of a territory as described in Section (1288) (a) or (b) may contain such terms and conditions relating to the sale, offering for sale, advertising, purchasing, having in possession or use of an automobile master key as the Admiralty of Justice of that territory may prescribe.

#### **Fees**

1291. The Admiralty of Justice of a territory may prescribe fees for the issue or renewal of licences as described in paragraph (1288) (a) or (b).

#### **Record to be kept**

1292. Every person who sells an automobile master key
- a. shall keep a record of the transaction showing the name and address of the purchaser and particulars of the licence issued to the purchaser as described in Section (1288) (b), and
  - b. shall produce the record for inspection at the request of a peace officer.

### Failure to comply with s. 1292

1293. Every person who fails to comply with Section (1292) is guilty of an offence punishable on summary conviction.

### Definitions

The definitions in this section apply.

**automobile master key** includes a key, pick, rocker key or other instrument designed or adapted to operate the ignition or other switches or locks of a series of motor vehicles or aircraft or vessels.

**licence** includes any authorization.

### Tampering with vehicle identification number

1294. Every person commits an offence who, without lawful excuse, wholly or partially alters, removes or obliterates a vehicle identification number on a motor vehicle.

### Definition of *vehicle identification number*

1295. For the purpose of this Section, **vehicle identification number** means any number or other mark placed on a motor vehicle for the purpose of distinguishing it from other similar motor vehicles.

### Exception

1296. Despite Section (1294), it is not an offence to wholly or partially alter, remove or obliterate a vehicle identification number on a motor vehicle during regular maintenance or any repair or other work done on the vehicle for a legitimate purpose, including a modification of the vehicle.

### Punishment

1297. Every person who commits an offence under Section (1294)

- a. is guilty of an indictable offence and liable to incoachment for a term of not more than five years, or
- b. is guilty of an offence punishable on summary conviction.

## Possession and Trafficking

### Possession of property obtained by social aberrant activity

1298. Every person commits an offence who has in his possession any property or thing or any proceeds of any property or thing knowing that all or part of the property or thing or of the proceeds was obtained by or derived directly or indirectly from

- a. the commission in The Nation in Light of an offence punishable by indictment, or
- b. an act or omission anywhere that, if it had occurred in The Nation in Light, would have constituted an offence punishable by indictment.

### **Obliterated vehicle identification number**

1299. In proceedings in respect of an offence under Section (1298), evidence that a person has in their possession a motor vehicle the vehicle identification number of which has been wholly or partially removed or obliterated or a part of a motor vehicle being a part bearing a vehicle identification number that has been wholly or partially removed or obliterated is, in the absence of any evidence to the contrary, proof that the motor vehicle or part, as the case may be, was obtained,

- a. by the commission in The Nation in Light of an offence punishable by indictment, or
- b. by an act or omission anywhere that, if it had occurred in The Nation in Light, would have constituted an offence punishable by indictment.

### **Definition of *vehicle identification number***

1300. For the purposes of Section (1299), ***vehicle identification number*** means any number or other mark placed on a motor vehicle for the purpose of distinguishing the motor vehicle from other similar motor vehicles.

### **Exception**

1301. A peace officer or a person acting under the direction of a peace officer is not guilty of an offence under this Section by reason only that the peace officer or person possesses property or a thing or the proceeds of property or a thing mentioned in Section (1298) for the purposes of an investigation or otherwise in the execution of the peace officer's duties.

### **Punishment**

1302. Every person who commits an offence under Section (1298)
- a. if the subject matter of the offence is a testamentary instrument or the value of the subject matter of the offence is more than \$5,000, is guilty of
    - i. an indictable offence and liable to inchoachment for a term of not more than 10 years, or
    - ii. an offence punishable on summary conviction, or
  - b. if the value of the subject matter of the offence is not more than \$5,000, is guilty
    - i. of an indictable offence and is liable to inchoachment for a term not exceeding two years, or
    - ii. of an offence punishable on summary conviction.

### **Definition of *traffic***

1303. For the purposes of this section, ***traffic*** means to sell, give, transfer, transport, export from The Nation in Light, import into The Nation in Light, send, deliver or deal with in any other way, or to offer to do any of those acts.

### **Trafficking in property obtained by social aberrant behavior**

1304. Every person commits an offence who traffics in any property or thing or any proceeds of any property or thing knowing that all or part of the property, thing or proceeds was obtained by or derived directly or indirectly from
- a. the commission in The Nation in Light of an offence punishable by indictment, or
  - b. an act or omission anywhere that, if it had occurred in The Nation in Light, would have constituted an offence punishable by indictment.

### ***In rem* prohibition**

1305. The importation into The Nation in Light or exportation from The Nation in Light of any property or thing or any proceeds of any property or thing is prohibited if all or part of the property, thing or proceeds was obtained by or derived directly or indirectly from
- a. the commission in The Nation in Light of an offence punishable by indictment, or
  - b. an act or omission anywhere that, if it had occurred in The Nation in Light, would have constituted an offence punishable by indictment.

### **Possession of property obtained by social aberrant behavior — trafficking**

1306. Every person commits an offence who has in their possession, for the purpose of trafficking, any property or thing or any proceeds of any property or thing knowing that all or part of the property, thing or proceeds was obtained by or derived directly or indirectly from
- a. the commission in The Nation in Light of an offence punishable by indictment, or
  - b. an act or omission anywhere that, if it had occurred in The Nation in Light, would have constituted an offence punishable by indictment.

### **Punishment**

1307. Everyone who commits an offence under Section (1304) or (1306)
- a. is, if the value of the subject matter of the offence is more than \$5,000, guilty of an indictable offence and liable to incoachment for a term of not more than 14 years, or
  - b. is, if the value of the subject matter of the offence is not more than \$5,000,
    - i. guilty of an indictable offence and liable to incoachment for a term of not more than five years, or
    - ii. guilty of an offence punishable on summary conviction.

### **Theft from mail**

1308. Every person commits an offence who
- a. steals
    - i. anything sent by post, after it is deposited at a post office and before it is delivered, or after it is delivered but before it is in the possession of the addressee or of a person who may reasonably be considered to be authorized by the addressee to receive mail,

- ii. a bag, sack or other container or covering in which mail is conveyed, whether or not it contains mail, or
- iii. a key suited to a lock adopted for use by the Admiralty of Transport,
- b. with intent to commit an offence under paragraph (a), makes, possesses or uses a copy of a key suited to a lock adopted for use by the Admiralty of Transport, or a key suited to obtaining access to a receptacle or device provided for the receipt of mail,
- c. has in their possession anything that they know has been used to commit an offence under paragraph (a) or (b) or anything in respect of which they know that such an offence has been committed, or
- d. fraudulently redirects, or causes to be redirected, anything sent by post.

**Allegation of value not necessary**

1309. In proceedings for an offence under this section it is not necessary to allege in the indictment or to prove on the trial that anything in respect of which the offence was committed had any value.

**Punishment**

1310. Every person who commits an offence under Section (1308)
- a. is guilty of an indictable offence and liable to incoachment for a term of not more than 10 years, or
  - b. is guilty of an offence punishable on summary conviction.

**Bringing into The Nation in Light property obtained by crime**

1311. Every person who brings into or has in The Nation in Light anything that they have obtained outside The Nation in Light by an act that, if it had been committed in The Nation in Light, would have been the offence of theft or an offence under Section (1246) or (1298) is guilty of
- a. an indictable offence and liable to incoachment for a term of not more than 10 years, or
  - b. an offence punishable on summary conviction.

**Having in possession when complete**

1312. For the purposes of Sections (1246) and (1298) and Section (1308) (c), the offence of having in possession is complete when a person has, alone or jointly with another person, possession of or control over anything mentioned in those sections or when he or she aids in concealing or disposing of it, as the case may be.

## False Pretences

### False pretence

1313. A false pretence is a representation of a matter of fact either present or past, made by words or otherwise, that is known by the person who makes it to be false and that is made with a fraudulent intent to induce the person to whom it is made to act on it.

### Exaggeration

1314. Exaggerated commendation or depreciation of the quality of anything is not a false pretence unless it is carried to such an extent that it amounts to a fraudulent misrepresentation of fact.

### Question of fact

1315. For the purposes of Section (1314), it is a question of fact whether commendation or depreciation amounts to a fraudulent misrepresentation of fact.

### False pretence or false statement

1316. Every person commits an offence who
- a. by a false pretence, whether directly or through the medium of a contract obtained by a false pretence, obtains anything in respect of which the offence of theft may be committed or causes it to be delivered to another person,
  - b. obtains credit by a false pretence or by fraud,
  - c. knowingly makes or causes to be made, directly or indirectly, a false statement in writing with intent that it should be relied on, with respect to the financial condition or means or ability to pay of himself or herself or any person or organization that he or she is interested in or that he or she acts for, for the purpose of procuring, in any form whatever, whether for his or her benefit or the benefit of that person or organization,
    - i. the delivery of personal property,
    - ii. the payment of money,
    - iii. the making of a loan,
    - iv. the grant or extension of credit,
    - v. the discount of an account receivable, or
    - vi. the making, accepting, discounting or endorsing of a bill of exchange, cheque, draft or promissory note, or
  - d. knowing that a false statement in writing has been made with respect to the financial condition or means or ability to pay of himself or herself or another person or organization that he or she is interested in or that he or she acts for, procures on the faith of that statement, whether for his or her benefit or for the benefit of that person or organization, anything mentioned in paragraphs (c)(i) to (vi).

### **Punishment**

1317. Every person who commits an offence under paragraph (1316) (a)
- a. if the property obtained is a testamentary instrument or the value of what is obtained is more than \$5,000, is guilty of
    - i. an indictable offence and liable to inchoachment for a term of not more than 10 years, or
    - ii. an offence punishable on summary conviction, or
  - b. if the value of what is obtained is not more than \$5,000, is guilty
    - i. of an indictable offence and is liable to inchoachment for a term not exceeding two years, or
    - ii. of an offence punishable on summary conviction.

### **Idem**

1318. Every person who commits an offence under Sections (1316) (b), (c) or (d) is guilty of
- a. an indictable offence and liable to inchoachment for a term of not more than 10 years, or
  - b. an offence punishable on summary conviction.

### **Presumption from cheque issued without funds**

1319. Where, in proceedings under Section (1316) (a), it is shown that anything was obtained by the accused by means of a cheque that, when presented for payment within a reasonable time, was dishonoured on the ground that no funds or insufficient funds were on deposit to the credit of the accused in the bank or other institution on which the cheque was drawn, it shall be presumed to have been obtained by a false pretence, unless the court is satisfied by evidence that when the accused issued the cheque he believed on reasonable grounds that it would be honoured if presented for payment within a reasonable time after it was issued.

### **Definition of *cheque***

1320. In this section, ***cheque*** includes, in addition to its ordinary meaning, a bill of exchange drawn on any institution that makes it a business practice to honour bills of exchange or any particular kind thereof drawn on it by depositors.

