Crimes

Table of Contents

Page

Principal

Crimes Act 1969

Table of Amendments 600,101
Table of Provisions 600,201
Crimes Act 1969 600,401

[The next page is 600,101]

Crimes Act 1969

TABLE OF AMENDMENTS

The Crimes Act 1969 No 20 was assented to and commenced on 27 January 1970, as amended by:

Amending Legislation	Date of Assent	Date of Commencement
Cook Islands Amendment (No 3) Act 1970 No 5	28 August 1970	s 5: 1 May 1970
Crimes Amendment Act 1970 No 16	20 January 1971	20 January 1971
Crimes Amendment Act 1972 No 4	18 August 1972	18 August 1972
Crimes Amendment Act 1973 No 5	18 May 1973	18 May 1973
Crimes Amendment Act 1977 No 14	30 September 1977	30 September 1977
Crown Law Office Act 1980 No 16	27 November 1980	s 16(3)(a) and (b): 27 November 1980
Criminal Procedure Act 1980–81 No 28	5 June 1981	Sch 4: 5 June 1981
Crimes Amendment Act 1981 No 17	1 December 1981	ss 2, 3(1), (2) and 4: 1 January 1982
Constitution Amendment Act (No 10) Act 1981–82 No 20	6 April 1982	s 4(3): 6 April 1982
Crimes Amendment Act 1986 No 9	24 July 1986	24 July 1986
Judicature Amendment Act 1991 No 7	15 May 1991	s 10(2): 15 May 1991
Crimes Amendment Act 1994 No 8	15 August 1994	15 August 1994
Crimes Amendment Act 1994–95 No 34	30 June 1995	30 June 1995
Crimes Amendment Act 2003 No 6	7 May 2003	ss 2–13: 7 May 2003
Crimes Amendment Act 2004 No 5	1 June 2004	1 June 2004
Crimes Amendment Act 2007 No 28	12 November 2007	s 2: 12 November 2007
Digital Registers Act 2011 No 11	9 December 2011	Sch cl 2: 10 December 2011
Cook Islands Immigration Act 2021 No 16	6 December 2021	s 233(1) and Sch 1: 19 April 2023
Crimes (Sexual Offences) Amendment Act 2023 No 4	18 April 2023	1 June 2023
Legislative Service Amendment Act 2023	1 January 2024	s 15: 1 January 2024
Public Health Act 2024 No 7	20 May 2024	Sch 3: 1 September 2024

[The next page is 600,201]

Crimes Act 1969

TABLE OF PROVISIONS

1 Short title and division into Parts
2 Interpretation
3 Meaning of ordinarily resident in the Cook Islands

Part 1
Jurisdiction

4 Application of Act
5 Persons not to be tried in respect of things done outside Cook Islands
6 Place of commission of offence
7 Jurisdiction in respect of crimes on ships or aircraft beyond Cook Islands
7A Extraterritorial jurisdiction in respect of certain offences with transnational aspects
7B Attorney-General's consent required where jurisdiction claimed under section 7A
8 Common law offences
9 Offence under more than one enactment
10 Construction of other Acts
11 Summary jurisdiction

Part 2
Punishments

[Revoked]

12–22 *[Repealed]*

Part 3
Matters of justification or excuse

23 General rule as to justifications

Infancy

24 Children under 10
25 Children between 10 and 14

Insanity

26 Insanity

Compulsion

27 Compulsion

Ignorance of law

28 Ignorance of law

Sentence or process

29 Execution of sentence, process, or warrant
30 Execution of erroneous sentence or process
31 Sentence or process without jurisdiction
32 Irregular warrant or process

Arrest

33 Arresting the wrong person
34 Arrest by constable pursuant to statutory powers
35 Arrest by constable of person believed to have committed offence
36 Arrest by other officers or persons pursuant to statutory powers
37 Persons assisting constable or officer in arrest
38 Arrest of persons found committing certain crimes
39 Arrest of person believed to be committing crime by night
40 Arrest after commission of certain crimes
41 Arrest during flight

Use of force

42 Force used in executing process or in arrest
43 Preventing escape or rescue
44 Prevention of suicide or certain offences

Breach of the peace

45 Preventing breach of the peace
46 Suppression of riot
47 Suppression of riot by Police
48 Suppression of riot by persons acting under lawful orders
49 Suppression of riot by persons without orders

Defence against assault

50 Self-defence and defence of another
51 Self-defence against provoked assault [*Repealed*]
52 Provocation defined [*Repealed*]
53 Defence of person under protection [*Repealed*]

Defence of property

54 Defence of movable property against trespasser
55 Defence of movable property with claim of right
56 Defence of movable property without claim of right
57 Defence of dwellinghouse
58 Defence of land or building

Peaceable entry

59 Assertion of right to land or building

60 Exercise of right of way, etc

Powers of discipline

61 Domestic discipline
62 Discipline on ship or aircraft

Surgical operations

63 Surgical operations

General provisions

64 Excess of force
65 Consent to death
66 Obedience to *de facto* law
67 Other enactments not affected

Part 4
Parties to the commission of offences

68 Parties to offences
69 Husband and wife conspiring
70 Party to murder outside the Cook Islands
71 Party to any other crime outside the Cook Islands
72 Offence committed other than offence intended
73 Accessory after the fact
74 Attempts

Part 5
Crimes against public order

Treason and other crimes against the Queen and the State

75 Treason
76 Punishment for treason or attempted treason
77 Evidence of treason
78 Punishment for being party to treason
79 Inciting to mutiny
80 Communicating secrets
81 Sabotage

Seditious offences

82 Oath to commit offence
83 Seditious offences defined
84 Seditious conspiracy
85 Seditious statements
86 Publication of seditious documents
87 Use of apparatus for making seditious documents statements

Unlawful assemblies, riots, and breaches of the peace

88 Unlawful assembly

89 Riot
90 Reading the Riot Act
91 Failure of rioters to disperse
92 Riotous destruction of buildings, etc
93 Forcible entry and detainer
94 Carrying offensive weapon in public place without lawful excuse
95 Riotous, etc, behaviour in public place
96 Fighting in public place
97 Throwing or leaving bottles or glass in public place
98 Obstructing public place
99 Profane, indecent, or obscene language
100 Disturbing public worship
101 Drunkenness
102 Wilful trespass after warning to leave

Piracy

103 Piracy
104 Piratical acts
105 Punishment of piratical acts
106 Attempt to commit piracy
107 Conspiring to commit piracy
108 Accessory after the fact to piracy

Dealing in persons

109 Dealing in persons
109A Participating in organised criminal group

Part 5A
People smuggling and trafficking

109B Interpretation

People smuggling

109C People smuggling
109D Offence to facilitate stay of an unauthorised person
109E Aggravating factors
109F Protection for smuggled persons
109G Boarding, search and detention of craft

People trafficking

109H Trafficking in persons
109I Trafficking in children
109J Consent not a defence
109K Aggravating factors
109L Protection for trafficked persons

Exploitation

109M Exploitation of people not legally entitled to work

Miscellaneous

109N Offence related to fraudulent travel or identity documents
109O Obligation on commercial carriers
109P Obligation to extradite or refer for prosecution
109Q Attorney-General's consent to prosecutions required

Part 6
Crimes affecting the administration of law and justice

Bribery and corruption

110 Interpretation
111 Judicial corruption
112 Bribery of judicial officer, etc
113 Corruption and bribery of Minister of the Crown
114 Corruption and bribery of member of Parliament
115 Corruption and bribery of law enforcement officer
116 Corruption and bribery of official
116A Corrupt use of official information
116B Use or disclosure of personal information disclosed in breach of section 116A
117 Restrictions on prosecution

Contravention of statute

118 Contravention of statute

Misleading justice

119 Perjury defined
120 Punishment of perjury
121 False oaths
122 False statements or declarations
123 Evidence of perjury, false oath, or false statement
124 Fabricating evidence
125 Use of purported affidavit or declaration
126 Conspiring to bring false accusation
127 Conspiring to defeat justice
128 Corrupting juries and witnesses

Escapes and rescues

129 Assisting escape of prisoners of war or internees
130 Breaking prison
131 Escape from lawful custody
132 Assisting escape from lawful custody
133 Assisting escape of mentally defective person under detention for offence

Part 7
Crimes against religion, morality, and public welfare

Crime against religion

134 Blasphemous libel

Crimes against morality and decency

135 Distribution or exhibition of indecent matter
136 Indecent act in public place
137 Indecent act with intent to insult or offend
137A Exposure of person or grossly indecent acts
138 Indecent documents
139 Considerations determining whether or not document is indecent

Sexual crimes

140 Sexual connection defined
140A Circumstances that do not amount to consent
141 Sexual violation
142 Attempted sexual violation and assault with intent to commit sexual violation
143 Incest
144 Sexual connection with dependent family member
144A Dependent family member defined
145 Sexual connection or attempted sexual connection with child under 12
146 Indecent assault of, or indecency with, child under 12
147 Sexual connection or attempted sexual connection with child between 12 and 16
147A Indecent assault of, or indecency with, child between 12 and 16
148 Indecent assault of, or indecency with, person of or over 16
149 Conspiracy to induce sexual connection
150 Inducing sexual intercourse under pretence of marriage [*Repealed*]
151 Sexual connection with person with significant intellectual impairment
152 Indecent act between woman and girl [*Repealed*]
153 Indecency between man and boy [*Repealed*]
154 Indecency between males [*Repealed*]
155 Sodomy [*Repealed*]
156 Bestiality
157 Indecency with animal
157A Sexual conduct with children outside Cook Islands
157B Consent of Attorney-General required

Crimes against public welfare

158 Criminal nuisance
159 Keeping place of resort for homosexual acts [*Repealed*]
160 Brothel-keeping
161 Living on earnings of prostitution
162 Procuring sexual connection
163 Prostitution

164 Misconduct in respect of human remains
165 Witchcraft

Public health

[Repealed]

166–169 *[Repealed]*

Cruelty to animals

170 Cruelty to animals

Part 8
Crimes against person

170A Standard of care required of persons under legal duties

Duties tending to preservation of life

171 Duty to provide the necessaries of life
172 Duty of parent or guardian to provide necessaries
173 Duty of employers to provide necessaries
174 Abandoning child under 6
175 Duty of persons doing dangerous acts
176 Duty of persons in charge of dangerous things
177 Duty to avoid omissions dangerous to life

Homicide

178 Homicide defined
179 Killing of a child
180 Culpable homicide
181 Procuring death by false evidence
182 Death must be within a year and a day
183 Killing by influence on the mind
184 Acceleration of death
185 Causing death that might have been prevented
186 Causing injury the treatment of which causes death

Murder, manslaughter, etc

187 Murder defined
188 Further definition of murder
189 Provocation
190 Illegal arrest may be evidence of provocation
191 Manslaughter
192 Punishment of murder
193 Attempt to murder
194 Counselling or attempting to procure murder
195 Conspiracy to murder
196 Accessory after fact to murder
197 Punishment of manslaughter
198 Infanticide

199 Aiding and abetting suicide
200 Suicide pact
201 Concealing dead body of child

Abortion

202 Killing unborn child
203 Procuring abortion by drug or instrument
204 Procuring abortion by other means
205 Female procuring her own miscarriage
206 Supplying means of procuring abortion
207 Effectiveness of means used immaterial

Assaults and injuries to person

208 Wounding with intent
209 Injuring with intent
210 Injuring by unlawful act
211 Aggravated wounding or injury
212 Aggravated assault
213 Assault with intent to injure
214 Assault on a child, or by a male on a female
215 Cruelty to a child
216 Common assault
217 Award of part of fine as compensation to party injured by assault
218 Assaulting or resisting constables, etc
219 Disabling
220 Discharging firearm or doing dangerous act with intent
221 Acid throwing
222 Poisoning with intent
223 Infecting with disease
224 Setting traps, etc
224A Possession of offensive weapons or disabling substances
225 Endangering transport
226 Impeding rescue

Bigamy, feigned marriage

227 Bigamy defined
228 Punishment of bigamy
229 Feigned marriage

Abduction, kidnapping

230 Abduction of person
231 Kidnapping
232 Abduction of child under 16

Part 9
Crimes against reputation

233 Criminal libel and publishing defined

234 Publishing upon invitation
235 No prosecution without leave of Judge
236 Plea of justification
237 Punishment of criminal libel
238 Criminal slander

Part 10
Crimes against rights of property

Theft

239 Things capable of being stolen
240 Theft of electricity
241 Animals capable of being stolen
242 Theft defined
243 Theft of animals
244 Theft by person required to account
245 Theft by person holding power of attorney
246 Theft by misappropriating proceeds held under direction
247 Theft by co-owner
248 Theft by husband or wife
249 Punishment of theft