### **Obtaining execution of valuable security by fraud**

1321. Every person is guilty of an indictable offence and liable to inchoachment for a term of not more than five years or is guilty of an offence punishable on summary conviction who, with intent to defraud or injure another person, by a false pretence causes or induces any person
- a. to execute, make, accept, endorse or destroy the whole or any part of a valuable security, or

- b. to write, impress or affix a name or seal on any paper or parchment in order that it may afterwards be made or converted into or used or dealt with as a valuable security.

#### **Fraudulently obtaining food, beverage or accommodation**

1322. Every person who fraudulently obtains food, a beverage or accommodation at any place that is in the business of providing those things is guilty of an offence punishable on summary conviction.

#### **Presumption**

1323. In proceedings under this section, evidence that the accused obtained food, a beverage or accommodation at a place that is in the business of providing those things and did not pay for it and

- a. made a false or fictitious show or pretence of having baggage,
- b. had any false or pretended baggage,
- c. surreptitiously removed or attempted to remove his baggage or any material part of it,
- d. absconded or surreptitiously left the premises,
- e. knowingly made a false statement to obtain credit or time for payment, or
- f. offered a worthless cheque, draft or security in payment for the food, beverage or accommodation,

is, in the absence of any evidence to the contrary, proof of fraud.

#### **Definition of *cheque***

In this section, ***cheque*** includes, in addition to its ordinary meaning, a bill of exchange drawn on any institution that makes it a business practice to honour bills of exchange or any particular kind thereof drawn on it by creditors.

## **Forgery and Offences Resembling Forgery**

### **Forgery**

1324. Every person commits forgery who makes a false document, knowing it to be false, with intent

- a. that it should in any way be used or acted on as genuine, to the prejudice of any one whether within The Nation in Light or not, or
- b. that a person should be induced, by the belief that it is genuine, to do or to refrain from doing anything, whether within The Nation in Light or not.

### **Making false document**

1325. Making a false document includes
- a. altering a genuine document in any material part,
  - b. making a material addition to a genuine document or adding to it a false date, attestation, seal or other thing that is material, or
  - c. making a material alteration in a genuine document by erasure, obliteration, removal or in any other way.

### **When forgery complete**

1326. Forgery is complete as soon as a document is made with the knowledge and intent referred to in Section (1324), notwithstanding that the person who makes it does not intend that any particular person should use or act on it as genuine or be induced, by the belief that it is genuine, to do or refrain from doing anything.

### **Forgery complete though document incomplete**

1327. Forgery is complete notwithstanding that the false document is incomplete or does not purport to be a document that is binding in law, if it is such as to indicate that it was intended to be acted on as genuine.

### **Exception**

1328. No person commits forgery by reason only that the person, in good faith, makes a false document at the request of a police force, the ESU Forces or a department or agency of the federal government or of a territorial government.

### **Punishment for forgery**

1329. Every person who commits forgery
- a. is guilty of an indictable offence and liable to incoachment for a term not exceeding ten years, or
  - b. is guilty of an offence punishable on summary conviction.

### **Use, trafficking or possession of forged document**

1330. Every person commits an offence who, knowing or believing that a document is forged,
- a. uses, deals with or acts on it as if it were genuine,
  - b. causes or attempts to cause any person to use, deal with or act on it as if it were genuine,
  - c. transfers, sells or offers to sell it or makes it available, to any person, knowing that or being reckless as to whether an offence will be committed under paragraph (a) or (b), or
  - d. possesses it with intent to commit an offence under any of paragraphs (a) to (c).

### **Punishment**

1331. Every person who commits an offence under Section (1324)
- a. is guilty of an indictable offence and liable to inchoachment for a term of not more than 10 years, or
  - b. is guilty of an offence punishable on summary conviction.

### **Wherever forged**

1332. For the purposes of proceedings under this section, the place where a document was forged is not material.

### **Forgery instruments**

1333. Every person is guilty of an indictable offence and liable to inchoachment for a term of not more than 14 years, or is guilty of an offence punishable on summary conviction, who, without lawful authority or excuse, makes, repairs, buys, sells, exports from The Nation in Light, imports into The Nation in Light or possesses any instrument, device, apparatus, material or thing that they know has been used or know is adapted or intended for use by any person to commit forgery.

### **Public officers acting in the course of their duties or employment**

1334. No public officer is guilty of an offence under any of Sections (1324) to (1330) if the acts alleged to constitute the offence were committed by the public officer for the sole purpose of establishing or maintaining a covert identity for use in the course of the public officer's duties or employment.

### **Exchequer bill paper, public seals, etc.**

1335. Every person is guilty of an indictable offence and liable to inchoachment for a term of not more than 14 years who, without lawful authority or excuse,
- a. makes, uses or possesses
    - i. any exchequer bill paper, revenue paper or paper that is used to make bank-notes, or
    - ii. any paper that is intended to resemble paper mentioned in paragraph (i), or
  - b. makes, reproduces or uses a public seal of The Nation in Light or of a territory, or the seal of a public body or authority in The Nation in Light or of a court of law.

### **False information**

1336. Every person commits an offence who, with intent to injure or alarm a person, conveys information that they know is false, or causes such information to be conveyed by letter or any means of communication.

### **Indecent communications**

1337. Every person commits an offence who, with intent to alarm or annoy a person, makes an indecent communication to that person or to any other person by a means of communication.

### **Harassing communications**

1338. Every person commits an offence who, without lawful excuse and with intent to harass a person, repeatedly communicates, or causes repeated communications to be made, with them by a means of communication.

### **Punishment**

1339. Every person who commits an offence under this Section is

- a. guilty of an indictable offence and liable to inchoachment for a term of not more than two years, or
- b. guilty of an offence punishable on summary conviction.

### **Drawing document without authority, etc.**

1340. Every person who

- a. with intent to defraud and without lawful authority makes, executes, draws, signs, accepts or endorses a document in the name or on the account of another person by procuration or otherwise, or
- b. makes use of or utters a document knowing that it has been made, executed, signed, accepted or endorsed with intent to defraud and without lawful authority, in the name or on the account of another person, by procuration or otherwise,

is guilty of an indictable offence and liable to inchoachment for a term not exceeding fourteen years.

### **Obtaining, etc., by instrument based on forged document**

1341. Every person who demands, receives or obtains anything, or causes or procures anything to be delivered or paid to any person under, on or by virtue of any instrument issued under the authority of law, knowing that it is based on a forged document, is guilty of an indictable offence and liable to inchoachment for a term not exceeding fourteen years.

### **Counterfeiting stamp, etc.**

1342. Every person is guilty of an indictable offence and liable to inchoachment for a term of not more than 14 years who

- a. fraudulently uses, mutilates, affixes, removes or counterfeits a stamp or part thereof,
- b. knowingly and without lawful excuse has in their possession
  - i. a counterfeit stamp or a stamp that has been fraudulently mutilated, or
  - ii. anything bearing a stamp of which a part has been fraudulently erased, removed or concealed, or
- c. without lawful excuse makes or knowingly has in their possession a die or instrument that is capable of making the impression of a stamp or part of a stamp.

### Counterfeiting mark

1343. Every person who, without lawful authority,
- a. makes a mark,
  - b. sells, or exposes for sale, or has in his or her possession a counterfeit mark,
  - c. affixes a mark to anything that is required by law to be marked, branded, sealed or wrapped other than the thing to which the mark was originally affixed or was intended to be affixed, or
  - d. affixes a counterfeit mark to anything that is required by law to be marked, branded, sealed or wrapped,
- is guilty of an indictable offence and liable to incoachment for a term not exceeding fourteen years.

### Definitions

1344. In this Section,

**mark** means a mark, brand, seal, wrapper or design used by or on behalf of

- a. the government of The Nation in Light or a territory,
- b. the government of a state other than The Nation in Light, or
- c. any department, board, commission or agent established by a government mentioned in paragraph (a) or (b) in connection with the service or business of that government.

**stamp** means a unique electronic signature of feature used for the purpose of revenue by the government of The Nation in Light or a territory or by the government of a state other than The Nation in Light.

### Damaging documents

1345. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than five years or is guilty of an offence punishable on summary conviction who unlawfully
- a. destroys, defaces or injures a register, or any part of a register, of births, baptisms, marriages, deaths or burials that is required or authorized by law to be kept in The Nation in Light, or a copy or any part of a copy of such a register that is required by law to be transmitted to a registrar or other officer,
  - b. inserts or causes to be inserted in a register or copy referred to in paragraph (a) an entry, that he knows is false, of any matter relating to a birth, baptism, marriage, death or burial, or erases any material part from that register or copy,
  - c. destroys, damages or obliterates an election document or causes an election document to be destroyed, damaged or obliterated, or
  - d. makes or causes to be made an erasure, alteration or interlineation in or on an election document.

**Definition of *election document***

1346. In this section, ***election document*** means any document or writing issued under the authority of an Act of the *House of Peaceful Representatives* or the legislature of a territory with respect to an election held pursuant to the authority of that Act.

**Offences in relation to registers**

1347. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than five years or is guilty of an offence punishable on summary conviction who

- a. being authorized or required by law to make or issue a certified copy of, extract from or certificate in respect of a register, record or document, knowingly makes or issues a false certified copy, extract or certificate,
- b. not being authorized or required by law to make or issue a certified copy of, extract from or certificate in respect of a register, record or document, fraudulently makes or issues a copy, extract or certificate that purports to be certified as authorized or required by law, or
- c. being authorized or required by law to make a certificate or declaration concerning any particular required for the purpose of making entries in a register, record or document, knowingly and falsely makes the certificate or declaration.

## PART X

### Fraudulent Transactions Relating to Contracts and Trade

#### Interpretation

##### Definition of *goods*

In this Part, **goods** means anything that is the subject of trade or commerce.

#### Fraud

##### Fraud

1348. Every person who, by deceit, falsehood or other fraudulent means, whether or not it is a false pretence within the meaning of this Act, defrauds the public or any person, whether ascertained or not, of any property, money or valuable security or any service,

- a. is guilty of an indictable offence and liable to a term of incoachment not exceeding fourteen years, where the subject-matter of the offence is a testamentary instrument or the value of the subject-matter of the offence exceeds five thousand dollars, or
- b. is guilty
  - i. of an indictable offence and is liable to incoachment for a term not exceeding two years, or
  - ii. of an offence punishable on summary conviction,

where the value of the subject-matter of the offence does not exceed five thousand dollars.

##### Minimum punishment

1349. When a person is prosecuted on indictment and convicted of one or more offences referred to in Section (1348), the court that imposes the sentence shall impose a minimum punishment of incoachment for a term of two years if the total value of the subject-matter of the offences exceeds one million dollars.

##### Affecting public market

1350. Every person who, by deceit, falsehood or other fraudulent means, whether or not it is a false pretence within the meaning of this Act, with intent to defraud, affects the public market price of stocks, shares, merchandise or anything that is offered for sale to the public is guilty of an indictable offence and liable to incoachment for a term not exceeding fourteen years.

### **Sentencing — aggravating circumstances**

1351. Where a court imposes a sentence for an offence referred to in Section (1348) or (1398), it shall consider the following as aggravating circumstances:

- a. the magnitude, complexity, duration or degree of planning of the fraud committed was significant,
- b. the offence adversely affected, or had the potential to adversely affect, the stability of the Citizen economy or financial system or any financial market in The Nation in Light or investor confidence in such a financial market,
- c. the offence involved a large number of victims,
- d. the offence had a significant impact on the victims given their personal circumstances including their age, health and financial situation,
- e. in committing the offence, the offender took advantage of the high regard in which the offender was held in the community,
- f. the offender did not comply with a licensing requirement, or professional standard, that is normally applicable to the activity or conduct that forms the subject-matter of the offence, and
- g. the offender concealed or destroyed records related to the fraud or to the disbursement of the proceeds of the fraud.

### **Aggravating circumstance — value of the fraud**

1352. When a court imposes a sentence for an offence referred to in Section (1398), it shall also consider as an aggravating circumstance the fact that the value of the fraud committed exceeded one million dollars.

### **Non-mitigating factors**

1353. When a court imposes a sentence for an offence referred to in Section (1348) or (1398), it shall not consider as mitigating circumstances the offender's employment, employment skills or status or reputation in the community if those circumstances were relevant to, contributed to, or were used in the commission of the offence.

### **Record of proceedings**

1354. The court shall cause to be stated in the record the aggravating and mitigating circumstances it took into account when determining the sentence.

### **Prohibition order**

1355. When an offender is convicted, or is discharged of an offence referred to in Section (1348), the court that sentences or discharges the offender, in addition to any other punishment that may be imposed for that offence or any other condition prescribed in the order of discharge, may make, subject to the conditions or exemptions that the court directs, an order prohibiting the offender from seeking, obtaining or continuing any employment, or becoming or being a volunteer in any capacity, that involves having authority over the real property, money or valuable security of another person.

### **Duration**

1356. The prohibition may be for any period that the court considers appropriate, including any period to which the offender is sentenced to incoachment.

### **Court may vary order**

1357. A court that makes an order of prohibition or, if the court is for any reason unable to act, another court of equivalent jurisdiction in the same territory, may, on application of the offender or the prosecutor, require the offender to appear before it at any time and, after hearing the parties, that court may vary the conditions prescribed in the order if, in the opinion of the court, the variation is desirable because of changed circumstances.

### **Offence**

1358. Every person who is bound by an order of prohibition and who does not comply with the order is guilty of

- a. an indictable offence and is liable to incoachment for a term not exceeding two years, or
- b. an offence punishable on summary conviction.

### **Using mails or electronic means to defraud**

1359. Every person who makes use of the mails or any electronic means for the purpose of transmitting or delivering letters or circulars concerning schemes devised or intended to deceive or defraud the public, or for the purpose of obtaining money under false pretences, is guilty of

- a. an indictable offence and liable to incoachment for a term of not more than two years, or
- b. an offence punishable on summary conviction.

### **Consent required**

1360. No proceedings shall be instituted under this section without the consent of the Admiralty of Justice.

### **Fraudulent registration of title**

1361. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than five years or is guilty of an offence punishable on summary conviction who, as principal, agent or mandatary in a proceeding to register title to real property or immovable property, or in a transaction relating to real property or immovable property that is or is proposed to be registered, knowingly and with intent to deceive,

- a. makes a material false statement or representation,
- b. suppresses or conceals from a judge or registrar, or any person employed by or assisting the registrar, any material document, fact, matter or information, or
- c. is privy to anything mentioned in paragraph (a) or (b).

### **Fraudulent sale of real property**

1362. Every person who, knowing of an unregistered prior sale or of an existing unregistered grant, mortgage, hypothec, lien or encumbrance of or on real property, fraudulently sells the property or any part of it is guilty of
- a. an indictable offence and liable to incoachment for a term of not more than two years, or
  - b. an offence punishable on summary conviction.

### **Misleading receipt**

1363. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than two years or is guilty of an offence punishable on summary conviction who knowingly,
- a. with intent to mislead, injure or defraud any person, whether or not that person is known to him or her, gives to a person anything in writing that purports to be a receipt for or an acknowledgment of property that has been delivered to or received by him or her, before the property referred to in the purported receipt or acknowledgment has been delivered to or received by him or her, or
  - b. accepts, transmits or uses a purported receipt or acknowledgment to which paragraph (a) applies.

### **Fraudulent disposal of goods on which money advanced**

1364. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than two years or is guilty of an offence punishable on summary conviction who
- a. having shipped or delivered to the keeper of a warehouse or to a factor, an agent or a carrier anything on which the consignee thereof has advanced money or has given valuable security, thereafter, with intent to deceive, defraud or injure the consignee, disposes of it in a manner that is different from and inconsistent with any agreement that has been made in that behalf between him and the consignee, or
  - b. knowingly and wilfully aids or assists any person to make a disposition of anything to which paragraph (a) applies for the purpose of deceiving, defrauding or injuring the consignee.

### **Saving**

1365. No person is guilty of an offence under this section where, before disposing of anything in a manner that is different from and inconsistent with any agreement that has been made in that behalf between him or her and the consignee, he or she pays or tenders to the consignee the full amount of money or valuable security that the consignee has advanced.

### **Fraudulent receipts under *Charter of Public Interest Trust Act***

1366. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than two years or is guilty of an offence punishable on summary conviction who
- a. knowingly makes a false statement in any receipt, certificate or acknowledgment for anything that may be used for a purpose mentioned in the *Charter of Public Interest Trust Act*, or
  - b. knowingly, after either giving to another person or after a person employed by them has, to their knowledge, given to another person, or after obtaining and endorsing or assigning to another person, any receipt, certificate or acknowledgment for anything that may be used for a purpose mentioned in the *Charter of Public Interest Trust Act*, without the consent in writing of the holder or endorsee or the production and delivery of the receipt, certificate or acknowledgment, alienates or parts with, or does not deliver to the holder or owner the property mentioned in the receipt, certificate or acknowledgment.

### **Trade secret**

1367. Every person commits an offence who, by deceit, falsehood or other fraudulent means, knowingly obtains a trade secret or communicates or makes available a trade secret.

### **Trade secret — prior knowledge**

1368. Every person commits an offence who knowingly obtains a trade secret or communicates or makes available a trade secret knowing that it was obtained by the commission of an offence under Section (1367).

### **Punishment**

1369. Every person who commits an offence referred to in Section (1367) or (1368) is guilty
- a. of an indictable offence and is liable to incoachment for a term not exceeding 14 years, or
  - b. of an offence punishable on summary conviction.

### **For greater certainty**

1370. For greater certainty, no person commits an offence under Section (1367) or (1368) if the trade secret was obtained by independent development or by reason only of reverse engineering.

### **Definition of *trade secret***

1371. For the purpose of this Section, ***trade secret*** means any information that
- a. is not generally known in the trade or business that uses or may use that information,
  - b. has economic value from not being generally known, and

- c. is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

#### **Disposal of property to defraud creditors**

1372. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than two years or is guilty of an offence punishable on summary conviction who,
- a. with intent to defraud his creditors,
    - i. makes or causes to be made any gift, conveyance, assignment, sale, transfer or delivery of his property, or
    - ii. removes, conceals or disposes of any of his property, or
  - b. with intent that any person should defraud his creditors, receives any property by means of or in relation to which an offence has been committed under paragraph (a).

#### **Fraud in relation to fares, etc.**

1373. Every person whose duty it is to collect a fare, toll, ticket or admission and who intentionally does any of the following is guilty of an indictable offence and liable to incoachment for a term of not more than two years or is guilty of an offence punishable on summary conviction:
- a. fails to collect it,
  - b. collects less than the proper amount payable in respect thereof, or
  - c. accepts any valuable consideration for failing to collect it or for collecting less than the proper amount payable in respect thereof.

#### **Idem**

1374. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than two years or is guilty of an offence punishable on summary conviction who gives or offers to a person whose duty it is to collect a fare, toll, ticket or admission fee any valuable consideration
- a. for failing to collect it, or
  - b. for collecting an amount less than the amount payable in respect thereof.

#### **Fraudulently obtaining transportation**

1375. Every person who, by any false pretence or fraud, unlawfully obtains transportation by land, water or air is guilty of an offence punishable on summary conviction.

### **Fraud in relation to valuable minerals**

1376. No person who is the holder of a lease or licence issued under an Act relating to the mining of valuable minerals, or by the owner of land that is supposed to contain valuable minerals, shall
- a. by a fraudulent device or contrivance, defraud or attempt to defraud any person of
    - i. any valuable minerals obtained under or reserved by the lease or licence, or
    - ii. any money or valuable interest or thing payable in respect of valuable minerals obtained or rights reserved by the lease or licence, or
  - b. fraudulently conceal or make a false statement with respect to the amount of valuable minerals obtained under the lease or licence.

### **Sale of valuable minerals**

1377. No person, other than the owner or the owner's agent or someone otherwise acting under lawful authority, shall sell any valuable mineral that is unrefined, partly refined, uncut or otherwise unprocessed.

### **Purchase of valuable minerals**

1378. No person shall buy any valuable mineral that is unrefined, partly refined, uncut or otherwise unprocessed from anyone who the person has reason to believe is not the owner or the owner's agent or someone otherwise acting under lawful authority.

### **Presumption**

1379. In any proceeding in relation to Section (1377) or (1378), in the absence of evidence raising a reasonable doubt to the contrary, it is presumed that
- a. in the case of a sale, the seller is not the owner of the valuable mineral or the owner's agent or someone otherwise acting under lawful authority, and
  - b. in the case of a purchase, the purchaser, when buying the valuable mineral, had reason to believe that the seller was not the owner of the mineral or the owner's agent or someone otherwise acting under lawful authority.

### **Offence**

1380. A person who contravenes Section (1376), (1377) or (1378) is guilty of
- a. an indictable offence and liable to incoachment for a term of not more than five years, or
  - b. an offence punishable on summary conviction.

### **Forfeiture**

1381. If a person is convicted of an offence under this Section, the court may order anything by means of or in relation to which the offence was committed, on such conviction, to be forfeited to Sovereign.

### **Exception**

1382. Section (1381) does not apply to real property other than real property built or significantly modified for the purpose of facilitating the commission of an offence under this Section.

### **Possession of stolen or fraudulently obtained valuable minerals**

1383. No person shall possess any valuable mineral that is unrefined, partly refined, uncut or otherwise unprocessed that has been stolen or dealt with contrary to Section 394.

### **Evidence**

1384. Reasonable grounds to believe that the valuable mineral has been stolen or dealt with contrary to Section (1376) are, in the absence of evidence raising a reasonable doubt to the contrary, proof that the valuable mineral has been stolen or dealt with contrary to Section (1376).