Crimes resembling theft

250 Conversion or attempted conversion of motorcars, etc
251 Being in possession of instrument for conversion
251A Taking or dealing with certain documents with intent to defraud
252 Criminal breach of trust
253 Dishonestly destroying document
254 Dishonest concealment
255 Bringing into Cook Islands things stolen, etc

Robbery and extortion

256 Robbery
257 Aggravated robbery
258 Compelling execution of documents by force
259 Assault with intent to rob
260 Extortion by certain threats
261 Demanding with intent to steal

Burglary

262 Interpretation
263 Burglary
264 Entering with intent
265 Being armed with intent to break or enter
266 Being disguised or in possession of instruments for burglary
267 Being found on property without lawful excuse but not under circumstances disclosing criminal intent

False pretences

268 Definition of false pretence
269 Obtaining by false pretence
270 Obtaining credit fraudulently

Personation

271 Personation
272 Acknowledging instrument in false name

Fraud

273 False statement by promoter, etc
274 Falsifying accounts relating to public funds
275 False accounting by officer or member of body corporate
276 False accounting by employee
277 False statement by public officer
278 Issuing false dividend warrants
279 Concealing deeds and encumbrances
280 Conspiracy to defraud
280A Money laundering
280B Prejudicing investigation by disclosing information
280C Immunity from liability for disclosure of information

Receiving

281 Receiving property dishonestly obtained
282 Receiving property of husband or wife
283 When receiving is complete
284 Receiving after restoration to owner
285 Taking reward for recovery of stolen goods

Forgery

286 Interpretation
287 Forgery
288 Punishment of forgery
289 Uttering forged documents
289A Altering or reproducing document with intent to defraud
289B Using altered or reproduced document with intend to defraud
290 Counterfeiting public seals
291 Counterfeiting corporate seals
292 Sending false telegram
293 Procuring execution of document by fraud
294 Possessing forged bank notes
295 Drawing document without authority
296 Using probate obtained by forgery or perjury
297 Paper or implements for forgery
298 Counterfeiting stamps
299 Falsifying registers
300 Falsifying extracts from registers

301 Uttering false certificates
302 Forging certificates
303 Imitating authorised marks
304 Imitating customary marks

Coinage

305 Interpretation
306 Preparations for coining
307 Counterfeiting coin
308 Altering coin
309 Impairing coin
310 Defacing coin
311 Melting coin
312 Possessing counterfeit coin
313 Uttering counterfeit coin
314 Buying and selling counterfeit coin
315 Importing and exporting counterfeit coin

Criminal damage

316 What constitutes criminal damage
317 Arson
318 Attempted arson
319 Damage to other property by fire or explosive
320 Attempt to damage property by fire or explosive
321 Wilful damage
322 Wilful waste or diversion of water, gas, or electricity
323 Interfering with means of transport
324 Wrecking
325 Attempting to wreck
326 Interfering with signals, etc
327 Interfering with mines
328 Providing explosive to commit crime
328A Use of explosive or toxic or poisonous substances in fishing

Part 10A
Offences relating to passports

328A Interpretation
328B Possession of unauthorised material
328C Misusing passport
328D False representation

Part 11
Threatening, conspiring, and attempting to commit offences

329 Threatening to kill or do grievous bodily harm
330 Threatening to destroy property
331 Threatening acts
332 Conspiring to prevent collection of rates or taxes

333 Conspiring to commit offence
334 Attempt to commit or procure commission of offence
335 Accessory after fact to crime

Part 12
Market trading offences

336 Interpretation of Part 12
337 Prohibited conduct by person in possession of inside information
338 Exceptions to section 337
339 Market manipulation
340 False trading and market rigging
341 False or misleading statements
342 Offences

Part 13
Miscellaneous provisions

412 Consent of Attorney-General to proceedings in certain cases for offences on ships or aircraft [*Repealed*]
413 Contempt of court [*Repealed*]
414 Costs
415 Compensation for loss of property
416 Restitution of property
417 Civil remedy not suspended
418 Act binds the Crown
419 Regulations
419A Transitional provision relating to Crimes (Sexual Offences) Amendment Act 2023
420 Amendments, repeals and revocation

Schedule 1 *[Repealed]*

[The next page is 600,401]

An Act to provide a Criminal Code relating to offences, defences, and procedures.

BE IT ENACTED by the Legislative Assembly of the Cook Islands in Session assembled, and by the authority of the same, as follows:

1 Short title and division into Parts

(1) This Act may be cited as the Crimes Act 1969.

(2) This Act is divided into Parts, as follows:

Part 1	Jurisdiction	(sections 4 to 11)
Part 2	Punishments	(sections 12 to 22)
Part 3	Matters of justification or excuse	(sections 23 to 67)
Part 4	Parties to the commission of offences	(sections 68 to 74)
Part 5	Crimes against public order	(sections 75 to 109)
Part 6	Crimes affecting the administration of law and justice	(sections 110 to 133)
Part 7	Crimes against religion, morality, and public welfare	(sections 134 to 170)
Part 8	Crimes against the person	(sections 171 to 232)
Part 9	Crimes against reputation	(sections 233 to 238)
Part 10	Crimes against rights of property	(sections 239 to 328)
Part 11	Threatening, conspiring and attempting to commit offences	(sections 329 to 335)
Part 12	Procedure	(sections 336 to 411)
Part 13	Miscellaneous provisions	(sections 412 to 420)

2 Interpretation

(1) In this Act, unless the context otherwise requires—

aerodrome has the same meaning as in the Civil Aviation Act 1964 of the New Zealand Parliament

aircraft has the same meaning as in the Civil Aviation Act 1964 of the New Zealand Parliament; and includes any aircraft for the time being used as an aircraft of any of the armed forces of any country other than New Zealand

assault means the act of intentionally applying or attempting to apply force to the person of another, directly or indirectly, or threatening by any act or gesture to apply such force to the person of another, if the person making the threat has, or causes the other to believe on reasonable grounds that he or she has present ability to effect his or her purpose; and **to assault** has a corresponding meaning

Cook Islander means a person belonging to the part of the Polynesian race indigenous to the Cook Islands; and includes any person descended from a Cook Islander

Cook Islands includes the territorial waters of the Cook Islands

Cook Islands aircraft means any aircraft ordinarily operating in the Cook Islands and required to be registered in New Zealand under the Civil Aviation Act 1964 of the New Zealand Parliament

Cook Islands ship means any ship ordinarily operating in the Cook Islands

Cook Islands waters [*Repealed*]

Commonwealth country means a country that is a member of the Commonwealth of Nations; and includes every territory for whose international relations the Government of any such country is responsible

Commonwealth ship means a ship registered or required to be registered in any Commonwealth country, or recognised by the law of any Commonwealth country as a ship belonging to that country; and includes any ship for the time being used as a ship of any of the armed forces of any Commonwealth country

crime involving dishonesty means any crime described in Part 10 except the crimes described in sections 316 to 328 (which relate to criminal damage)

criminally responsible means liable to punishment for an offence

day, or **daytime**, means the interval between 6 o'clock in the morning of any day and 9 o'clock at night of the same day

document means a document in any form; and includes—

(a) any writing on any material; and

(b) information recorded or stored by means of any recording device, computer, electronic device, or any other device, and material subsequently derived from information so recorded or stored; and

(c) a book, manuscript, newspaper, periodical, pamphlet, magazine, sheet of letterpress, sheet of music, map, plan, chart, painting, picture, etching, print, table, graph, or drawing; and

(d) a photograph, film, negative, tape, or other device in which 1 or more visual images are embodied so as to be capable (with or without the aid of equipment) of being reproduced; and

(e) a second or subsequent edition of any of the above

electronic includes electrical, digital, magnetic, optical, electromagnetic, biometric, and phototonic

foreign ship means a ship that is not a Commonwealth ship

to injure means to cause actual bodily harm

indecent document means any document which has printed or impressed upon it, or otherwise attached thereto, or appearing, shown, or exhibited in any manner whatsoever thereon, any indecent word, statement or significant sign, or any indecent picture, illustration, or representation

is liable means is liable on conviction

Justice means Justice of the Peace

justified, in relation to any person, means not guilty of an offence and not liable to any civil proceeding

Maori language means the language indigenous to the Cook Islands

medical officer means a medical officer employed in the Public Service

New Zealand forces means the New Zealand Naval Forces, the New Zealand Army, and the Royal New Zealand Air Force

night, or **night-time**, means the interval between 9 o'clock at night and 6 o'clock in the following morning

offence means any act or omission for which any person can be punished under this Act or under any other enactment

obtain a material benefit, in relation to doing a thing, means obtain, directly or indirectly, any goods, money, pecuniary advantage, privilege, property, or other valuable consideration of any kind for doing the thing (or taking an action that forms part of doing the thing)

person, **owner**, and other words and expressions of the like kind include the Crown and any public body or Island Council, and any board, society, or company, and any other body of persons, whether incorporated or not

property includes real and personal property, and any estate or interest in any real or personal property, and any debt, and any thing in action, and any other right or interest

protected from criminal responsibility means not liable to any proceeding except a civil proceeding

public money means money, or securities of any kind for the payment of money, received for or on account of, or payable to, or deposited with, the Government of the Cook Islands or any Department or agency of the said Government, or any Island Council

public place means any road, any place or public resort open to or used by the public as of right, any wharf or jetty, any vessel at a wharf or jetty or within 1 mile of the shore, any church or other building where Divine service is being publicly held, any hall or room in which any public entertainment is being held, and any market place

Registrar means any Registrar of the Court; and includes any Deputy Registrar

ship means every description of vessel used in navigation, however propelled; and includes any barge, lighter, dinghy, raft, or like vessel; and also includes any ship belonging to or used as a ship of the armed forces of any country

Superintendent means the Superintendent of a prison

territorial waters, in relation to any country, means such part of the sea adjacent to the coast of that country as is within the territorial sovereignty of that country

valuable security includes every document forming the title or evidence of the title to any property of any kind whatever; and also includes any negotiable, instrument, bill of exchange, cheque, or promissory note.

(2) When it is provided in this Act that any person is liable to any punishment for doing or omitting any act, every person doing or omitting that act is, subject to the provisions of this Act, guilty of a crime.

[Section 2(1) Cook Islander: inserted, on 30 September 1977, by section 2(a) of the Crimes Amendment Act 1977 (1977 No 14).]
[Section 2(1) Cook Islands waters: repealed, on [TBC], by section 62 of the Marine Resources Act 1989 (1989 No 33).]
[Section 2(1) document: inserted, on 10 December 2011, by clause 2(1) of the Schedule of the Digital Registers Act 2011 (2011 No 11).]
[Section 2(1) electronic: inserted, on 10 December 2011, by clause 2(1) of the Schedule of the Digital Registers Act 2011 (2011 No 11).]
[Section 2(1) indecent document: amended, on 10 December 2011, by clause 2(2) of the Schedule of the Digital Registers Act 2011 (2011 No 11).]
[Section 2(1) Maori language: inserted, on 30 September 1977, by section 2(b) of the Crimes Amendment Act 1977 (1977 No 14).]

[Section 2(1) obtain a material benefit: inserted, on 7 May 2003, by section 2 of the Crimes Amendment Act 2003 (2003 No 6).]

3 Meaning of ordinarily resident in the Cook Islands

For the purposes of this Act, a person is deemed to be ordinarily resident in the Cook Islands if—

(a) their home is in the Cook Islands; or

(b) they are residing in the Cook Islands with the intention of residing therein indefinitely; or

(c) having resided in the Cook Islands with the intention of establishing their home therein, or with the intention of residing in the Cook Islands indefinitely, the person is outside the Cook Islands but has an intention to reside in the Cook Islands indefinitely.

Part 1
Jurisdiction

4 Application of Act

(1) This Act applies to all offences for which the offender may be proceeded against and tried in the Cook Islands.

(2) This Act applies to all acts done or omitted in the Cook Islands.

5 Persons not to be tried in respect of things done outside Cook Islands

Subject to the provisions of section 6, no act done or omitted outside the Cook Islands is an offence, unless it is an offence by virtue of any provision of this Act or of any other enactment.

6 Place of commission of offence

For the purpose of jurisdiction, where any act or omission forming part of any offence, or any event necessary to the completion of any offence, occurs in the Cook Islands, the offence is deemed to be committed in the Cook Islands, whether the person charged with the offence was in the Cook Islands or not at the time of the act, omission, or event.

7 Jurisdiction in respect of crimes on ships or aircraft beyond Cook Islands

(1) This section applies to any act done or omitted beyond the Cook Islands by any person—

(a) on board any Commonwealth ship; or

(b) on board any Cook Islands aircraft; or

(c) on board any ship or aircraft, if that person arrives in the Cook Islands on that ship or aircraft in the course or at the end of a journey during which the act was done or omitted; or

(d) being a British subject, on board any foreign ship (not being a ship to which he or she belongs) on the high seas, or on board any such ship within the territorial waters of any Commonwealth country; or

(e) being a person ordinarily resident in the Cook Islands, on board any aircraft:

Provided that paragraph (c) does not apply where the act was done or omitted by a person, not being a British subject, on any ship or aircraft for the time being used as a ship or aircraft of any of the armed forces of a country that is not a Commonwealth country.

(2) Where any person does or omits any act to which this section applies, and that act or omission would, if it occurred within the Cook Islands, be a crime under this Act or under any other enactment (whether that enactment was passed before or after the commencement of this Act), the, subject to the provisions of this Act and of that other enactment, he or she is liable on conviction as if the act or omission had occurred in the Cook Islands:

Provided that where any proceedings are taken by virtue of the jurisdiction conferred by this section it is a defence to prove that the act or omission would not have been an offence under the law of the country of which the person charged was a national or citizen at the time of the act or omission, if it had occurred in that country.

(3) Where at any place beyond the Cook Islands any person who belongs, or within 3 months previously has belonged, to any Commonwealth ship does or omits any act, whether on shore or afloat, not being an act or omission to which subsection (1) applies, and that act or omission would, if it occurred within the Cook Islands, be a crime, then this section applies in respect of that act or omission in the same manner in all respects as it had occurred on board a Commonwealth ship.

(4) The provisions of this section have the same operation in relation to the Republic of Ireland and to the citizens thereof, and to ships registered therein or belonging thereto, and to persons who belong or have belonged to those ships, and to all other persons on board those ships, as if the Republic of Ireland were a Commonwealth country and as if the citizens thereof were British subjects.

(5) This section must be read subject to the provisions of section 412.

(6) In this section, **British subject** includes a British protected person within the meaning of the British Nationality and Citizenship Act 1948 of the New Zealand Parliament.

(7) Nothing in this section applies with respect to any crime against the Shipping Ordinance 1963.

7A Extraterritorial jurisdiction in respect of certain offences with transnational aspects

(1) Even if the acts or omissions alleged to constitute the offence occurred wholly outside the Cook Islands proceedings may be brought for an offence against sections 109A, 109C, 109D, any of sections 111 to 116, 127, 128, or 280A—

(a) if the person to be charged—
  (i) is ordinarily resident in the Cook Islands; or
  (ii) has been found in the Cook Islands and has not been extradited; or
  (iii) is a body corporate, or a corporation sole, incorporated under the law of the Cook Islands:

(b) if any of the acts or omissions is alleged to have occurred—
  (i) on board a ship registered or required to be registered under the Shipping Act 1998; or
  (ii) on board a Cook Islands aircraft; or
  (iii) on board an aircraft that is leased to a lessee whose principal place of business is in the Cook Islands, or who is a person ordinarily resident in the Cook Islands:

(c) if a person in respect of whom the offence is alleged to have been committed is ordinarily resident in the Cook Islands:

(d) in the case of an offence against section 109A, if the group of people in which the person to be charged is alleged to have participated are alleged to have as their objective or one of their objectives the obtaining of material benefits by the commission in the Cook Islands of offences or conduct referred to in section 109A(2)(a) or (b).

(2) Even if the acts or omissions alleged to constitute the offence occurred wholly outside the Cook Islands, proceedings may be brought for an offence against section 109C or 109D—

(a) in the case of an offence against section 109C(l) or 109D, if the act or omission is alleged to relate to the entry of a person into the Cook Islands; or

(b) in the case of an offence against section 109C(2), if the act or omission is alleged to relate to arranging the bringing of a person to the Cook Islands.

(3) Section 8 does not apply to an offence referred to in subsection (1).

(4) Nothing in subsections (1) to (3) limits or affects—

(a) the application of section 7 to the occurrence in the Cook Islands of—

(i) an act or omission forming part of an offence; or

(ii) an event necessary to the completion of an offence.

[Section 7A: inserted, on 7 May 2003, by section 3 of the Crimes Amendment Act 2003 (2003 No 6).]

7B Attorney-General's consent required where jurisdiction claimed under section 7A

(1) Proceedings for an offence against section 109A, 127, 128, or 280A cannot be brought in the High Court against a person without the Attorney-General's consent, if jurisdiction over the person is claimed by virtue of section 7A.

(2) A person over whom jurisdiction is claimed by virtue of section 7A may be arrested for an offence against section 109A, 127, 128, or 280A or a warrant for the person's arrest for the offence may be issued and executed, and the person may be remanded in custody or on bail, even though the Attorney-General's consent to the bringing of proceedings against the person has not been obtained.

[Section 7B: inserted, on 7 May 2003, by section 3 of the Crimes Amendment Act 2003 (2003 No 6).]

8 Common law offences

No person may be proceeded against for any criminal offence at common law.

9 Offence under more than one enactment

(1) Where an act or omission constitutes an offence under this Act and under any other Act, the offender may be prosecuted and punished either under this Act or under that other Act.

(2) Where an act or omission constitutes an offence under 2 or more Acts other than this Act, the offender may be prosecuted and punished under any one of those Acts.

(3) Where an act or omission constitutes an offence under 2 or more provisions of this Act or of any other Act, the offender may be prosecuted and punished under any one of those provisions.

(4) No person is liable on conviction to be punished twice in respect of the same offence.

10 Construction of other Acts

(1) Every Act must be read and construed as if any offence therein mentioned for which the offender may be prosecuted by information (however the offence may be therein described or referred to) were described or referred to as a crime; and all provisions of this Act relating to crimes generally apply to every such offence.

(2) Every commission, Proclamation, warrant, or other document relating to criminal procedure in which offences that are crimes as defined by this Act are described or referred to by any names whatever must be read and construed as if those offences were therein described and referred to as crimes.

11 Summary jurisdiction

Nothing in this Act shall be construed to limit or affect in any way any provision made by any other Act for the trial and punishment of offences in a summary way.

[The next page is 600,901]

Part 2
Punishments

[Part 2: repealed, on 5 June 1981, by Schedule 4 of the Criminal Procedure Act 1980–81 (1980–81 No 28).]

12–22 *[Repealed]*

[The next page is 601,401]

Part 3
Matters of justification or excuse

23 General rule as to justifications

(1) All rules and principles of the common law which render any circumstances a justification or excuse for any act or omission, or a defence to any charge, remain in force and apply in respect of a charge of any offence, whether under this Act or under any other enactment, except so far as they are altered by or are inconsistent with this Act or any other enactment.

(2) The matters provided for in this Part are hereby declared to be justifications or excuses in the case of all charges to which they are applicable.

Infancy

24 Children under 10

(1) No person may be convicted of an offence by reason of any act done or omitted by him or her when under the age of 10 years.

(2) The fact that by virtue of this section any person has not been or is not liable to be convicted of an offence does not affect the question whether any other person who is alleged to be a party to that offence is guilty of that offence.

25 Children between 10 and 14

(1) No person may be convicted of an offence by reason of any act done or omitted by him or her when of the age of 10 but under the age of 14 years, unless he or she knew either that the act or omission was wrong or that it was contrary to law.

(2) The fact that by virtue of this section any person has not been or is not liable to be convicted of an offence does not affect the question whether any other person who is alleged to be a party to that offence is guilty of that offence.

Insanity

26 Insanity

(1) Every person is presumed to be sane at the time of doing or omitting any act until the contrary is proved.

(2) No person may be convicted of an offence by reason of an act done or omitted by him or her when labouring under natural imbecility or disease of the mind to such an extent as to render him or her incapable—

(a) of understanding the nature and quality of the act or omission; or

(b) of knowing that the act or omission was morally wrong, having regard to the commonly accepted standards of right and wrong.

(3) Insanity before or after the time when he or she did or omitted the act, and insane delusions, though only partial, may be evidence that the offender was, at the time when he or she did or omitted the act, in such a condition of mind as to render him or her irresponsible for the act or omission.

(4) The fact that by virtue of this section any person has not been or is not liable to be convicted of an offence does not affect the question whether any other person who is alleged to be a party to that offence is guilty of that offence.

Compulsion

27 Compulsion

(1) Subject to the provisions of this section, a person who commits an offence under compulsion by threats of immediate death or grievous bodily harm from a person who is present when the offence is committed is protected from criminal responsibility if he or she believes that the threats will be carried out and if he or she is not a party to any association or conspiracy whereby he or she is subject to compulsion.

(2) Nothing in subsection (1) applies where the offence committed is aiding or abetting rape, or is an offence specified in any of the following provisions—
(a) section 75 (treason) or section 80 (communicating secrets):
(b) section 81 (sabotage):
(c) section 103 (piracy):
(d) section 104 (piratical acts):
(e) sections 187 and 188 (murder):
(f) section 193 (attempt to murder):
(g) section 208 (wounding with intent):
(h) section 209(1) (injuring with intent to cause grievous bodily harm):
(i) section 230 (abduction):
(j) section 231 (kidnapping):
(k) section 256 (robbery):
(l) section 317 (arson).

(3) Where a married woman commits an offence, the fact that her husband was present at the commission of it does not of itself raise the presumption of compulsion.

Ignorance of law

28 Ignorance of law

The fact that an offender is ignorant of the law is not an excuse for any offence committed by him.

Sentence or process

29 Execution of sentence, process, or warrant

(1) Every ministerial officer of any court authorised to execute a lawful sentence, and every Superintendent of any prison and every person lawfully assisting any such ministerial officer or Superintendent, is justified in executing the sentence.

(2) Every ministerial officer of any court duly authorised to execute any lawful process of the court, whether of a civil or a criminal nature, and every person lawfully assisting him, is justified in executing it; and every Superintendent required under the process to receive and detain any person is justified in receiving and detaining him.

(3) Every person duly authorised to execute a lawful warrant issued by any court or Justice or other person having jurisdiction to issue the warrant, and every person

lawfully assisting him, is justified in executing the warrant; and every Superintendent required under the warrant to receive and detain any person is justified in receiving and detaining him.

30 Execution of erroneous sentence or process

If a sentence is passed or a process is issued by a court having jurisdiction under any circumstances to pass such a sentence or issue such a process, or if a warrant is issued by a court or person having jurisdiction under any circumstances to issue such a warrant, the sentence passed or process or warrant issued is sufficient to justify the execution of it by every officer, Superintendent, or other person authorised to execute it, and by every person lawfully assisting them, notwithstanding that—

(a) the court passing the sentence or issuing the process had no authority to pass that sentence or issue that process in the particular case; or

(b) the court or other person issuing the warrant had no jurisdiction to issue it, or exceed its or his or her jurisdiction in issuing it, in the particular case.

31 Sentence or process without jurisdiction

(1) Every officer, Superintendent, or person executing any sentence, process, or warrant, and every person lawfully assisting them, is protected from criminal responsibility if—

(a) he or she acts in good faith under the belief that the sentence or process was that of a court having jurisdiction, or, as the case may be, that the warrant was that of a court, Justice, or other person having authority to issue warrants; and

(b) it is proved that the person passing the sentence or issuing the process acted as such a court under colour of having some appointment or commission lawfully authorising him or her to act as such a court, or, as the case may require, that the person issuing the warrant acted as a Justice or other person having authority to do so.

(2) This section applies notwithstanding that, in fact,—

(a) any such appointment or commission as aforesaid did not exist or had expired; or

(b) the court or the person passing the sentence or issuing the process was not the court or the person authorised by the appointment or commission to act; or

(c) the person issuing the warrant was not duly authorised to issue it.

32 Irregular warrant or process

(1) Every person acting under a warrant or process that is bad in law on account of some defect in substance or in form, apparent on the face of it, is protected from criminal responsibility to the same extent and subject to the same provisions as if the warrant or process were good in law if in good faith and without culpable ignorance or negligence he or she believed that the warrant or process was good in law; and ignorance of the law is in this case an excuse.

(2) It is a question of law whether the facts of which there is evidence do or do not constitute culpable ignorance or negligence in his or her so believing the warrant or process to be good in law.

Arrest

33 Arresting the wrong person

(1) Every person duly authorised to execute a warrant to arrest who thereupon arrests a person, believing in good faith and on reasonable and probable grounds that he or she is the person named in the warrant, is protected from criminal responsibility to the same extent and subject to the same provisions as if the person arrested had been the person named in the warrant.