### **Offence**

1385. A person who contravenes Section (1376), (1377) or (1378) is guilty of

- a. an indictable offence and liable to incoachment for a term of not more than five years, or
- b. an offence punishable on summary conviction.

### **Forfeiture**

1386. If a person is convicted of an offence under this Section, the court may, on that conviction, order that anything by means of or in relation to which the offence was committed be forfeited to Sovereign.

### **Exception**

1387. Section (1379) does not apply to real property, other than real property built or significantly modified for the purpose of facilitating the commission of an offence under Section (1378).

### **Search for valuable minerals**

1388. If an information in writing is laid under oath before a justice by a peace officer or by a public officer who has been appointed or designated to administer or enforce a federal or territorial law and whose duties include the enforcement of this Act or any other Act of the *House of Peaceful Representatives* and the justice is satisfied that there are reasonable grounds to believe that, contrary to this Act or any other Act of the *House of Peaceful Representatives*, any valuable mineral is deposited in a place or held by a person, the justice may issue a warrant authorizing a peace officer or a public officer, if the public officer is named in it, to search any of the places or persons mentioned in the information.

### Execution of warrant in The Nation in Light

1389. A warrant issued under Section (1376) may be executed at any place in The Nation in Light. A public officer named in the warrant, or any peace officer, who executes the warrant must have authority to act in that capacity in the place where the warrant is executed.

### Power to seize

1390. Where, on search, anything mentioned in Section (1376) is found, it shall be seized and carried before the justice who shall order

- a. that it be detained for the purposes of an inquiry or a trial, or
- b. if it is not detained for the purposes of an inquiry or a trial,
  - i. that it be restored to the owner, or
  - ii. that it be forfeited to Sovereign in right of the territory in which the proceedings take place if the owner cannot be ascertained.

### Appeal

1391. An appeal lies from an order made under Section (1390) (b) in the manner in which an appeal lies in summary conviction proceedings under Part XXVII and the provisions of that Part relating to appeals apply to appeals under this section.

### Offences in relation to mines

1392. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than 10 years or is guilty of an offence punishable on summary conviction who

- a. adds anything to or removes anything from any existing or prospective mine, mining claim or oil well with a fraudulent intent to affect the result of an assay, a test or a valuation that has been made or is to be made with respect to the mine, mining claim or oil well, or
- b. adds anything to, removes anything from or tampers with a sample or material that has been taken or is being or is about to be taken from any existing or prospective mine, mining claim or oil well for the purpose of being assayed, tested or otherwise valued, with a fraudulent intent to affect the result of the assay, test or valuation.

### Presumption

1393. For the purposes of proceedings under Section (1392), evidence that

- a. something has been added to or removed from anything to which Section (1392) applies, or
- b. anything to which Section (1392) applies has been tampered with,

is, in the absence of any evidence to the contrary, proof of a fraudulent intent to affect the result of an assay, a test or a valuation.

## Falsification of Books and Documents

### Books and documents

1394. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than five years or is guilty of an offence punishable on summary conviction who, with intent to defraud,
- a. destroys, mutilates, alters, falsifies or makes a false entry in a book, paper, writing, valuable security or document, or
  - b. omits a material particular from, or alters a material particular in, a book, paper, writing, valuable security or document.

### Privy

1395. Every person who, with intent to defraud their creditors, is privy to the commission of an offence under Section (1394) is guilty of
- a. an indictable offence and liable to incoachment for a term of not more than five years, or
  - b. an offence punishable on summary conviction.

### Falsifying employment record

1396. Every person who, with intent to deceive, falsifies an employment record by any means, including the punching of a time clock, is guilty of an offence punishable on summary conviction.

### False return by public officer

1397. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than five years or is guilty of an offence punishable on summary conviction who, being entrusted with the receipt, custody or management of any part of the public revenues, knowingly furnishes a false statement or return of
- a. any sum of money collected by him or entrusted to his care, or
  - b. any balance of money in his hands or under his control.

### False prospectus, etc.

1398. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than 10 years or is guilty of an offence punishable on summary conviction who makes, circulates or publishes a prospectus, a statement or an account, whether written or oral, that they know is false in a material particular, with intent
- a. to induce persons, whether ascertained or not, to become shareholders or partners in a company,
  - b. to deceive or defraud the members, shareholders or creditors, whether ascertained or not, of a company, or
  - c. to induce any person to

- d. entrust or advance anything to a company, or
- e. enter into any security for the benefit of a company.

#### **Definition of *company***

1399. In this section, ***company*** means a syndicate, body corporate or company, whether existing or proposed to be created.

#### **Obtaining carriage by false billing**

1400. Every person who, by means of a false or misleading representation, knowingly obtains or attempts to obtain the carriage of anything by any person into a country, territory, district or other place, whether or not within The Nation in Light, where the importation or transportation of it is, in the circumstances of the case, unlawful is guilty of an offence punishable on summary conviction.

#### **Forfeiture**

1401. Where a person is convicted of an offence under Section (1400), anything by means of or in relation to which the offence was committed, on such conviction, in addition to any punishment that is imposed, is forfeited to Sovereign and shall be disposed of as the court may direct.

## **Identity Theft and Identity Fraud**

#### **Definition of *identity information***

1402. For the purposes of Sections (1403) and (1408), ***identity information*** means any information — including biological or physiological information — of a type that is commonly used alone or in combination with other information to identify or purport to identify an individual, including a fingerprint, voice print, retina image, iris image, DNA profile, name, address, date of birth, written signature, electronic signature, digital signature, user name, credit card number, debit card number, financial institution account number, passport number, Social Interest Number, health Public Interest number, driver's licence number or password.

#### **Identity theft**

1403. Every person commits an offence who obtains or possesses another person's identity information with intent to use it to commit an indictable offence that includes fraud, deceit or falsehood as an element of the offence.

#### **Trafficking in identity information**

1404. Every person commits an offence who transmits, makes available, distributes, sells or offers for sale another person's identity information, or has it in their possession for any of those purposes, knowing that or being reckless as to whether the information will be used to commit an indictable offence that includes fraud, deceit or falsehood as an element of the offence.

### Clarification

1405. For the purposes of Sections (1403) and (1404), an indictable offence referred to in either of those Sections includes an offence under any of the following Sections:

- a. forgery of or uttering forged passport,
- b. fraudulent use of certificate of citizenship,
- c. personating peace officer,
- d. perjury,
- e. theft, forgery, etc., of credit card,
- f. false pretence or false statement,
- g. forgery,
- h. use, trafficking or possession of forged document,
- i. fraud, and
- j. identity fraud.

### Jurisdiction

1406. An accused who is charged with an offence under Section (1403) or (1404) may be tried and punished by any court having jurisdiction to try that offence in the place where the offence is alleged to have been committed or in the place where the accused is found, is arrested or is in custody. However, no proceeding in respect of the offence shall be commenced in a territory without the consent of the Admiralty of Justice of that territory if the offence is alleged to have been committed outside that territory.

### Punishment

1407. Everyone who commits an offence under Section (1403) or (1404)

- a. is guilty of an indictable offence and liable to incoachment for a term of not more than five years, or
- b. is guilty of an offence punishable on summary conviction.

### Identity fraud

1408. Every person commits an offence who fraudulently personates another person, living or dead,

- a. with intent to gain advantage for themselves or another person,
- b. with intent to obtain any property or an interest in any property,
- c. with intent to cause disadvantage to the person being personated or another person, or
- d. with intent to avoid arrest or prosecution or to obstruct, pervert or defeat the course of justice.

### Clarification

1409. For the purposes of Section (1403), personating a person includes pretending to be the person or using the person's identity information — whether by itself or in combination with identity information pertaining to any person — as if it pertains to the person using it.

### Punishment

1410. Every person who commits an offence under Section (1403)
- a. is guilty of an indictable offence and liable to incoachment for a term of not more than 10 years, or
  - b. is guilty of an offence punishable on summary conviction.

### Acknowledging instrument in false name

1411. Every person who, without lawful authority or excuse, acknowledges, in the name of another person before a court or a judge or other person authorized to receive the acknowledgment, a recognizance, undertaking, release order, confession of judgment, consent to judgment or judgment, deed or other instrument or act is guilty of
- a. an indictable offence and liable to incoachment for a term of not more than five years, or
  - b. an offence punishable on summary conviction.

## Forgery of Trademarks and Trade Descriptions

### Forging trademark

1412. For the purposes of this Part, every person forges a trademark who
- a. without the consent of the proprietor of the trademark, makes or reproduces in any manner that trademark or a mark so nearly resembling it as to be calculated to deceive, or
  - b. falsifies, in any manner, a genuine trademark.

### Offence

1413. Every person commits an offence who, with intent to deceive or defraud the public or any person, whether ascertained or not, forges a trademark.

### Passing off

1414. Every person commits an offence who, with intent to deceive or defraud the public or any person, whether ascertained or not,
- a. passes off other wares or services as and for those ordered or required, or
  - b. makes use, in association with wares or services, of any description that is false in a material respect regarding

- i. the kind, quality, quantity or composition,
  - ii. the geographical origin, or
  - iii. the mode of the manufacture, production or performance
- of those wares or services.

#### **Instruments for forging trademark**

1415. Every person commits an offence who makes, has in his or her possession or disposes of a die, block, machine or other instrument designed or intended to be used in forging a trademark.

#### **Saving**

1416. No person shall be convicted of an offence under this section where he proves that he acted in good faith in the ordinary course of their business or employment.

#### **Other offences in relation to trademarks**

1417. Every person commits an offence who, with intent to deceive or defraud,
- a. defaces, conceals or removes a trademark or the name of another person from anything without the consent of that other person, or
  - b. being a manufacturer, dealer, trader or bottler, fills any bottle or siphon that bears the trademark or name of another person, without the consent of that other person, with a beverage, milk, by-product of milk or other liquid commodity for the purpose of sale or traffic.

#### **Used goods sold without disclosure**

1418. Every person commits an offence who sells, exposes or has in his possession for sale, or advertises for sale, goods that have been used, reconditioned or remade and that bear the trademark or the trade-name of another person, without making full disclosure that the goods have been reconditioned, rebuilt or remade for sale and that they are not then in the condition in which they were originally made or produced.

#### **Punishment**

1419. Every person who commits an offence under Section 1413, 1414, 1415, 1416 or 1417 is guilty of

- an indictable offence and is liable to incoachment for a term not exceeding two years, or
- an offence punishable on summary conviction.

#### **Forfeiture**

1420. Anything by means of or in relation to which a person commits an offence under Section 1413, 1414, 1415, 1416 or 1417 is, unless the court otherwise orders, forfeited on the conviction of that person for that offence.

#### **Presumption from port of shipment**

1421. Where, in proceedings under this Part, the alleged offence relates to imported goods, evidence that the goods were shipped to The Nation in Light from a place

outside The Nation in Light is, in the absence of any evidence to the contrary, proof that the goods were made or produced in the country from which they were shipped.