(2) Every person called on to assist the person making such arrest, and believing that the person in whose arrest he or she is called on to assist is the person for whose arrest the warrant is issued, and every Superintendent who is required to receive and detain the person arrested, is protected from criminal responsibility to the same extent and subject to the same provisions as if the person arrested had been the person named in the warrant.

34 Arrest by constable pursuant to statutory powers

Every constable is justified in arresting any person without warrant in accordance with the provisions of section 338 or in accordance with any other enactment conferring on him or her a power so to arrest.

35 Arrest by constable of person believed to have committed offence

Where under any enactment any constable has power to arrest without warrant any person who has committed an offence, the constable is justified in arresting without warrant any person whom he or she believes, on reasonable and probable grounds, to have committed that offence, whether or not the offence has in fact been committed, and whether or not the arrested person committed it.

36 Arrest by other officers or persons pursuant to statutory powers

Every officer or other person, not being a constable, who is authorised by any enactment to arrest any person without warrant is justified in so arresting any person in accordance with the provisions of that enactment.

37 Persons assisting constable or officer in arrest

(1) Every person called upon by a constable to assist him or her in the arrest of any person believed or suspected to have committed any offence is justified in assisting unless he or she knows that there is no reasonable ground for the belief or suspicion.

(2) Where by any enactment it is provided that any officer or person, not being a constable, may call upon any other person to assist him or her in arresting without warrant any person who has committed or is found committing any offence every person so called upon is justified in assisting unless he or she knows that there is no reasonable ground for believing that the person to be arrested has committed the offence.

38 Arrest of persons found committing certain crimes

Every person is justified in arresting without warrant—

(a) any person whom he or she finds committing any offence against this Act that is punishable by death or for which the maximum punishment is not less than 3 years' imprisonment:

(b) any person whom he or she finds by night committing any offence against this Act.

39 Arrest of person believed to be committing crime by night

Every person is protected from criminal responsibility for arresting without warrant any person whom he or she finds by night in circumstances affording reasonable and probable grounds for believing that that person is committing an offence against this Act.

40 Arrest after commission of certain crimes

Where any offence against this Act has been committed, every person who believes, on reasonable and probable grounds, that any person has committed that offence is protected from criminal responsibility for arresting that person without warrant, whether or not that person committed the offence.

41 Arrest during flight

(1) Every person is protected from criminal responsibility for arresting without warrant any person whom he or she believes, on reasonable and probable grounds, to have committed an offence against this Act, and to be escaping from and to be freshly pursued by any person whom he or she believes, on reasonable and probable grounds, to have lawful authority to arrest that person for the offence.

(2) This section applies whether or not the offence has in fact been committed, and whether or not the arrested person committed it.

Use of force

42 Force used in executing process or in arrest

Where any person is justified, or protected from criminal responsibility, in executing or assisting to execute any sentence, warrant, or process, or in making or assisting to make any arrest, that justification or protection extends and applies to the use by him or her of such force as may be necessary to overcome any force used in resisting such execution or arrest, unless the sentence, warrant, or process can be executed or the arrest made by reasonable means in a less violent manner:

Provided that, except in the case of a constable or a person called upon by a constable to assist him, this section does not apply where the force used is intended or likely to cause death or grievous bodily harm.

43 Preventing escape or rescue

(1) Where any person is lawfully authorised to arrest or to assist in arresting any other person, or is justified in or protected from criminal responsibility for arresting or assisting to arrest any other person, that authority, justification, or protection, as the case may be, extends and applies to the use of such force as may be necessary—

(a) to prevent the escape of that other person if he or she takes to flight in order to avoid arrest; or

(b) to prevent the escape or rescue of that other person after his or her arrest—

unless in any such case the escape or rescue can be prevented by reasonable means in a less violent manner:

Provided that, except in the case of a constable or a person called upon by a constable to assist him, this subsection does not apply where the force used is intended or likely to cause death or grievous bodily harm.

(2) Where any inmate of a prison is attempting to escape from lawful custody, or is fleeing after having escaped therefrom, every constable, and every person called upon by a constable to assist him or her, is justified in using such force as may be necessary to prevent the escape of or to recapture the inmate, unless in any such case the escape can be prevented or the recapture effected by reasonable means in a less violent manner.

44 Prevention of suicide or certain offences

Every person is justified in using such force as may be reasonably necessary in order to prevent the commission of suicide, or the commission of an offence which would be likely to cause immediate and serious injury to the person or property of any person, or in order to prevent any act being done which he or she believes, on reasonable grounds, would, if committed, amount to suicide or to any such offence.

[The next page is 601,901]

Breach of the peace

45 Preventing breach of the peace

(1) Every person who witnesses a breach of the peace is justified in interfering to prevent its continuance or renewal, and may detain any person committing it, in order to give him or her into the custody of a constable:

Provided that the person interfering must use no more force than is reasonably necessary for preventing the continuance or renewal of the breach of the peace, or than is reasonably proportionate to the danger to be apprehended from its continuance or renewal.

(2) Every constable who witnesses a breach of the peace, and every person lawfully assisting him, is justified in arresting any person whom he or she finds committing it.

(3) Every constable is justified in receiving into custody any person given into his or her charge, as having been a party to a breach of the peace, by a person who has witnessed it or whom the constable believes on reasonable and probable grounds to have witnessed it.

46 Suppression of riot

Every person is justified in using such force as is necessary to suppress a riot, if the force used is not disproportionate to the danger to be apprehended from the continuance of the riot.

47 Suppression of riot by Police

The senior member of the Police for the time being acting at the place of any riot is justified in using and ordering to be used, and every constable is justified in using, such force as he or she believes, in good faith and on reasonable and probable grounds, to be necessary to suppress the riot, not being disproportionate to the danger which he or she believes, on reasonable and probable grounds, is to be apprehended from the continuance of the riot.

48 Suppression of riot by persons acting under lawful orders

(1) Every person acting in good faith in obedience to orders for the suppression of any riot given by the senior member of the Police for the time being acting at the place of the riot is justified in obeying the orders so given, unless those orders are manifestly unlawful; and is protected from criminal responsibility for using such force as he or she believes, on reasonable and probable grounds, to be necessary for carrying those orders into effect.

(2) It is a question of law whether any particular order is manifestly unlawful or not.

49 Suppression of riot by persons without orders

Every person who believes, in good faith and on reasonable and probable grounds, that serious mischief will arise from a riot before there is time to procure the intervention of the Police, is justified in using such force as he or she believes, in good faith and on reasonable and probable grounds, to be necessary to suppress the riot, not being disproportionate to the danger which he or she believes, on reasonable grounds, is to be apprehended from the continuance of the riot.

Defence against assault

50 Self-defence and defence of another

Every person is justified in using, in the defence of himself or herself or another, such force as, in the circumstances as he or she believes them to be, it is reasonable to use.

[Section 50: replaced, on 1 January 1982, by section 3(1) of the Crimes Amendment Act 1981 (1981 No 17).]

51 Self-defence against provoked assault

[*Repealed*]

[Section 51: repealed, on 1 January 1982, by section 3(1) of the Crimes Amendment Act 1981 (1981 No 17).]

52 Provocation defined

[*Repealed*]

[Section 52: repealed, on 1 January 1982, by section 3(1) of the Crimes Amendment Act 1981 (1981 No 17).]

53 Defence of person under protection

[*Repealed*]

[Section 53: repealed, on 1 January 1982, by section 3(1) of the Crimes Amendment Act 1981 (1981 No 17).]

Defence of property

54 Defence of movable property against trespasser

(1) Every person in peaceable possession of any movable thing, and every person lawfully assisting him, is justified in using reasonable force to resist the taking of the thing by any trespasser or to retake it from any trespasser, if in either case he or she does not strike or do bodily harm to the trespasser.

(2) [*Repealed*]

[Section 54(2): repealed, on 1 January 1982, by section 3(2) of the Crimes Amendment Act 1981 (1981 No 17).]

55 Defence of movable property with claim of right

(1) Every person in peaceable possession of any movable thing under a claim of right, and every person acting under his or her authority, is protected from criminal responsibility for defending his or her possession by the use of reasonable force, even against a person entitled by law to possession, if he or she does not strike or do bodily harm to the other person.

(2) [*Repealed*]

[Section 55(2): repealed, on 1 January 1982, by section 3(2) of the Crimes Amendment Act 1981 (1981 No 17).]

56 Defence of movable property without claim of right

(1) Every person in peaceable possession of any movable thing, but neither claiming right thereto nor acting under the authority of a person claiming right thereto, is neither justified in nor protected from criminal responsibility for defending his or her possession against a person entitled by law to possession.

(2) [*Repealed*]

[Section 56(2): repealed, on 1 January 1982, by section 3(2) of the Crimes Amendment Act 1981 (1981 No 17).]

57 Defence of dwellinghouse

Every person in peaceable possession of a dwellinghouse, and every person lawfully assisting him or her or acting by his or her authority, is justified in using such force as is necessary to prevent the forcible breaking and entering of the dwellinghouse by any person if he or she believes, on reasonable and probable grounds, that there is no lawful justification for the breaking and entering.

58 Defence of land or building

(1) Every person in peaceable possession of any land or building, and every person lawfully assisting him or her or acting by his or her authority, is justified in using reasonable force to prevent any person from trespassing on the land or building or to remove him or her therefrom if he or she does not strike or do bodily harm to that person.

(2) [*Repealed*]

[Section 58(2): repealed, on 1 January 1982, by section 3(2) of the Crimes Amendment Act 1981 (1981 No 17).]

Peaceable entry

59 Assertion of right to land or building

(1) Every person is justified in peaceably entering in the daytime on any land or building to the possession of which he, or some person under whose authority he or she acts, is lawfully entitled, for the purpose of taking possession thereof.

(2) [*Repealed*]

(3) [*Repealed*]

[Section 59(2): repealed, on 1 January 1982, by section 3(2) of the Crimes Amendment Act 1981 (1981 No 17).]
[Section 59(3): repealed, on 1 January 1982, by section 3(2) of the Crimes Amendment Act 1981 (1981 No 17).]

60 Exercise of right of way, etc

Every person lawfully entitled to enter on any land for the exercise of any right of way or other easement or profit is justified in peaceably entering on the land for the purpose of exercising that right of way, easement, or profit:

Provided that if any person so entering has notice that his or her right to use that way or easement, or to take that profit, is disputed by the person in possession of the land, an assault committed by that person, or by any person acting under his or her authority, for the purpose of making the person entering desist from entry, is deemed to be provoked by the person entering.

Powers of discipline

61 Domestic discipline

(1) Every parent or person in the place of a parent, and every schoolmaster, is justified in using force by way of correction towards any child or pupil under his or her care, if the force used is reasonable in the circumstances.

(2) The reasonableness of the force used is a question of fact.

62 Discipline on ship or aircraft

(1) The master or officer in command of a ship on a voyage or the pilot in command of an aircraft on a flight is justified in using and ordering the use of force for the purpose of maintaining good order and discipline on board his or her ship or aircraft if he or she believes on reasonable grounds that the use of force is necessary, and if the force used is reasonable in the circumstances.

(2) Every person acting in good faith is justified in using force in obedience to any order given by the master or officer or pilot in command for the purpose aforesaid, if the force used is reasonable in the circumstances.

(3) The reasonableness of the grounds on which the use of force was believed to be necessary, and the reasonableness of the force used, are questions of fact.

Surgical operations

63 Surgical operations

Every person is protected from criminal responsibility for performing with reasonable care and skill any surgical operation upon any person for his or her benefit, if the performance of the operation was reasonable, having regard to the patient's state at the time and to all the circumstances of the case.

General provisions

64 Excess of force

Every person authorised by law to use force is criminally responsible for any excess, according to the nature and quality of the act that constitutes the excess.

65 Consent to death

No person has a right to consent to the infliction of death upon himself or herself; and, if any person is killed, the fact that he or she gave any such consent does not affect the criminal responsibility of any person who is a party to the killing.

66 Obedience to *de facto* law

Every person is protected from criminal responsibility for any act done in obedience to the laws for the time being made and enforced by those in possession *de facto* of the sovereign power in and over the place where the act is done.

67 Other enactments not affected

Nothing in this Act takes away or diminishes any authority given by any other enactment to arrest, detain, or put any restraint on any person.