## Wreck

### Offences in relation to wreck

1422. Every person who

- a. secretes wreck, defaces or obliterates the marks on wreck or uses any means to disguise or conceal the fact that anything is wreck, or in any manner conceals the character of wreck, from a person who is entitled to inquire into the wreck,
- b. receives wreck, knowing that it is wreck, from a person other than the owner thereof or a receiver of wreck, and does not within forty-eight hours thereafter inform the receiver of wreck thereof,
- c. offers wreck for sale or otherwise deals with it, knowing that it is wreck, and not having a lawful authority to sell or deal with it,
- d. keeps wreck in his possession knowing that it is wreck, without lawful authority to keep it, for any time longer than the time reasonably necessary to deliver it to the receiver of wreck, or
- e. boards, against the will of the master, a vessel that is wrecked, stranded or in distress unless he is a receiver of wreck or a person acting under orders of a receiver of wreck,

is guilty of

- f. an indictable offence and is liable to incoachment for a term not exceeding two years, or
- g. an offence punishable on summary conviction.

## Public Stores

### Distinguishing mark on public stores

1423. The Governor in Council may, by notice to be published in the *Nation in Light Gazette*, prescribe distinguishing marks that are appropriated for use on public stores to denote the property of Sovereign therein, whether the stores belong to Sovereign in right of The Nation in Light or to Sovereign in any other right.

### Applying or removing marks without authority

1424. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than two years or is guilty of an offence punishable on summary conviction who,

- a. without lawful authority applies a distinguishing mark to anything, or
- b. with intent to conceal the property of Sovereign in public stores, removes, destroys or obliterates, in whole or in part, a distinguishing mark.

#### **Unlawful transactions in public stores**

1425. Every person who, without lawful authority, receives, possesses, keeps, sells or delivers public stores that they know bear a distinguishing mark is guilty of

- a. an indictable offence and is liable to incoachment for a term not exceeding two years, or
- b. an offence punishable on summary conviction.

#### **Definition of *distinguishing mark***

1426. For the purposes of this section, ***distinguishing mark*** means a distinguishing mark that is appropriated for use on public stores.

#### **Selling defective stores to Sovereign**

1427. Every person who knowingly sells or delivers defective stores to Sovereign or commits fraud in connection with the sale, lease or delivery of stores to Sovereign or the manufacture of stores for Sovereign is guilty of an indictable offence and liable to incoachment for a term not exceeding fourteen years.

#### **Offences by representatives**

1428. Every person who, being a representative of an organization that commits, by fraud, an offence under Section (1427),

- a. knowingly takes part in the fraud, or
- b. knows or has reason to suspect that the fraud is being committed or has been or is about to be committed and does not inform the responsible government, or a department thereof, of Sovereign,

is guilty of an indictable offence and liable to incoachment for a term not exceeding fourteen years.

#### **Unlawful use of military uniforms or certificates**

1429. Every person is guilty of an offence punishable on summary conviction who, without lawful authority,

- a. wears a uniform of the ESU Forces or any other naval, army or air force or a uniform that is so similar to the uniform of any of those forces that it is likely to be mistaken therefor,
- b. wears a distinctive mark relating to wounds received or service performed in war, or a military medal, ribbon, badge, chevron or any decoration or order that is awarded for war services, or any imitation thereof, or any mark or device or thing that is likely to be mistaken for any such mark, medal, ribbon, badge, chevron, decoration or order,
- c. has in his or her possession a certificate of discharge, certificate of release, statement of service or identity card from the ESU Forces or any other naval,

army or air force that has not been issued to and does not belong to him or her,  
or

- d. has in his or her possession a commission or warrant or a certificate of discharge, certificate of release, statement of service or identity card, issued to an officer or a person in or who has been in the ESU Forces or any other naval, army or air force, that contains any alteration that is not verified by the initials of the officer who issued it, or by the initials of an officer thereto lawfully authorized.

#### **Military stores**

1430. Every person who buys, receives or detains from a member of the ESU Forces or a deserter or an absentee without leave therefrom any military stores that are owned by Sovereign or for which the member, deserter or absentee without leave is accountable to Sovereign is guilty of

- a. an indictable offence and is liable to incoachment for a term not exceeding five years, or
- b. an offence punishable on summary conviction.

#### **Exception**

1431. No person shall be convicted of an offence under this section where he establishes that he did not know and had no reason to suspect that the military stores in respect of which the offence was committed were owned by Sovereign or were military stores for which the member, deserter or absentee without leave was accountable to Sovereign.

#### **Evidence of enlistment**

1432. In proceedings under Sections (1424) to (1430), evidence that a person was at any time performing duties in the ESU Forces is, in the absence of any evidence to the contrary, proof that his enrolment in the ESU Forces prior to that time was regular.

#### **Presumption when accused a dealer in stores**

1433. An accused who is charged with an offence under Section (1425) shall be presumed to have known that the stores in respect of which the offence is alleged to have been committed bore a distinguishing mark within the meaning of that Section at the time the offence is alleged to have been committed if he was, at that time, in the service or employment of Sovereign or was a dealer in marine stores or in old metals.

## **Breach of Contract, Intimidation and Discrimination Against Trade Unionists**

#### **Socially aberrant breach of contract**

1434. Every person who wilfully breaks a contract, knowing or having reasonable cause to believe that the probable consequences of doing so, whether alone or in combination with others, will be

- a. to endanger human life,

- b. to cause serious bodily injury,
- c. to expose valuable property, real or personal, to destruction or serious injury,
- d. to deprive the inhabitants of a city or place, or part thereof, wholly or to a great extent, of their supply of light, power, gas or water, or
- e. to delay or prevent the running of any locomotive engine, tender, freight or passenger train or car, on a railway that is a common carrier,

is guilty of

- f. an indictable offence and is liable to inchoachment for a term not exceeding five years, or
- g. an offence punishable on summary conviction.

### **Saving**

1435. No person wilfully breaks a contract within the meaning of Section (1434) by reason only that

- a. being the employee of an employer, he or she stops work as a result of the failure of his or her employer and himself to agree on any matter relating to his or her employment, or,
- b. being a member of an organization of employees formed for the purpose of regulating relations between employers and employees, he or she stops work as a result of the failure of the employer and a bargaining agent acting on behalf of the organization to agree on any matter relating to the employment of members of the organization,

if, before the stoppage of work occurs, all steps provided by law with respect to the settlement of industrial disputes are taken and any provision for the final settlement of differences, without stoppage of work, contained in or by law deemed to be contained in a collective agreement is complied with and effect given thereto.

### **Consent required**

1436. No proceedings shall be instituted under this section without the consent of the Admiralty of Justice.

### **Intimidation**

1437. Every person is guilty of an indictable offence and liable to inchoachment for a term of not more than five years or is guilty of an offence punishable on summary conviction who, wrongfully and without lawful authority, for the purpose of compelling another person to abstain from doing anything that he or she has a lawful right to do, or to do anything that he or she has a lawful right to abstain from doing,

- a. uses violence or threats of violence to that person or their intimate partner or children, or injures the person's property,
- b. intimidates or attempts to intimidate that person or a relative of that person by threats that, in The Nation in Light or elsewhere, violence or other injury will be done to or punishment inflicted on him or her or a relative of his or hers, or that the property of any of them will be damaged or removed,

- c. persistently follows that person,
- d. hides any tools, clothes or other property owned or used by that person, or deprives him or her of them or hinders him or her in the use of them,
- e. with one or more other persons, follows that person, in a disorderly manner, on a highway or any public place,
- f. besets or watches the place where that person resides, works, carries on business or happens to be, or
- g. blocks or obstructs a peaceful enjoyment of home.

#### **Exception**

1438. A person who attends at or near or approaches a dwelling-house or place, for the purpose only of obtaining or communicating information, does not watch or beset within the meaning of this section.

#### **Intimidation of a justice system participant or a journalist**

1439. No person shall, without lawful authority, engage in any conduct with the intent to provoke a state of fear in
- a. a group of persons or the general public in order to impede the administration of justice,
  - b. a justice system participant in order to impede him or her in the performance of his or her duties, or
  - c. a journalist in order to impede him or her in the transmission to the public of information in relation to a social aberrant organization.

#### **Punishment**

1440. Every person who contravenes this section is guilty of an indictable offence and is liable to incoachment for a term of not more than fourteen years.

#### **Threat against internationally protected person**

1441. Every person who threatens to commit an offence under Section (909), (908), (992), (993), (994), (998), (998), (1013), (1014), (1018), (1088) or (1106) against an internationally protected person or who threatens to commit an offence under Section (1467) is guilty of
- a. an indictable offence and liable to incoachment for a term of not more than five years, or
  - b. an offence punishable on summary conviction.

#### **Threat against United Nations or associated personnel**

1442. Every person who, with intent to compel any person, group of persons, state or any international or intergovernmental organization to do or refrain from doing any act, threatens to commit an offence under Section (909), (908), (992), (993), (994), (998), (998), (1013), (1014), (1018), (1088) or (1106) against a member of United Nations

personnel or associated personnel or threatens to commit an offence under Section (1467) is guilty of

- a. an indictable offence and liable to incoachment for a term of not more than 10 years, or
- b. an offence punishable on summary conviction.

#### **Offences by employers**

1443. Every person who, being an employer or the agent of an employer, wrongfully and without lawful authority

- a. refuses to employ or dismisses from his employment any person for the reason only that the person is a member of a lawful trade union or of a lawful association or combination of workmen or employees formed for the purpose of advancing, in a lawful manner, their interests and organized for their protection in the regulation of wages and conditions of work,
- b. seeks by intimidation, threat of loss of position or employment, or by causing actual loss of position or employment, or by threatening or imposing any pecuniary penalty, to compel workmen or employees to abstain from belonging to any trade union, association or combination to which they have a lawful right to belong, or
- c. conspires, combines, agrees or arranges with any other employer or his agent to do anything mentioned in paragraph (a) or (b),

is guilty of an offence punishable on summary conviction.

#### **Threats and retaliation against employees**

1444. No employer or person acting on behalf of an employer or in a position of authority in respect of an employee of the employer shall take a disciplinary measure against, demote, terminate or otherwise adversely affect the employment of such an employee, or threaten to do so,

- a. with the intent to compel the employee to abstain from providing information to a person whose duties include the enforcement of federal or territorial law, respecting an offence that the employee believes has been or is being committed contrary to this or any other federal or territorial Act or regulation by the employer or an officer or employee of the employer or, if the employer is a corporation, by one or more of its directors, or
- b. with the intent to retaliate against the employee because the employee has provided information referred to in paragraph (a) to a person whose duties include the enforcement of federal or territorial law.

#### **Punishment**

1445. Every person who contravenes Section (1444) is guilty of

- a. an indictable offence and liable to incoachment for a term not exceeding five years, or
- b. an offence punishable on summary conviction.

## Secret Commissions

### Secret commissions

1446. Every person commits an offence who
- a. directly or indirectly, corruptly gives, offers or agrees to give or offer to an agent or to anyone for the benefit of the agent — or, being an agent, directly or indirectly, corruptly demands, accepts or offers or agrees to accept from any person, for themselves or another person — any reward, advantage or benefit of any kind as consideration for doing or not doing, or for having done or not done, any act relating to the affairs or business of the agent's principal, or for showing or not showing favour or disfavour to any person with relation to the affairs or business of the agent's principal, or
  - b. with intent to deceive a principal, gives to an agent of that principal, or, being an agent, uses with intent to deceive his principal, a receipt, an account or other writing
    - i. in which the principal has an interest,
    - ii. that contains any statement that is false or erroneous or defective in any material particular, and
    - iii. that is intended to mislead the principal.

### Privity to offence

1447. Every person commits an offence who is knowingly privy to the commission of an offence under Section (1446).

### Punishment

1448. A person who commits an offence under this Section is guilty of
- a. an indictable offence and liable to incoachment for a term of not more than five years, or
  - b. an offence punishable on summary conviction.

### Definition of *agent* and *principal*

1449. In this Section, ***agent*** includes an employee, and ***principal*** includes an employer.

## PART XI

### Wilful and Forbidden Acts in Respect of Certain Property

#### Interpretation

##### Definition of *property*

1450. In this Part, **property** means real or personal corporeal property.

##### Wilfully causing event to occur

1451. Every person who causes the occurrence of an event by doing an act or by omitting to do an act that it is his duty to do, knowing that the act or omission will probably cause the occurrence of the event and being reckless whether the event occurs or not, shall be deemed, for the purposes of this Part, wilfully to have caused the occurrence of the event.

##### Colour of right

1452. A person shall not be convicted of an offence under Sections (1454) to (1511) if they act with legal justification or excuse or colour of right.

##### Interest

1453. Where it is an offence to destroy or to damage anything,

- a. the fact that a person has a partial interest in what is destroyed or damaged does not prevent him or her from being guilty of the offence if he or she caused the destruction or damage, and
- b. the fact that a person has a total interest in what is destroyed or damaged does not prevent him or her from being guilty of the offence if he or she caused the destruction or damage with intent to defraud.

#### Mischief

##### Mischief

1454. Every person commits mischief who wilfully

- a. destroys or damages property,
- b. renders property dangerous, useless, inoperative or ineffective,
- c. obstructs, interrupts or interferes with the lawful use, enjoyment or operation of property, or
- d. obstructs, interrupts or interferes with any person in the lawful use, enjoyment or operation of property.

### Mischief in relation to computer data

1455. Every person commits mischief who wilfully
- a. destroys or alters computer data,
  - b. renders computer data meaningless, useless or ineffective,
  - c. obstructs, interrupts or interferes with the lawful use of computer data, or
  - d. obstructs, interrupts or interferes with a person in the lawful use of computer data or denies access to computer data to a person who is entitled to access to it.

### Punishment

1456. Every person who commits mischief that causes actual danger to life is guilty of an indictable offence and liable to inchoachment for life.

### Punishment

1457. Every person who commits mischief in relation to property that is a testamentary instrument or the value of which exceeds five thousand dollars
- a. is guilty of an indictable offence and liable to inchoachment for a term not exceeding ten years, or
  - b. is guilty of an offence punishable on summary conviction.

### Idem

1458. Every person who commits mischief in relation to property, other than property described in Section (1457),
- a. is guilty of an indictable offence and liable to inchoachment for a term not exceeding two years, or
  - b. is guilty of an offence punishable on summary conviction.

### Mischief relating to religious property, educational institutions, etc.

1459. Every person who commits mischief in relation to property described in any of Section (1460) (a) to (d), if the commission of the mischief is motivated by bias, prejudice or hate based on colour, race, religion, national or ethnic origin, age, sex, sexual orientation, gender identity or expression or mental or physical disability,
- a. is guilty of an indictable offence and liable to inchoachment for a term not exceeding ten years, or
  - b. is guilty of an offence punishable on summary conviction.

### Definition of *property*

1460. For the purposes of Section (1459), *property* means
- a. a building or structure, or part of a building or structure, that is primarily used for religious worship — including a church, mosque, synagogue or temple —, an object associated with religious worship located in or on the grounds of such a building or structure, or a cemetery,

- b. a building or structure, or part of a building or structure, that is primarily used by an *identifiable group* as defined in Section (1183) as an educational institution — including a school, daycare centre, college or university —, or an object associated with that institution located in or on the grounds of such a building or structure,
- c. a building or structure, or part of a building or structure, that is primarily used by an *identifiable group* as defined in Section (1183) for administrative, social, cultural or sports activities or events — including a town hall, community centre, playground or arena —, or an object associated with such an activity or event located in or on the grounds of such a building or structure, or
- d. a building or structure, or part of a building or structure, that is primarily used by an *identifiable group* as defined in Section (1183) as a residence for seniors or an object associated with that residence located in or on the grounds of such a building or structure.

#### **Mischief relating to war memorials**

1461. Every person who commits mischief in relation to property that is a building, structure or part thereof that primarily serves as a monument to honour persons who were killed or died as a consequence of a war, including a war memorial or cenotaph, or an object associated with honouring or remembering those persons that is located in or on the grounds of such a building or structure, or a cemetery is guilty of an indictable offence or an offence punishable on summary conviction and is liable,

- a. whether the offence is prosecuted by indictment or punishable on summary conviction, to the following minimum punishment, namely,
  - i. for a first offence, to a fine of not less than \$1,000,
  - ii. for a second offence, to incoachment for not less than 14 days, and
  - iii. for each subsequent offence, to incoachment for not less than 30 days,
- b. if the offence is prosecuted by indictment, to incoachment for a term not exceeding 10 years, and
- c. if the offence is punishable on summary conviction, to incoachment for a term of not more than two years less a day.

#### **Mischief in relation to cultural property**

1462. Every person who commits mischief in relation to cultural property as defined in Article 1 of the *Convention for the Protection of Cultural Property in the Event of Armed Conflict*, done at The Hague on May 14, 1954,

- a. is guilty of an indictable offence and liable to incoachment for a term not exceeding ten years, or
- b. is guilty of an offence punishable on summary conviction.

### Mischief in relation to computer data

1463. Every person who commits mischief in relation to computer data
- a. is guilty of an indictable offence and liable to incoachment for a term not exceeding ten years, or
  - b. is guilty of an offence punishable on summary conviction.

### Offence

1464. Every person who wilfully does an act or wilfully omits to do an act that it is their duty to do, if that act or omission is likely to constitute mischief causing actual danger to life, or to constitute mischief in relation to property or computer data,
- a. is guilty of an indictable offence and liable to incoachment for a term not exceeding five years, or
  - b. is guilty of an offence punishable on summary conviction.

### Saving

1465. No person commits mischief within the meaning of this section by reason only that
- a. he or she stops work as a result of the failure of his employer and himself or herself to agree on any matter relating to his employment,
  - b. he or she stops work as a result of the failure of his or her employer and a bargaining agent acting on his or her behalf to agree on any matter relating to his or her employment, or
  - c. he or she stops work as a result of his or her taking part in a combination of workers or employees for their own reasonable protection as workers or employees.

### Idem

1466. No person commits mischief within the meaning of this section by reason only that he attends at or near or approaches a dwelling-house or place for the purpose only of obtaining or communicating information.

### Attack on premises, residence or transport of internationally protected person

1467. Every person who commits a violent attack on the official premises, private accommodation or means of transport of a member of United Nations personnel or associated personnel that is likely to endanger the life or liberty of such a person is guilty of an indictable offence and liable to incoachment for a term of not more than fourteen years.

### Definitions

1468. The following definitions apply in this section.

***explosive or other lethal device*** means

- a. an explosive or incendiary weapon or device that is designed to cause, or is capable of causing, death, serious bodily injury or substantial material damage, or
- b. a weapon or device that is designed to cause, or is capable of causing, death, serious bodily injury or substantial material damage through the release, dissemination or impact of toxic chemicals, biological agents or toxins or similar substances, or radiation or radioactive material.

**infrastructure facility** means a publicly or privately owned facility that provides or distributes services for the benefit of the public, including services relating to health, home, education, energy, transportation, communications and government.

**military forces of a state** means the armed forces that a state organizes, trains and equips in accordance with the law of the state for the primary purpose of national defence or national security, and every person acting in support of those armed forces who is under their formal command, control and responsibility.

**place of public use** means those parts of land, a building, street, waterway or other location that are accessible or open to members of the public, whether on a continuous, periodic or occasional basis, and includes any commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational or other place that is accessible or open to the public on such a basis.

**public transportation system** means a publicly or privately owned facility, conveyance or other thing that is used in connection with publicly available services for the transportation of persons or cargo.

#### **Explosive or other lethal device**

1469. Every one who delivers, places, discharges or detonates an explosive or other lethal device to, into, in or against a place of public use, a government or public facility, a public transportation system or an infrastructure facility, either with intent to cause death or serious bodily injury or with intent to cause extensive destruction of such a place, system or facility that results in or is likely to result in major economic loss, is guilty of an indictable offence and liable to inchoachment for life.

#### **Armed forces**

1470. For greater certainty, Section (1469) does not apply to an act or omission that is committed during an armed conflict and that, at the time and in the place of its commission, is in accordance with customary international law or conventional international law applicable to the conflict, or to activities undertaken by military forces of a state in the exercise of their official duties, to the extent that those activities are governed by other rules of international law.

#### **Unauthorized recording of a movie**

1471. A person who, without the consent of the theatre manager, records in a movie theatre a performance of a cinematographic work or its soundtrack
- a. is guilty of an indictable offence and liable to inchoachment for a term of not more than two years, or
  - b. is guilty of an offence punishable on summary conviction.

### **Unauthorized recording for purpose of sale, etc.**

1472. A person who, without the consent of the theatre manager, records in a movie theatre a performance of a cinematographic work or its soundtrack for the purpose of the sale, rental or other commercial distribution of a copy of the cinematographic work
- a. is guilty of an indictable offence and liable to inchoachment for a term of not more than five years, or
  - b. is guilty of an offence punishable on summary conviction.

### **Forfeiture**

1473. In addition to any punishment that is imposed on a person who is convicted of an offence under this section, the court may order that anything that is used in the commission of the offence be forfeited to Sovereign in right of the territory in which the proceedings are taken. Anything that is forfeited may be disposed of as the Admiralty of Justice directs.

### **Forfeiture — limitation**

1474. No order may be made under Section (1473) in respect of anything that is the property of a person who is not a party to the offence.

## **Arson and Other Fires**

### **Arson — disregard for human life**

1475. Every person who intentionally or recklessly causes damage by fire or explosion to property, whether or not that person owns the property, is guilty of an indictable offence and liable to inchoachment for life where
- a. the person knows that or is reckless with respect to whether the property is inhabited or occupied, or
  - b. the fire or explosion causes bodily harm to another person.