[The next page is 602,401]

Part 4
Parties to the commission of offences

68 Parties to offences

(1) Every person is a party to and guilty of an offence who—
- (a) actually commits the offence; or
- (b) does or omits an act for the purpose of aiding any person to commit the offence; or
- (c) abets any person in the commission of the offence; or
- (d) incites, counsels, or procures any person to commit the offence.

(2) Where 2 or more persons form a common intention to prosecute any unlawful purpose, and to assist each other therein, each of them is a party to every offence committed by any one of them in the prosecution of the common purpose if the commission of that offence was known to be a probable consequence of the prosecution of the common purpose.

69 Husband and wife conspiring

A man is capable of conspiring with his wife, or with his wife and any other person; and a woman is capable of conspiring with her husband, or with her husband and any other person.

70 Party to murder outside the Cook Islands

(1) Except as hereinafter provided, every person is liable to imprisonment for a term not exceeding 14 years who, in the Cook Islands, incites, counsels, or procures the doing or omission of an act outside the Cook Islands which, if done or omitted in the Cook Islands would be murder.

(2) Every person is liable to imprisonment for a term not exceeding 10 years who, in the Cook Islands, incites, counsels, or attempts to procure the doing or omission of an act outside the Cook Islands which, if done or omitted in the Cook Islands, would be murder, when no such act is in fact done or omitted.

71 Party to any other crime outside the Cook Islands

(1) Every person is liable to imprisonment for a term not exceeding 14 years who, in the Cook Islands aids, incites, counsels, or procures the doing or omission outside the Cook Islands, by any person not owing allegiance to Her Majesty the Queen in right of New Zealand, of any act which, if done or omitted outside the Cook Islands by a person owing such allegiance, would be any of the crimes of treason, inciting to mutiny, or communicating secrets, as specified in sections 75, 79, and 80.

(2) Every person is liable to imprisonment for a term not exceeding 10 years who, in the Cook Islands, incites, counsels, or attempts to procure the doing or omission outside the Cook Islands of any act which, if done or omitted in the Cook Islands, would be any such crime as aforesaid, when that act is not in fact done or omitted.

(3) Every person who, in the Cook Islands, aids, incites, counsels, or procures the doing or omission outside the Cook Islands of any act (not being an act to which the foregoing provisions of this section apply) which, if done or omitted in the

Cook Islands, would be a crime other than murder, is liable to imprisonment for a term not exceeding that prescribed for the crime, or 7 years, whichever is the less:

Provided that it is a defence to a charge under this subsection to prove that the doing or omission of the act to which the charge relates was not an offence under the law of the place where it was, or was to be, done or omitted.

(4) Except as otherwise provided in this Act, no person may be convicted of inciting, counselling, or attempting to procure in the Cook Islands the doing or omission of an act outside the Cook Islands when that act is not in fact done or omitted.

72 Offence committed other than offence intended

(1) Every person who incites, counsels, or procures another to be a party to an offence of which that other is afterwards guilty is a party to that offence, although it may be committed in a way different From what which was incited, counselled, or suggested.

(2) Every person who incites, counsels, or procures another to be a party to an offence is a party to every offence which that other commits in consequence of such inciting, counselling, or procuring, and which the first-mentioned person knew to be likely to be committed in consequence thereof.

73 Accessory after the fact

(1) An accessory after the fact to an offence is a person who, knowing any person to have been a party to the offence, receives, comforts, or assists that person or tampers with or actively suppresses any evidence against him, in order to enable him or her to escape arrest or to avoid arrest or conviction.

(2) No married person whose spouse has been a party to an offence becomes an accessory after the fact to that offence by doing any act to which this section applies in order to enable the spouse, or the spouse and any other person who has been a party to the offence, to escape after arrest or to avoid arrest or conviction.

74 Attempts

(1) Every person who, having an intent to commit an offence, does or omits an act for the purpose of accomplishing his or her object, is guilty of an attempt to commit the offence intended, whether in the circumstances it was possible to commit the offence or not.

(2) The question whether an act done or omitted with intent to commit an offence is or is not only preparation for the commission of that offence, and too remote to constitute an attempt to commit it, is a question of law.

(3) An act done or omitted with intent to commit an offence may constitute an attempt if it is immediately or proximately connected with the intended offence, whether or not there was any act unequivocally showing the intent to commit that offence.

[The next page is 602,901]

Part 5
Crimes against public order

Treason and other crimes against the Queen and the State

75 Treason

Every person owing allegiance to Her Majesty the Queen in right of New Zealand commits treason who, within or outside the Cook Islands—

(a) kills or wounds or does grievous bodily harm to Her Majesty the Queen, or imprisons or restrains her; or

(b) levies war against the Cook Islands; or

(c) assists an enemy at war with the Cook Islands or New Zealand, or any armed forces against which New Zealand forces are engaged in hostilities, whether or not a state of war exists between the Cook Islands or New Zealand and any other country; or

(d) incites or assists any person with force to invade the Cook Islands or New Zealand; or

(e) uses force for the purpose of overthrowing the Government of the Cook Islands; or

(f) conspires with any person to do anything mentioned in this section.

76 Punishment for treason or attempted treason

(1) Except otherwise provided in this Act every person who commits treason within the meaning of any of the provisions section 75(a) to (e) shall upon conviction be sentenced to life imprisonment.

(2) Every person is liable to imprisonment for a term not exceeding 14 years who commits treason within the meaning of section 75(f).

(3) Every person is liable to imprisonment for a term not exceeding 14 years who, owing allegiance to Her Majesty the Queen in right of New Zealand, attempts to commit treason within or outside the Cook Islands.

[Section 76(2): amended, on 12 November 2007, by section 2 of the Crimes Amendment Act 2007 (2007 No 28).]

77 Evidence of treason

(1) No person may be convicted of treason on the evidence of 1 witness only, unless the evidence of that witness is corroborated in some material particular by evidence implicating the accused.

(2) Nothing in subsection (1) applies to treason within the meaning of section 75(a).

78 Punishment for being party to treason

Every person is liable to imprisonment for a term not exceeding 7 years who—

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

(b) knowing that a person is about to commit treason, fails without reasonable excuse to inform a constable as soon as possible or to use other reasonable efforts to prevent its commission.

79 Inciting to mutiny

Every person owing allegiance to Her Majesty the Queen in right of New

Zealand is liable to imprisonment for a term not exceeding 10 years who, within or outside the Cook Islands, for any traitorous or mutinous purpose—

(a) endeavours at any time to seduce any person serving in the New Zealand forces from his or her duty; or

(b) during any war or state of hostilities in which New Zealand forces are engaged, endeavours to seduce any person serving in any allied armed force, whether a Commonwealth force or not, from his or her duty.

80 Communicating secrets

Every person owing allegiance to Her Majesty the Queen in right of New Zealand is liable to imprisonment for a term not exceeding 14 years who, within or outside the Cook Islands—

(a) with intent to prejudice the safety, security, or defence of the Cook Islands, communicates or makes available to any person any military or scientific information, or any sketch, model, design, pattern, specimen, article, note, or document of a military or scientific character, the communication or making available of which is likely to prejudice the safety, security, or defence of the Cook Islands; or

(b) conspires with any person to do anything mentioned in paragraph (a).

[Section 80(a): amended, on 10 December 2011, by clause 2(3) of the Schedule of the Digital Registers Act 2011 (2011 No 11).]

81 Sabotage

(1) Every person is liable to imprisonment for a term not exceeding 10 years who, with intent to prejudice the safety, security, or defence of the Cook Islands or the safety or security of the armed forces of any other country, lawfully present in the Cook Islands—

(a) impairs the efficiency or impedes the working of any ship, vehicle, aircraft, arms, munitions, equipment, machinery, apparatus, or atomic or nuclear plant; or

(b) damages or destroys any property which it is necessary to keep intact for the safety or health of the public.

(2) No person may be convicted of an offence against this section by reason only of the fact that he or she takes part in any strike or lockout.

Seditious offences

82 Oath to commit offence

(1) Every person is liable to imprisonment for a term not exceeding 5 years who—

(a) administers or is present at and consenting to the administration of any oath or engagement purporting to bind the person taking the same to commit any offence; or

(b) attempts to induce or compel any person to take any such oath or engagement; or

(c) takes any such oath or engagement.

(2) No person who has been acquitted or convicted of any offence against this section is liable to be afterwards tried for treason, or for being accessory after the fact to treason, in respect of the same matter.

83 Seditious offences defined

(1) A seditious intention is an intention—

(a) to bring into hatred or contempt, or to excite disaffection against, Her Majesty the Queen in the right of New Zealand or the Government of the Cook Islands, or the administration of justice; or

(b) to incite the public or any persons or any class of persons to attempt to procure otherwise than by lawful means the alteration of any matter affecting the Constitution, laws, or Government of the Cook Islands; or

(c) to incite, procure, or encourage violence, lawlessness, or disorder; or

(d) to incite, procure, or encourage the commission of any offence that is prejudicial to the public safety or to the maintenance of public order; or

(e) to excite such hostility or ill will between different classes of persons as may endanger the public safety.

(2) Without limiting any other legal justification, excuse, or defence available to any person charged with any offence, it is hereby declared that no person is deemed to have a seditious intention only because he or she intends in good faith—

(a) to show that Her Majesty the Queen in right of New Zealand has been misled or mistaken in her measures; or

(b) to point out errors or defects in the Government or Constitution of the Cook Islands, or in the administration of justice; or to incite the public or any persons to attempt to procure by lawful means the alteration of any matter affecting the Constitution, laws, or Government of the Cook Islands; or

(c) to point out, with a view to their removal, matters producing or having a tendency to produce feelings of hostility or ill will between different classes of person.

(3) A seditious conspiracy is an agreement between 2 or more persons to carry into execution any seditious intention.

(4) For the purposes of sections 85 to 87—

to publish means to communicate to the public or to any person or persons, whether in writing, or orally, or by any representation, or by any means of reproduction whatsoever

statement includes words, writing, pictures, or any significant expression or reproduction, by any means whatsoever, of any statement.

84 Seditious conspiracy

Every person is liable to imprisonment for a term not exceeding 2 years who is a party to any seditious conspiracy.

85 Seditious statements

Every person is liable to imprisonment for a term not exceeding 2 years who makes or publishes, or causes or permits to be made or published, any statement that expresses any seditious intention.

86 Publication of seditious documents

(1) Every person is liable to imprisonment for a term not exceeding 2 years who, with a seditious intention—

(a) prints, publishes, or sells; or

(b) distributes or delivers to the public or to any person or persons; or
(c) causes or permits to be printed, published, or solid, or to be distributed or delivered as aforesaid; or
(d) has in his or her possession for sale, or for distribution or delivery as aforesaid; or
(e) brings, or causes to be brought or sent into the Cook Islands—

any document, statement, advertisement, or other matter that expresses any seditious intention.

(2) Any constable may seize any document, statement, or advertisement, or any other written or printed matter, in respect of which an offence under this section is committed or is reasonably suspected by him or her to have been committed.

87 Use of apparatus for making seditious documents statements

Every person is liable to imprisonment for a term not exceeding 2 years, who, having in his or her possession or under his or her control any printing press, or any mechanical, photographic, or electrical apparatus, or any other apparatus whatsoever—

(a) uses it; or
(b) causes or permits it to be used—

for printing, making, or publishing, or for facilitating the printing, making, or publishing of, any document, statement, advertisement, or other matter that expresses or will express any seditious intention.

[The next page is 603,401]

Unlawful assemblies, riots, and breaches of the peace

88 Unlawful assembly

(1) An unlawful assembly is an assembly of 3 or more persons who, with intent to carry out any common purpose, assemble in such a manner, or so conduct themselves when assembled, as to cause persons in the neighbourhood of the assembly to fear, on reasonable grounds, that the person so assembled—

(a) will disturb the peace tumultuously; or

(b) will, by that assembly, needlessly and without reasonable cause provoke other persons to disturb the peace tumultuously.

(2) Persons lawfully assembled may become an unlawful assembly if, with a common purpose, they conduct themselves in such a manner that their assembling would have been unlawful if they had assembled in that manner for that purpose.

(3) An assembly of 3 or more persons for the purpose of protecting the house of any one of their number against persons threatening to break and enter that house in order to commit a crime therein is not unlawful.

(4) Every member of an unlawful assembly is liable to imprisonment for a term not exceeding 1 year.

89 Riot

(1) A riot is an unlawful assembly that has begun to disturb the peace tumultuously.

(2) Every rioter is liable to imprisonment for a term not exceeding 2 years.