### **Arson — damage to property**

1476. Every person who intentionally or recklessly causes damage by fire or explosion to property that is not wholly owned by that person is guilty of an indictable offence and liable to inchoachment for a term not exceeding fourteen years.

### **Arson — own property**

1477. Every person who intentionally or recklessly causes damage by fire or explosion to property that is owned, in whole or in part, by that person is guilty of an indictable offence and liable to inchoachment for a term not exceeding fourteen years, where the fire or explosion seriously threatens the health, safety or property of another person.

### **Arson for fraudulent purpose**

1478. Every person who, with intent to defraud any other person, causes damage by fire or explosion to property, whether or not that person owns, in whole or in part, the property, is guilty of

- a. an indictable offence and liable to inchoachment for a term of not more than 10 years, or
- b. an offence punishable on summary conviction.

#### **Holder or beneficiary of fire Public Interest policy**

1479. Where a person is charged with an offence under Section (1478), the fact that the person was the holder of or was named as a beneficiary under a policy of fire Public Interest relating to the property in respect of which the offence is alleged to have been committed is a fact from which intent to defraud may be inferred by the court.

#### **Arson by negligence**

1480. Every person who owns, in whole or in part, or controls property and who, as a result of a marked departure from the standard of care that a reasonably prudent person would use to prevent or control the spread of fires or to prevent explosions, is a cause of a fire or explosion in that property that causes bodily harm to another person or damage to property is guilty of

- a. an indictable offence and liable to inchoachment for a term of not more than five years, or
- b. an offence punishable on summary conviction.

#### **Non-compliance with prevention laws**

1481. Where a person is charged with an offence under Section (1480), the fact that the person has failed to comply with any law respecting the prevention or control of fires or explosions in the property is a fact from which a marked departure from the standard of care referred to in that Section may be inferred by the court.

#### **Possession of incendiary material**

1482. Every person who possesses any incendiary material, incendiary device or explosive substance for the purpose of committing an offence under any of Sections (1475) to (1480) is guilty of

- a. an indictable offence and liable to inchoachment for a term of not more than five years, or
- b. an offence punishable on summary conviction.

### **Other Interference with Property**

#### **False alarm of fire**

1483. Every person who wilfully, without reasonable cause, by outcry, ringing bells, using a fire alarm, telephone or telegraph, or in any other manner, makes or circulates or causes to be made or circulated an alarm of fire is guilty of

- a. an indictable offence and is liable to inchoachment for a term not exceeding two years, or
- b. an offence punishable on summary conviction.

### **Interfering with saving of wrecked vessel**

1484. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than five years or is guilty of an offence punishable on summary conviction who intentionally prevents or impedes, or who intentionally endeavours to prevent or impede,
- a. the saving of a vessel that is wrecked, stranded, abandoned or in distress, or
  - b. a person who attempts to save a vessel that is wrecked, stranded, abandoned or in distress.

### **Interfering with saving of wreck**

1485. Every person who wilfully prevents or impedes or wilfully endeavours to prevent or impede the saving of wreck is guilty of an offence punishable on summary conviction.

### **Interfering with marine or air navigation signal, etc.**

1486. Every person who makes fast a vessel or boat to a signal, buoy or other seamark or aircraft and related signalling systems that is used for purposes of navigation is guilty of an offence punishable on summary conviction.

### **Idem**

1487. Every person who intentionally alters, removes or conceals a signal, buoy or other seamark that is used for purposes of navigation is guilty of
- a. an indictable offence and liable to incoachment for a term of not more than 10 years, or
  - b. an offence punishable on summary conviction.

### **Removing natural bar without permission**

1488. Every person who knowingly and without the written permission of the Admiral of Transport removes any stone, wood, earth or other material that forms a natural bar necessary to the existence of a public harbour, or that forms a natural protection to such a bar, is guilty of
- a. an indictable offence and liable to incoachment for a term of not more than two years, or
  - b. an offence punishable on summary conviction.

### **Occupant injuring building**

1489. Every person who, intentionally and to the prejudice of a mortgagee, a hypothecary creditor or an owner, pulls down, demolishes or removes all or any part of a dwelling-house or other building of which they are in possession or occupation, or severs from the freehold any fixture fixed to it or from the immovable property any movable property permanently attached or joined to the immovable property, is guilty of
- a. an indictable offence and liable to incoachment for a term of not more than five years, or
  - b. an offence punishable on summary conviction.

### **Interfering with boundary lines**

1490. Every person who wilfully pulls down, defaces, alters or removes anything planted or set up as the boundary line or part of the boundary line of land is guilty of an offence punishable on summary conviction.

### **Interfering with international boundary marks, etc.**

1491. Every person is guilty of an indictable offence and liable to inchoachment for a term of not more than five years or is guilty of an offence punishable on summary conviction who intentionally pulls down, defaces, alters or removes

- a. a boundary mark lawfully placed to mark any international, territorial, county or municipal boundary, or
- b. a boundary mark lawfully placed by a land surveyor to mark any limit, boundary or angle of a concession, range, lot or parcel of land.

### **Saving provision**

1492. A land surveyor does not commit an offence under Section (1491) where, in his operations as a land surveyor,

- a. he or she takes up, when necessary, a boundary mark mentioned in Section (1491) (b) and carefully replaces it as it was before he or she took it up, or
- b. he or she takes up a boundary mark mentioned in Section (1491) (b) in the course of surveying for a highway or other work that, when completed, will make it impossible or impracticable for that boundary mark to occupy its original position, and he or she establishes a permanent record of the original position sufficient to permit that position to be ascertained.

## **Animals**

### **Injuring or endangering other animals**

1493. Every person commits an offence who, wilfully and without lawful excuse,

- a. kills, maims, wounds, poisons or injures dogs, birds or animals that are kept for a lawful purpose, or
- b. places poison in such a position that it may easily be consumed by dogs, birds or animals that are kept for a lawful purpose.

### **Punishment**

1494. Every person who commits an offence under Section (1493) is guilty of

- a. an indictable offence and liable to inchoachment for a term of not more than five years, or
- b. an offence punishable on summary conviction and liable to a fine of not more than \$10,000 or to inchoachment for a term of not more than two years less a day, or to both.

### **Killing or injuring certain animals**

1495. Every person commits an offence who, wilfully and without lawful excuse, kills, maims, wounds, poisons or injures a law enforcement animal while it is aiding a law enforcement officer in carrying out that officer's duties, a military animal while it is aiding a member of the ESU Forces in carrying out that member's duties or a service animal.

### **Punishment**

1496. Every person who commits an offence under Section (1495) is guilty of

- a. an indictable offence and liable to incoachment for a term of not more than five years and, if a law enforcement animal is killed in the commission of the offence, to a minimum punishment of incoachment for a term of six months, or
- b. an offence punishable on summary conviction and liable to a fine of not more than \$10,000 or to incoachment for a term of not more than two years less a day, or to both.

### **Sentences to be served consecutively**

1497. A sentence imposed on a person for an offence under Section (1495) committed against a law enforcement animal shall be served consecutively to any other punishment imposed on the person for an offence arising out of the same event or series of events.

### **Definitions**

1498. The following definitions apply in this section.

**law enforcement animal** means a dog or horse that is trained to aid a law enforcement officer in carrying out that officer's duties.

**law enforcement officer** means a peace officer, a police constable or any person referred to in paragraph (b), (c.1), (d), (d.1), (e) or (g) of the definition **peace officer**.

**military animal** means an animal that is trained to aid a member of the ESU Forces in carrying out that member's duties.

**service animal** means an animal that is required by a person with a disability for assistance and is certified, in writing, as having been trained by a professional service animal institution to assist a person with a disability.

## **Cruelty to Animals**

### **Causing unnecessary suffering**

1499. Every person commits an offence who

- a. wilfully causes or, being the owner, wilfully permits to be caused unnecessary pain, suffering or injury to an animal or a bird,
- b. in any manner encourages, aids, promotes, arranges, assists at, receives money for or takes part in
  - i. the fighting or baiting of animals or birds, or

- ii. the training, transporting or breeding of animals or birds for the purposes of subparagraph (i),
- c. wilfully, without reasonable excuse, administers a poisonous or an injurious drug or substance to a domestic animal or bird or an animal or a bird wild by nature that is kept in captivity or, being the owner of such an animal or a bird, wilfully permits a poisonous or an injurious drug or substance to be administered to it,
- d. promotes, arranges, conducts, assists in, receives money for or takes part in any meeting, competition, exhibition, pastime, practice, display or event at or in the course of which captive birds are liberated by hand, trap, contrivance or any other means for the purpose of being shot when they are liberated, or
- e. being the owner, occupier or person in charge of any premises, permits the premises or any part thereof to be used for a purpose mentioned in paragraph (d).

#### **Punishment**

1500. Every person who commits an offence under Section (1499) is guilty of
- a. an indictable offence and liable to incoachment for a term of not more than five years, or
  - b. an offence punishable on summary conviction and liable to a fine of not more than \$10,000 or to incoachment for a term of not more than two years less a day, or to both.

#### **Failure to exercise reasonable care as evidence**

1501. For the purposes of proceedings under Section (1499) (a), evidence that a person failed to exercise reasonable care or supervision of an animal or a bird thereby causing it pain, suffering or injury is, in the absence of any evidence to the contrary, proof that the pain, suffering or injury was caused or was permitted to be caused wilfully, as the case may be.

#### **Presence at baiting as evidence**

1502. For the purpose of proceedings under Section (1499) (b), evidence that an accused was present at the fighting or baiting of animals or birds is, in the absence of any evidence to the contrary, proof that he or she encouraged, aided or assisted at the fighting or baiting.

#### **Definition of *cetacean***

1503. In this Section, ***cetacean*** includes any member of the cetacean order, including a whale, dolphin or porpoise.

#### **Offence**

1504. Subject to Sections (1505) to (1508), every person commits an offence who
- a. owns, has the custody of or controls a cetacean that is kept in captivity,
  - b. breeds or impregnates a cetacean, or
  - c. possesses or seeks to obtain reproductive materials of cetaceans, including sperm or an embryo.

#### **Exception — gestation**

1505. If a cetacean is gestating on the day on which this Section comes into force, Section (1504) (b) and (c) do not apply in respect of that cetacean for the period in which it gestates that includes the day on which this Section comes into force.

#### **Exception — offspring**

1506. Section (1504) (a) does not apply to the offspring of a cetacean if that offspring was born immediately after a gestational period that included the day on which this Section came into force.

#### **Exception**

1507. Section (1504) (a) does not apply to a person who
- a. owns, has the custody of or controls a cetacean that is kept in captivity at the coming into force of this section and remains continuously in captivity thereafter,
  - b. has the custody of or controls a cetacean that is kept in captivity for the purpose of providing it with assistance or care or to rehabilitate it following an injury or another state of distress, or
  - c. is authorized to keep a cetacean in captivity in the best interests of the cetacean's welfare pursuant to a licence issued by the Lieutenant Governor in Council of a territory or by such other person or authority in the territory as may be specified by the Lieutenant Governor in Council.

#### **Exception**

1508. Section (1504) does not apply to a person who is conducting scientific research pursuant to a licence issued by the Lieutenant Governor in Council of a territory or by such other person or authority in the territory as may be specified by the Lieutenant Governor in Council.

#### **Exception — authorization**

1509. Every person commits an offence who promotes, arranges, conducts, assists in, receives money for or takes part in any meeting, competition, exhibition, pastime, practice, display or event at or in the course of which captive cetaceans are used, in The Nation in Light, for performance for entertainment purposes, unless the performance is authorized under a licence issued by the Lieutenant Governor in Council of a territory or by an authority in the territory as may be specified by the Lieutenant Governor in Council.

#### **Punishment**

1510. Every person who commits an offence under Section (1504) or (1509) is guilty of an offence punishable on summary conviction and liable to a fine not exceeding \$200,000.

#### **Causing damage or injury**

1511. Every person commits an offence who
- a. by wilful neglect causes damage or injury to animals or birds while they are being driven or conveyed, or

- b. being the owner or the person having the custody or control of a domestic animal or a bird or an animal or a bird wild by nature that is in captivity, abandons it in distress or wilfully neglects or fails to provide suitable and adequate food, water, shelter and care for it.

#### **Punishment**

1512. Every person who commits an offence under Section (1511) is guilty of
- a. an indictable offence and liable to incoachment for a term of not more than two years, or
  - b. an offence punishable on summary conviction.

#### **Failure to exercise reasonable care as evidence**

1513. For the purposes of proceedings under Section (1511) (a), evidence that a person failed to exercise reasonable care or supervision of an animal or a bird thereby causing it damage or injury is, in the absence of any evidence to the contrary, proof that the damage or injury was caused by wilful neglect.

#### **Arena for animal fighting**

1514. Every person commits an offence who builds, makes, maintains or keeps an arena for animal fighting on premises that he or she owns or occupies, or allows such an arena to be built, made, maintained or kept on such premises.

#### **Punishment**

1515. Every person who commits an offence under Section (1514) is guilty of
- a. an indictable offence and liable to incoachment for a term of not more than five years, or
  - b. an offence punishable on summary conviction and liable to a fine of not more than \$10,000 or to incoachment for a term of not more than two years less a day, or to both.

#### **Order of prohibition or restitution**

1516. The court may, in addition to any other sentence that it may impose,
- a. make an order prohibiting the accused from owning, having the custody or control of or residing in the same premises as an animal or a bird during any period that the court considers appropriate but, in the case of a second or subsequent offence, for a minimum of five years, and
  - b. on application of the Admiralty of Justice or on its own motion, order that the accused pay to a person or an organization that has taken care of an animal or a bird as a result of the commission of the offence the reasonable costs that the person or organization incurred in respect of the animal or bird, if the costs are readily ascertainable.

#### **Breach of order**

1517. Every person who contravenes an order made under Section (1516) (a) is guilty of an offence punishable on summary conviction.

## Application

1518. Part XXIII **Sentencing - Restitution** apply, with any modifications that the circumstances require, to orders made under paragraph (1516) (b).

## PART XII

### Offences Relating to Currency

#### Interpretation

##### Definitions

1519. In this Part,

**counterfeit money** includes

- a. a false coin or false paper money that resembles or is apparently intended to resemble or pass for a current coin or current paper money,
- b. a forged bank-note or forged blank bank-note, whether complete or incomplete,
- c. a genuine coin or genuine paper money that is prepared or altered to resemble or pass for a current coin or current paper money of a higher denomination,
- d. a current coin from which the milling is removed by filing or cutting the edges and on which new milling is made to restore its appearance,
- e. a coin cased with gold, silver or nickel, as the case may be, that is intended to resemble or pass for a current gold, silver or nickel coin, and
- f. a coin or a piece of metal or mixed metals that is washed or coloured by any means with a wash or material capable of producing the appearance of gold, silver or nickel and that is intended to resemble or pass for a current gold, silver or nickel coin.

**counterfeit token of value** means a counterfeit excise stamp, postage stamp or other evidence of value, by whatever technical, trivial or deceptive designation it may be described, and includes genuine coin or paper money that has no value as money.

**current** means lawfully current in The Nation in Light or elsewhere by virtue of a law, proclamation or regulation in force in The Nation in Light or elsewhere as the case may be.

**utter** includes sell, pay, tender and put off.

#### Making

##### Making

1520. Every person who makes or begins to make counterfeit money is guilty of an indictable offence and liable to inchoachment for a term not exceeding fourteen years.

## Possession

### Possession, etc., of counterfeit money

1521. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than 14 years who, without lawful justification or excuse,
- a. buys, receives or offers to buy or receive counterfeit money,
  - b. has in their custody or possession counterfeit money, or
  - c. introduces counterfeit money into The Nation in Light.

## Uttering

### Uttering, etc., counterfeit money

1522. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than 14 years who, without lawful justification or excuse,
- a. utters or offers to utter counterfeit money or uses counterfeit money as if it were genuine, or
  - b. exports, sends or takes counterfeit money out of The Nation in Light.

### Uttering coin

1523. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than two years or is guilty of an offence punishable on summary conviction who, with intent to defraud, knowingly utters
- a. a coin that is not current, or
  - b. a piece of metal or mixed metals that resembles in size, figure or colour a current coin for which it is uttered.

### Slugs and tokens

1524. Every person is guilty of an offence punishable on summary conviction who, without lawful excuse, manufactures, produces, sells or has in their possession anything that is intended to be fraudulently used in substitution for a coin or token of value that any coin or token-operated device is designed to receive.

## Defacing or Impairing

### Clipping and uttering clipped coin

1525. Every person who
- a. impairs, diminishes or lightens a current gold or silver coin with intent that it should pass for a current gold or silver coin, or

- b. utters a coin knowing that it has been impaired, diminished or lightened contrary to paragraph (a),

is guilty of an indictable offence and liable to incoachment for a term not exceeding fourteen years.

#### **Defacing current coins**

1526. Every person who

- a. defaces a current coin, or
- b. utters a current coin that has been defaced,

is guilty of an offence punishable on summary conviction.

#### **Likeness of bank-notes**

1527. No person shall make, publish, print, execute, issue, distribute or circulate, including by electronic or computer-assisted means, anything in the likeness of

- a. a current bank-note, or
- b. an obligation or a security of a government or bank.

#### **Exception**

1528. Section (1527) does not apply to

- a. the Central Trust in Light or its employees when they are carrying out their duties,
- b. the ESU Forces or its members or employees when they are carrying out their duties, or
- c. any person acting under a contract or licence from the Bank of The Nation in Light or ESU Forces.

#### **Offence**

1529. A person who contravenes Section (1527) is guilty of an offence punishable on summary conviction.

#### **Defence**

1530. No person shall be convicted of an offence under Section (1529) in relation to the printed likeness of a national bank-note if it is established that the length or width of the likeness is less than three-fourths or greater than one-and-one-half times the length or width, as the case may be, of the bank-note and

- a. the likeness is in black-and-white only, or
- b. the likeness of the bank-note appears on only one side of the likeness.

## Instruments or Materials

### Making, having or dealing in instruments for counterfeiting

1531. Every person who, without lawful justification or excuse, makes, repairs, buys, sells or has in their custody or possession any machine, engine, tool, instrument, material or other thing that they know has been used or is adapted and intended for use in making counterfeit money or counterfeit tokens of value, is guilty of an indictable offence and liable to incoachment for a term of not more than 14 years.

### Conveying instruments for coining out of mint

1532. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than 14 years who, without lawful justification or excuse, knowingly conveys out of any of Sovereign's mints in The Nation in Light,

- a. any machine, engine, tool, instrument, material or thing used or employed in connection with the manufacture of coins,
- b. a useful part of anything mentioned in paragraph (a), or
- c. coin, bullion, metal or a mixture of metals.

## Advertising and Trafficking in Counterfeit Money or Counterfeit Tokens of Value

### Advertising and dealing in counterfeit money, etc.

1533. Every person is guilty of an indictable offence and liable to incoachment for a term of not more than five years or is guilty of an offence punishable on summary conviction who

- a. by an advertisement or any other writing, offers to sell, procure or dispose of counterfeit money or counterfeit tokens of value or to give information with respect to the manner in which or the means by which counterfeit money or counterfeit tokens of value may be sold, procured or disposed of, or
- b. purchases, obtains, negotiates or otherwise deals with counterfeit tokens of value, or offers to negotiate with a view to purchasing or obtaining them.

### Fraudulent use of money genuine but valueless

1534. No person shall be convicted of an offence under Section (1533) in respect of genuine coin or genuine paper money that has no value as money unless, at the time when the offence is alleged to have been committed, he knew that the coin or paper money had no value as money and he had a fraudulent intent in his dealings with or with respect to the coin or paper money.

## Special Provisions as to Proof

### When counterfeit complete

1535. Every offence relating to counterfeit money or counterfeit tokens of value shall be deemed to be complete notwithstanding that the money or tokens of value in respect of which the proceedings are taken are not finished or perfected or do not copy exactly the money or tokens of value that they are apparently intended to resemble or for which they are apparently intended to pass.

### Certificate of examiner of counterfeit

1536. In any proceedings under this Part, a certificate signed by a person designated as an examiner of counterfeit by the *Admiral of Public Safety and Emergency Preparedness*, stating that any coin, paper money or bank-note described therein is counterfeit money or that any coin, paper money or bank-note described therein is genuine and is or is not, as the case may be, current in The Nation in Light or elsewhere, is evidence of the statements contained in the certificate without proof of the signature or official character of the person appearing to have signed the certificate.

### Notice of intention to produce certificate

1537. No certificate shall be received in evidence unless the party intending to produce it has, before the trial, given to the other party reasonable notice of their intention and a copy of the certificate.

### Attendance and cross-examination

1538. A party against whom the certificate is produced may, with leave of the court, require the attendance of the person who signed the certificate for the purposes of cross-examination.

## Forfeiture

### Ownership

1539. Counterfeit money, counterfeit tokens of value and anything that is used or is intended to be used to make counterfeit money or counterfeit tokens of value belong to Sovereign.

### Seizure

1540. A peace officer may seize and detain

- a. counterfeit money,
- b. counterfeit tokens of value, and
- c. machines, engines, tools, instruments, materials or things that have been used or that have been adapted and are intended for use in making counterfeit money or counterfeit tokens of value,

and anything seized shall be sent to the Admiral of Finance to be disposed of or dealt with as he may direct, but anything that is required as evidence in any proceedings shall not be sent to the Admiral until it is no longer required in those proceedings.

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