90 Reading the Riot Act

(1) Where 12 or more persons are unlawfully, riotously, and tumultuously assembled together in any place to the disturbance of the public peace, any Judge of Justice may, at the request of the senior member of the Police for the time being acting in that place, go to the place where the assembly is, and, among the rioters or as near to them as he or she can safely come, with a loud voice command silence, and then, openly and with a loud voice, make or cause to be made a proclamation in the following words, or to a like effect:

"Her Majesty the Queen commands all of you to disperse immediately and to go quietly to your homes or to your lawful business, upon pain of being charged with an offence punishable by imprisonment for 5 years."

"GOD SAVE THE QUEEN"

(2) All persons are liable to imprisonment for a term not exceeding 5 years who—

(a) wilfully and with force oppose, hinder, or hurt any person who begins or is about to make or is making the said proclamation, so that it is not made; or

(b) continue together to the number of 12 or more for 1 hour after the proclamation is made, or, if they know that its making was hindered as aforesaid, for 1 hour after such hindrance.

(3) No person may be prosecuted for any offence against this section unless the prosecution is commenced within 12 months from the time when the offences was committed.

91 Failure of rioters to disperse

(1) If on the expiry of the period of 1 hour referred to in section 90(2), 12 or more

persons remain assembled, it is the duty of every constable, and of every person required by him or her to assist, to arrest the persons so assembled.

(2) If by reason of the resistance of the persons so assembled one of them is killed or hurt in the arrest or attempted arrest of them, or in the endeavour to disperse them, every person ordering their arrest or dispersal, and every person carrying out any such order, is justified in having so acted.

(3) Nothing in this section limits or affects in any way any duties or powers imposed or given by this Act in respect of the suppression of riots before or after the making of the said proclamation.

92 Riotous destruction of buildings, etc

All persons are liable to imprisonment for a term not exceeding 7 years who, being riotously and tumultuously assembled together to the disturbance of the public peace, unlawfully and with force demolish or pull down or damage or begin to demolish or pull down or damage—

(a) any building whatever:

(b) any machinery whatever, whether fixed or movable:

(c) any structure, erection, bridge, vehicle, apparatus, or equipment used in any undertaking carried on by the Crown or any public body or local authority, or used in the farming of land or in the carrying on of any trade, manufacture, or business.

93 Forcible entry and detainer

(1) Every person commits forcible entry when, by force or in a manner that causes or is likely to cause a breach of the peace or reasonable apprehension of a breach of the peace, he or she enters on land that is in the actual and peaceable possession of another for the purpose of taking possession, whether or not he or she is entitled to enter.

(2) Every person commits forcible detainer when, being in actual possession of land without colour of right, he or she detains it, in a manner that causes or is likely to cause a breach of the peace or reasonable apprehension of a breach of the peace, against another who is entitled by law to possession of the land.

(3) Whether there was actual possession, or colour of right, is a question of fact.

(4) Every person who commits forcible entry or forcible detainer is liable to imprisonment for a term not exceeding 1 year.

94 Carrying offensive weapon in public place without lawful excuse

(1) Every person commits an offence and is liable to imprisonment for a term not exceeding 1 year or to a fine not exceeding $100 who, without lawful authority or reasonable excuse, the proof of which is on him or her, has with him or her in any public place any offensive weapon.

(2) Where any person is convicted of an offence against this section the court may make an order for the forfeiture or disposal of any weapon in respect of which the offence was committed.

(3) Any constable who has reasonable cause to believe that any person is committing an offence against this section may arrest that person without warrant, if the constable—

(a) is not satisfied as to that person's identity or place of residence; or

(b) has reasonable cause to believe that it is necessary to arrest him or her in order to prevent the commission by him or her of any other offence in the course of committing which an offensive weapon might be used.

(4) For the purposes of this section, **offensive weapon** means any article made or altered for use for causing bodily injury, or intended by the person having it with him or her for such use; but does not include any tool of trade in the possession of any person in the course of his or her employment or while he or she is going to or returning from his or her work.

95 Riotous, etc, behaviour in public place

Every person commits an offence and is liable to a fine not exceeding $100 who in or within view of any public place, or within the hearing of any person therein, behaves in a riotous, offensive, threatening, insulting, or disorderly manner, or uses any threatening, abusive, or insulting words.

96 Fighting in public place

Every person commits an offence, and is liable to imprisonment for a term not exceeding 3 months or to a fine not exceeding $100, who fights in any public place.

97 Throwing or leaving bottles or glass in public place

(1) Every person commits an offence and is liable to a fine not exceeding $50 who throws or leaves any bottle, or any glass, or any article made of or containing glass, upon or in any public place, or, having broken any bottle or any glass or any such article as aforesaid, leaves the broken glass upon or in any public place.

(2) For the purposes of this section, **public place** means any public place within the meaning of section 2, and also includes any public reserve, any place or waters frequented by bathers, any foreshore, and any other place of public recreation or resort.

98 Obstructing public place

Every person commits an offence and is liable to a fine not exceeding $20 who without lawful justification obstructs any public place, or creates any source of danger therein, or otherwise commits any public nuisance therein.

99 Profane, indecent, or obscene language

Every person commits an offence and is liable to imprisonment for a term not exceeding 6 months or a fine not exceeding $50 who uses any profane, indecent, or obscene language in any public place or within the hearing of any person in a public place.

100 Disturbing public worship

Every person commits an offence and is liable to a fine not exceeding $50 who wilfully and without lawful justification or excuse disturbs or interferes with the orderly conduct of any religious service or any meeting lawfully assembled for religious purposes, wherever that service or meeting is held, or in any way disturbs or molests any preacher, teacher, or person lawfully officiating at any such service or meeting or any persons there assembled.

101 Drunkenness

Every person commits an offence and is liable to imprisonment for a term not exceeding 1 month or to a fine not exceeding $20 who is found drunk in any public place.

102 Wilful trespass after warning to leave

Every person commits an offence and is liable to imprisonment for a term not exceeding 3 months or a fine not exceeding $100 who wilfully trespasses in any place, and neglects or refuses to leave that place after being warned to do so by the owner or any person in lawful occupation of the place, or any person acting under the express or implied authority of the owner or person in lawful occupation.

[The next page is 603,901]

Piracy

103 Piracy

(1) Every person who does any act amounting to piracy by the law of nations, whether that act is done within or outside the Cook Islands—

(a) must upon conviction thereof be sentenced to imprisonment for life if, in committing piracy, he or she murders, attempts to murder, or does any act likely to endanger the life of any person:

(b) is liable to imprisonment for a term not exceeding 14 years in any other case.

(2) Any act that by the law of nations would amount to piracy if it had been done on the high seas on board or in relation to a ship is piracy for the purposes of this section if it is done on board or in relation to an aircraft, whether the aircraft is on or above the sea or is on or above the land.

104 Piratical acts

(1) Every person commits a piratical act who—

(a) within the Cook Islands, or, being a person ordinarily resident in the Cook Islands outside the Cook Islands, under pretence of any commission from any State other than the Cook Islands (whether or not that State is at war with the Cook Islands) or under pretence of authority from any person whatever, commits an act of hostility or robbery:

(b) within or outside the Cook Islands, enters into any Cook Islands ship and throws overboard or destroys any goods on board the ship:

(c) within or outside the Cook Islands, on board any Cook Islands ship—

(i) turns enemy or rebel and piratically runs away with the ship or any boat, weapons, ammunition, or goods; or

(ii) voluntarily yields up the ship or any boat, weapons, ammunition, or goods to any pirate; or

(iii) counsels or procures any person to yield up or run away with any ship, goods, or merchandise, or to turn pirate or go over to pirates; or

(iv) assaults the master or commander of any ship in order to prevent him or her from fighting in defence of his or her ship and goods; or

(v) imprisons or restrains the master or commander of any ship; or

(vi) makes or endeavours to make a revolt in the ship.

(2) Subsection (1) extends and applies to aircraft as it applies to ships; and for the purposes of this subsection any reference in subsection (1) to the master or commander of any ship must be read as a reference to the pilot in command of an aircraft.

105 Punishment of piratical acts

Every person who commits any piratical act—

(a) shall upon conviction thereof be sentenced to imprisonment for life if, in committing that act, he or she murders, attempts to murder, or does any act likely to endanger the life of any person:

(b) is liable to imprisonment for a term not exceeding 14 years in any other case.

106 Attempt to commit piracy

Every person is liable to imprisonment for a term not exceeding 14 years who, within or outside the Cook Islands, attempts to do any act amounting to piracy by the law of nations.

107 Conspiring to commit piracy

Every person is liable to imprisonment for a term not exceeding 10 years who, within or outside the Cook Islands, conspires with any other person to do any act amounting to piracy by the law of nations.

108 Accessory after the fact to piracy

Every person is liable to imprisonment for a term not exceeding 7 years who, within or outside the Cook Islands, is accessory after the fact to any act amounting to piracy by the law of nations.

Dealing in persons

109 Dealing in persons

(1) Every person is liable to imprisonment for a term not exceeding 14 years who, within or outside the Cook Islands,—

(a) sells, purchases, transfers, barters, lets, hires, or in any way whatsoever deals with any person as a slave; or

(b) employs or uses any person as a slave, or permits any person to be so employed or used; or

(c) detains, confines, imprisons, carries away, removes, receives, transports, imports, or brings into any place whatsoever any person as a slave or to be dealt with as a slave; or

(d) induces any person to sell, let, or give himself, or any other person dependent on him or her or in his or her charge, as a slave; or

(e) builds, fits out, sells, purchases, transfers, lets, hires, uses, mans, navigates, or serves on board any ship or aircraft for any of the aforesaid purposes; or

(f) induces any person to place himself or herself or any other person in debt-bondage or serfdom; or

(g) for gain or reward gives in marriage or transfers any woman to another person without her consent; or

(h) is a party to the inheritance by any person of a woman on the death of her husband; or

(i) being a parent or guardian of any child under the age of 18 years, delivers that child to another person with intent that the child or his or her labour be exploited; or

(j) agrees or offers to do any of the acts mentioned in this subsection.

(2) For the purposes of this section—

debt-bondage means the status or condition arising from a pledge by a debtor of his or her personal services, or of the personal services of any person under his or her control, as security for a debt, if the value of those services, as reasonably assessed, is not applied towards the liquidation of the debt or if the length and nature of those services are not limited and defined

serfdom means the status or condition of a tenant who is by any law, custom, or agreement bound to live and labour on land belonging to another person and

to render some determinate service to that other person, whether for reward or not, and who is not free to change that status or condition.

109A Participating in organised criminal group

(1) Every person is liable to imprisonment for a term not exceeding 5 years who participates (whether as a member or an associate member or prospective member) in an organised criminal group, knowing that it is an organised criminal group; and

(a) knowing that his or her participation contributes to the occurrence of criminal activity; or

(b) reckless as to whether his or her participation may contribute to the occurrence of criminal activity.

(2) For the purposes of this Act, a group is an organised criminal group if it is a group of 3 or more people who have as their objective or one of their objectives—

(a) obtaining material benefits from the commission of offences that are punishable by imprisonment for a term of 4 years or more; or

(b) obtaining material benefits from conduct outside the Cook Islands that, if it occurred in the Cook Islands, would constitute the commission of offences that are punishable by imprisonment for a term of 4 years or more; or

(c) the commission in the Cook Islands of offences that are punishable by imprisonment for 10 years or more; or

(d) conduct outside the Cook Islands that, if it occurred in the Cook Islands would constitute the commission of an offence punishable by imprisonment for a term of 10 years or more.

(3) A group of people is capable of being an organised criminal group for the purposes of this Act whether or not—

(a) some of them are subordinates or employees of others; or

(b) only some of the planning, arrangement, or execution at that time of any particular action, activity, or transaction; or

(c) its membership changes from time to time.

[Section 109A: inserted, on 7 May 2003, by section 4 of the Crimes Amendment Act 2003 (2003 No 6).]

[The next page is 604,401]

Part 5A
People smuggling and trafficking

[Part 5A: inserted, on 1 June 2004, by section 2 of the Crimes Amendment Act 2004 (2004 No 5).]

109B Interpretation

In this Part unless the context otherwise requires—

authorised person means any constable, any immigration officer and any customs officer

child means a person who is under the age of 18 years

commercial carrier includes a company or the owner, operator or other person in charge of any means of transport that engages in the transport of people or goods for commercial gain

craft includes any aircraft, ship, boat or other machine or vessel used or capable of being used for the carriage or transportation of people or goods or both, by air or water or over or under water

document includes a thing that is or is intended to be—

(a) attached to a document; or

(b) stamped or otherwise signified on a document

exploitation includes all forms of sexual exploitation (including sexual servitude and exploitation of another person's prostitution), forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs

fraudulent travel or identity document means a travel or identity document that—

(a) has been made or altered in any way by a person other than a person or agency lawfully authorised to make or issue the travel or identity document on behalf of a country; or

(b) has been issued or obtained through misrepresentation, corruption or duress or in any other unlawful manner; or

(c) is being used by a person other than the lawful owner

illegal entry means entering the Cook Islands or any other country without complying with the requirements for lawful entry of that country

material benefit includes any type of financial or non-financial inducement, payment, bribe, reward, advantage or service

people smuggling means the arranging or assisting of an unauthorised person's illegal entry into any country

receiving country means—

(a) in relation to people smuggling, the country into which the unauthorised person's entry is arranged; and

(b) in relation to people trafficking, the country into which a trafficked person is brought as part of an act of trafficking in persons

specified means means any of the following—

(a) threat:

(b) use of force or other forms of coercion:

(c) abduction:

(d) fraud:

(e) deception:

(f) abuse of power or of a position of vulnerability:

(g) giving or receiving payments or benefits to achieve the consent of a person having control over another person

trafficked person means a person who is the victim of trafficking in persons

trafficking in persons means the recruitment, transportation, transfer, harbouring or receipt of a person for the purpose of exploitation

unauthorised person, in relation to a country, means a person who is neither a citizen of that country nor in possession of all the documents required by or under the law of that country for the person's lawful entry into that country

unlawful employee means a person who under the provisions of the Entry, Residence and Departure Act 1971–72 or under the terms of any entry or residence permit issued thereunder, is not lawfully entitled to work in the Cook Islands.

[Section 109B: replaced, on 1 June 2004, by section 2 of the Crimes Amendment Act 2004 (2004 No 5).]

People smuggling

109C People smuggling

(1) Every person is liable to imprisonment for a term not exceeding 20 years or to a fine not exceeding $500,000 or both, who for a material benefit engages in people smuggling either knowing or being reckless as to the fact that the entry of the person being or to be smuggled constitutes or would constitute illegal entry.

(2) Subsection (1) applies whether or not the person being smuggled actually enters or arrives in the receiving country.

[Section 109C: replaced, on 1 June 2004, by section 2 of the Crimes Amendment Act 2004 (2004 No 5).]

109D Offence to facilitate stay of an unauthorised person

Every person is liable to imprisonment for a term not exceeding 14 years or to a fine not exceeding $300,000 or to both, who knowingly facilitates the continued presence of an unauthorised person in a receiving country in order to obtain a material benefit.

[Section 109D: replaced, on 1 June 2004, by section 2 of the Crimes Amendment Act 2004 (2004 No 5).]

109E Aggravating factors

Every person commits an aggravated offence and is liable to imprisonment for a term not exceeding 20 years or to a fine of $500,000 or both, who commits an offence under section 109C, 109D or 109N in one or more of the following circumstances, namely—

(a) the unauthorised person is subjected to torture or to other cruel, inhuman or degrading treatment (including exploitation); or

(b) the life or safety of the person being smuggled is or is likely to be endangered.

[Section 109E: replaced, on 1 June 2004, by section 2 of the Crimes Amendment Act 2004 (2004 No 5).]

109F Protection for smuggled persons

(1) An unauthorised person is not liable for prosecution for an offence under section 109C, 109D, 109E, 109G, 109N or 1090 by reason only of the fact that the unauthorised person is the object of the following conduct—

(a) people smuggling; or

(b) an offence under section 109D; or

(c) when committed for the purpose of enabling people smuggling, an offence against section 109N.

[Section 109F: replaced, on 1 June 2004, by section 2 of the Crimes Amendment Act 2004 (2004 No 5).]

109G Boarding, search and detention of craft

(1) This section applies to a craft that is a ship, boat, or other machine or vessel used or capable of being used for the carriage of persons by water or over water, except for a foreign warship.

(2) An authorised officer may stop and board the craft within the Cook Islands if the authorised officer has reasonable grounds to believe the craft—

(a) is being used to commit an offence against section 109C; and

(b) the craft is in:

(i) the Cook Islands; or

(ii) the territorial sea of the Cook Islands.

(3) The authorised officer may, when reasonably necessary for the exercise of his or her functions in connection with an offence against section 109C—

(a) direct the craft to stay where it is, or direct it to be taken to a suitable place in the Cook Islands for the purpose of search; and

(b) search and detain the craft, anyone on it and anything on it; and

(c) question any person on board the craft; and

(d) require the production of any documents relating to the craft or any travel or identity documents of a person on the craft; and

(e) take a copy of any documents produced; and

(f) seize and detain anything found on the craft that appears to him or her to be evidence of an offence against section 109C; and

(g) remain on the craft for such period as is reasonably necessary for the purpose of boarding, searching and directing the craft or carrying out an investigation for an offence against section 109C.

(4) If the craft fails to stop at the request of an authorised officer, the officer may pursue it into international waters and take any action that is reasonably necessary to stop the craft to enable it to be boarded (other than in the territorial sea of another country).

(5) The authorised officer may require the person in charge of the craft, a member of the crew or any person on board to take any action that may be directed by the officer for subsection (3)(a).

(6) The person in charge of the craft must give any authorised officer who remains on board the craft proper and sufficient food and suitable accommodation without charge.

(7) Every person who fails to comply with a direction of the authorised officer under subsection (3)(a) or who obstructs the authorised officer in the exercise by him or her of any powers under this section is liable to imprisonment for a term not exceeding 14 years or to a fine of $300,000 or to both.

People trafficking

109H Trafficking in persons

Every person is liable to imprisonment for a term not exceeding 20 years or to a fine not exceeding $500,000 or to both, who engages in trafficking in a person, or is involved in the arranging of trafficking in a person, knowing that the person's entry into the Cook Islands or any other state is or was arranged by specified means.

109I Trafficking in children

Every person is liable to imprisonment for a term not exceeding 30 years or to a fine not exceeding $800,000 or to both, who intentionally engages in trafficking in a person who is a child or is involved in the arranging of trafficking in a person who is a child, regardless of whether the child's entry into the Cook Islands or any other country is or was arranged by specified means.

109J Consent not a defence

It is not a defence to any prosecution under section 109H or section 109I—

(a) that the trafficked person consented to the intended exploitation; or

(b) that the intended exploitation did not occur.

109K Aggravating factors

(1) When determining the sentence to be imposed on, or other way of dealing with, a person convicted of an offence against this section or section 109H or 109I, the court must take into account—

(a) whether bodily harm or death (whether to, or of a person in respect of whom the offence was committed, or some other person) occurred during the commission of the offence:

(b) whether the offence was committed for the benefit of, at the direction of, or in association with, an organised criminal group within the meaning of section 109A(2):

(c) whether a person in respect of whom the offence was committed was subjected to torture, or other inhuman or degrading treatment including exploitation, as a result of the commission of the offence:

(d) the number of people in respect of whom the offence was committed.

(2) When determining the sentence to be imposed on, or other way of dealing with, a person convicted of an offence against section 109H or 109I, the court must also take into account—

(a) whether a person in respect of whom the offence was committed was subjected to physical abuse (for example, rape or assault) as a result of the commission of the offence:

(b) the age of the person in respect to whom the offence was committed and, in particular, whether the person was a child:

(c) whether the person convicted committed the offence, or took actions that were part of it, for a material benefit.

(3) The examples in subsection (2)(a) do not limit the generality of that paragraph.

(4) This section does not limit the matters that the court may take into account when determining the sentence to be imposed on, or other way of dealing with, a person convicted of an offence against sections 109H or 109I.

109L Protection for trafficked persons

(1) A trafficked person is not liable to criminal prosecution for—

(a) the act of trafficking in persons or being a party to an offence of trafficking in persons; or

(b) the trafficked person's illegal entry into the Cook Islands in connection with the act of trafficking in persons if the Cook Islands is the receiving country; or

(c) the trafficked person's period of unlawful residence in the Cook Islands after being trafficked, if the Cook Islands is the receiving country; or

(d) the trafficked person's procurement or possession of any fraudulent travel or identity documents that the person obtained, or with which the trafficked person was supplied, for the purpose of entering the receiving country in connection with the act of trafficking in persons.

(2) Subsection (1) does not prevent the removal of a trafficked person in accordance with the Cook Islands Immigration Act 2021 as a person unlawfully in the Cook Islands or a prohibited person as defined in that Act.

[Section 109L(2): amended, on 19 April 2023, by Schedule 1 of the Cook Islands Immigration Act 2021 (2021 No 16).]

Exploitation

109M Exploitation of people not legally entitled to work

(1) Every employer is liable to imprisonment for a term not exceeding 5 years or to a fine of $50,000 or to both who—

(a) allows an unlawful employee to undertake employment in the employer's service; and

(b) takes any action with the intention of preventing or hindering the employee from—

(i) leaving the Cook Islands; or

(ii) ascertaining or seeking that person's entitlement under the law of the Cook Islands; or

(iii) disclosing to any person the circumstances of that person's employment by the employer.

(2) Without limiting the generality of subsection (1), the following are examples of actions of the kind mentioned in that subsection—

(a) taking or retaining possession or control of a person's passport, any other travel or identity document, or travel tickets:

(b) preventing or hindering a person from—

(i) having access to a telephone; or

(ii) using a telephone; or

(iii) using a telephone privately; or

(iv) leaving premises; or

(v) leaving premises unaccompanied:

(c) preventing or hindering an inspector appointed and acting pursuant to the provisions of the Industrial and Labour Ordinance 1964 from entering or having access to any place or premises to which the person is entitled to have access under any law.

Miscellaneous

109N Offence related to fraudulent travel or identity documents

Every person is liable to imprisonment for a term not exceeding 5 years or to a fine not exceeding $5,000 or to both, who knowingly, in order to obtain a material benefit—

(a) produces to any person, a fraudulent travel or identity document purporting it to be genuine; or

(b) procures, provides or possesses a fraudulent travel or identity document.

109O Obligation on commercial carriers

(1) A commercial carrier is liable to a fine of $500,000 if that commercial carrier transports a person into a receiving country where on entry to the receiving country, the person does not have the travel documents required for lawful entry into that country.

(2) A commercial carrier is not guilty of an offence under subsection (1) if—

(a) the commercial carrier had reasonable grounds to believe that the documents that the person has are the travel documents required for lawful entry of that person into the receiving country; or

(b) the person possessed the travel documents required for lawful entry into the receiving country when that person boarded or last boarded the commercial carrier to travel to the receiving country; or

(c) entry into the receiving country occurred only because of illness of or injury to a person on board, stress of weather or other circumstances beyond the control of the commercial earner.

(3) Nothing in this section affects the liability of a carrier under section 126 of the Cook Islands Immigration Act 2021.

[Section 109O(3): amended, on 19 April 2023, by Schedule 1 of the Cook Islands Immigration Act 2021 (2021 No 16).]

109P Obligation to extradite or refer for prosecution

If the Attorney-General refuses a request from another country to extradite a person under the Extradition Act 2003 and the extradition request relates to an act or omission under this Part, the Attorney-General must refer the matter to the Solicitor-General for prosecution.

109Q Attorney-General's consent to prosecutions required

(1) Proceedings for an offence against this Part cannot be brought without the Attorney-General's consent.

(2) A person alleged to have committed an offence against this Part may be arrested, or a warrant for the person's arrest may be issued and executed, and the person be remanded in custody or in bail, even though the Attorney-General's consent to the bringing of proceedings against the person has not been obtained.

[The next page is 604,901]

Part 6
Crimes affecting the administration of law and justice

Bribery and corruption

110 Interpretation

In this Part, unless the context otherwise requires,—

bribe means any money, valuable consideration, office, or employment, or any benefit, whether direct or indirect

judicial officer means a Judge or Commissioner of any court, Coroner or Justice, or any other person holding any judicial office, or any person who is a member of any tribunal authorised by law to take evidence on oath

law enforcement officer means any constable or any person employed in the detection or prosecution or punishment of offenders

official means any person in the service of Her Majesty in right of New Zealand in the Cook Islands (whether that service is honorary or not, and whether it is within or outside the Cook Islands), or any member or employee of any Island Council.

111 Judicial corruption

(1) Every judicial officer is liable to imprisonment for a term not exceeding 14 years who corruptly accepts or obtains, or agrees or offers to accept or attempts to obtain, any bribe for himself or herself or any other person in respect of any act done or omitted by them in their judicial capacity.

(2) Every judicial officer, and every Registrar or Deputy Registrar of any court, is liable to imprisonment for a term not exceeding 7 years who corruptly accepts or obtains, or agrees or offers to accept or attempts to obtain, any bribe for himself or herself or any other person in respect of any act done or omitted, or to be done or omitted, by them in their official capacity, not being an act or omission to which subsection (1) applies.

112 Bribery of judicial officer, etc

(1) Every person is liable to imprisonment for a term not exceeding 7 years who corruptly gives or offers or agrees to give any bribe to any person with intent to influence any judicial officer in respect of any act or omission by them in their judicial capacity.

(2) Every person is liable to imprisonment for a term not exceeding 5 years who corruptly gives or offers or agrees to give any bribe to any person with intent to influence any judicial officer or any Registrar or Deputy Registrar of any court in respect of any act or omission by them in their official capacity, not being an act or omission to which subsection (1) applies.

113 Corruption and bribery of Minister of the Crown

Every Minister of the Crown or member of the Executive Council is liable to imprisonment for a term not exceeding 14 years who corruptly accepts or obtains, or agrees or offers to accept or attempts to obtain, any bribe for himself

or herself or any other person in respect of any act done or omitted, or to be done or omitted, by them in their capacity as a Minister or member of the Executive Council.

(2) Every person is liable to imprisonment for a term not exceeding 7 years who corruptly gives or offers or agrees to give any bribe to any person with intent to influence any Minister of the Crown or member of the Executive Council in respect of any act or omission by them in their capacity as a Minister or member of the Executive Council.

(3) No person may be prosecuted for an offence against this section without the leave of a Judge of the High Court. Notice of the intention to apply for such leave must be given to the person whom it is intended to prosecute, and that person must have an opportunity of being heard against the application.

114 Corruption and bribery of member of Parliament

(1) Every member of Parliament is liable to imprisonment for a term not exceeding 7 years who corruptly accepts or obtains, or agrees or offers to accept or attempts to obtain, any bribe for himself or herself or any other person in respect of any act done or omitted, or to be done or omitted, by them in their capacity as a member of Parliament.

(2) Every person is liable to imprisonment for a term not exceeding 3 years who corruptly gives or offers or agrees to give any bribe to any person with intent to influence any member of Parliament in respect of any act or omission by them in their capacity as a member of Parliament.

(3) No person may be prosecuted for an offence against this section without the leave of a Judge of the High Court. Notice of the intention to apply for such leave must be given to the person whom it is intended to prosecute, and that person must have an opportunity of being heard against the application.

115 Corruption and bribery of law enforcement officer

(1) Every law enforcement officer is liable to imprisonment for a term not exceeding 7 years who corruptly accepts or obtains, or agrees or offers to accept or attempts to obtain, any bribe for himself or herself or any other person in respect of any act done or omitted, or to be done or omitted, by them in their official capacity.

(2) Every person is liable to imprisonment for a term not exceeding 3 years who corruptly gives or offers or agrees to give any bribe to any person with intent to influence any law enforcement officer in respect of any act or omission by them in their official capacity.

116 Corruption and bribery of official

(1) Every official is liable to imprisonment for a term not exceeding 7 years who, whether within the Cook Islands or elsewhere, corruptly accepts or obtains, or agrees or offers to accept or attempts to obtain, any bribe for himself or herself or any other person in respect of any act done or omitted, or to be done or omitted, by them in their official capacity.

(2) Every person is liable to imprisonment for a term not exceeding 3 years who corruptly gives or offers or agrees to give any bribe to any person with intent to influence any official in respect of any act or omission by them in their official capacity.

116A Corrupt use of official information

Every official is liable to imprisonment for a term not exceeding 7 years who, whether within the Cook Islands or elsewhere, corruptly uses or discloses any information, acquired by them in their official capacity, to obtain, directly or indirectly, an advantage or a pecuniary gain for himself or herself or any other person.

[Section 116A: inserted, on 7 May 2003, by section 5 of the Crimes Amendment Act 2003 (2003 No 6).]

116B Use or disclosure of personal information disclosed in breach of section 116A

(1) Every person is liable to imprisonment for a term not exceeding 7 years who—

(a) having received personal information (being information that comes into that person's possession as a result of the commission of an offence against section 116A); and

(b) knowing that the information has been disclosed in contravention of that section,

uses or discloses that information to obtain, directly or indirectly, an advantage or pecuniary gain for that person or any other person.

(2) It is a defence to a charge under this section if the person charged proves that the person was legally authorised to use or disclose the information.

(3) In this section, **personal information** means any information about an identifiable natural person, including a deceased natural person.

[Section 116B: inserted, on 7 May 2003, by section 5 of the Crimes Amendment Act 2003 (2003 No 6).]

117 Restrictions on prosecution

No person may be prosecuted for an offence against any of the provisions of sections 111, 112, 115, and 116 without the leave of the Attorney-General or if no such appointment has been made, then the Minister of Justice who before giving leave may make such inquiries as he or she thinks fit.

[Section 117: amended, on 27 November 1980, by section 16(3)(a) of the Crown Law Office Act 1980 (1980 No 16).]

Contravention of statute

118 Contravention of statute

Every person is liable to imprisonment for a term not exceeding 1 year who, without lawful excuse, contravenes any enactment by wilfully doing any act which it forbids, or by wilfully omitting to do any act which it requires to be done, unless—

(a) some penalty or punishment is expressly provided by law in respect of such contravention as aforesaid; or

(b) in the case of any such contravention in respect of which no penalty or punishment is so provided, the act forbidden or required to be done is solely of an administrative or a ministerial or procedural nature, or it is otherwise inconsistent with the intent and object of the enactment, or with its context, that the contravention should be regarded as an offence.

Misleading justice

119 Perjury defined

(1) Perjury is an assertion as to a matter of fact, opinion, belief, or knowledge made

by a witness in a judicial proceeding as part of his or her evidence on oath, whether the evidence is given in open court or by affidavit or otherwise, that assertion being known to the witness to be false and being intended by him or her to mislead the tribunal holding the proceeding.

(2) In this section, **oath** includes an affirmation, and also includes a declaration made under section 653 of the Cook Islands Act 1915.

(3) Every person is a witness within the meaning of this section who actually gives evidence, whether he or she is competent to be a witness or not, and whether his or her evidence is admissible or not.

(4) Every proceeding is judicial within the meaning of this section if it is held before any of the following tribunals, namely—

(a) any court of justice:
(b) Parliament or any Committee of Parliament:
(c) any arbitrator or umpire, or any person or body of persons authorised by law to make an inquiry and take evidence therein upon oath:
(d) any legal tribunal by which any legal right or liability can be established:
(e) any person acting as a court or tribunal having power to hold a judicial proceeding.

(5) Every such proceeding is judicial within the meaning of this section whether the tribunal was duly constituted or appointed or not, and whether the proceeding was duly instituted or not, and whether the proceeding was invalid or not.

120 Punishment of perjury

(1) Except as provided in subsection (2), every person is liable to imprisonment for a term not exceeding 7 years who commits perjury.

(2) If perjury is committed in order to procure the conviction of a person for any crime punishable by death, or for any offence for which the maximum punishment is not less than 3 years' imprisonment, the punishment may be imprisonment for a term not exceeding 14 years.

121 False oaths

Every person is liable to imprisonment for a term not exceeding 5 years, who being required or authorised by law to make any statement on oath or affirmation, thereupon makes a statement that would amount to perjury if made in a judicial proceeding.

122 False statements or declarations

Every person is liable to imprisonment for a term not exceeding 3 years who, on any occasion on which he or she is required or permitted by law to make any statement or declaration before any officer or person authorised by law to take or receive it, or before any notary public to be certified by him or her as such notary, makes a statement or declaration that would amount to perjury if made on oath in a judicial proceeding.

123 Evidence of perjury, false oath, or false statement

No person may be convicted of perjury, or of any offence against section 121 or 122, on the evidence of 1 witness only, unless the evidence of that witness is corroborated in some material particular by evidence implicating the accused.

124 Fabricating evidence

Every person is liable to imprisonment for a term not exceeding 7 years who, with intent to mislead any tribunal holding any judicial proceeding to which section 119 applies, fabricates evidence by any means other than perjury.

125 Use of purported affidavit or declaration

Every person is liable to imprisonment for a term not exceeding 3 years who—

(a) signs a writing that purports to be an affidavit sworn before him or her or a statutory declaration taken by him, when the writing was not so sworn or taken, or when he or she knows that he or she has no authority to administer that oath or take that declaration; or

(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 made, as the case may be, by the deponent or before a person authorised to administer that oath or take that declaration.

126 Conspiring to bring false accusation

Every person who conspires to prosecute any person for any alleged offence, knowing that person to be innocent thereof, is liable—

(a) to imprisonment for a term not exceeding 14 years if that person might, on conviction of the alleged offence, be sentenced to death, or to imprisonment for a term of 3 years or more:

(b) to imprisonment for a term not exceeding 7 years if that person might, on conviction of the alleged offence, be sentenced to imprisonment for a term less than 3 years.

127 Conspiring to defeat justice

Every person is liable to imprisonment for a term not exceeding 7 years who conspires to obstruct, prevent, pervert, or defeat the course of justice in the Cook Islands or the course of justice in an overseas jurisdiction.

[Section 127: amended, on 7 May 2003, by section 6 of the Crimes Amendment Act 2003 (2003 No 6).]

128 Corrupting juries and witnesses

Every person is liable to imprisonment for a term not exceeding 7 years who—

(a) dissuades or attempts to dissuade a person, by threats, bribes, or other corrupt means from giving evidence in any cause or matter (whether civil or criminal, and whether tried or to be tried in the Cook Islands or in an overseas jurisdiction); or

(b) influences or attempts to influence, by threats or bribes or other corrupt means, a member of a jury in his or her conduct as such (whether in a cause or matter tried or to be tried in the Cook Islands in an overseas jurisdiction, and whether the member has been sworn as a member of a particular jury or not); or

(c) accepts any bribe or other corrupt consideration to abstain from giving evidence (whether in a cause or matter tried or to be tried in the Cook Islands or in an overseas jurisdiction); or

(d) accepts any bribe or other corrupt consideration on account of his or her conduct as a member of a jury (whether in a cause or matter tried or to be tried in the Cook Islands in an overseas jurisdiction, and whether the member has been sworn as a member of a particular jury or not); or

(e) wilfully attempts in any other way to obstruct, prevent, pervert, or defeat the course of justice in the Cook Islands or the course of justice in an overseas jurisdiction.

[Section 128: replaced, on 7 May 2003, by section 7 of the Crimes Amendment Act 2003 (2003 No 6).]

Escapes and rescues

129 Assisting escape of prisoners of war or internees

Every person is liable to imprisonment for a term not exceeding 7 years who knowingly and wilfully—

(a) assists any prisoner of war detained in the Cook Islands, or any person interned in the Cook Islands, to escape from any place in which he or she is for the time being detained; or

(b) assists any such prisoner or person as aforesaid, suffered to be at large on his or her parole in the Cook Islands, to escape from the place where he or she is at large on his or her parole.

130 Breaking prison

Every person is liable to imprisonment for a term not exceeding 7 years who by force or violence breaks any prison, with intent to set at liberty himself or herself or any other person therein.

131 Escape from lawful custody

(1) Every person is liable to imprisonment for a term not exceeding 5 years who—

(a) having been convicted of an offence, escapes from any lawful custody in which he or she may be under the conviction; or

(b) whether convicted or not, escapes from any prison in which he or she is lawfully detained; or

(c) being in lawful custody otherwise than aforesaid, escapes from such custody.

(2) For the purposes of this section, custody under an illegal warrant or other irregular process is deemed to be lawful.

132 Assisting escape from lawful custody

(1) Every person is liable to imprisonment for a term not exceeding 7 years who—

(a) rescues any person from lawful custody, whether in a prison or not; or

(b) assists any person in escaping or attempting to escape from lawful custody, whether in prison or not; or

(c) with intent to facilitate the escape of any person lawfully detained in a prison, conveys or causes to be conveyed into any prison any thing whatever.

(2) Every person is liable to imprisonment for a term not exceeding 7 years who—

(a) being a constable who has any person in his or her lawful custody, voluntarily and intentionally permits that person to escape from such custody:

(b) being an officer of a prison in which any person is lawfully detained, voluntarily and intentionally permits that person to escape from the prison.

(3) Every person is liable to imprisonment for a term not exceeding 1 year who, by failing to perform any legal duty, permits any person in his or her lawful custody to escape.

(4) For the purposes of this section, custody under an irregular warrant or other irregular process is deemed to be lawful.

133 Assisting escape of mentally defective person under detention for offence

Every person is liable to imprisonment for a term not exceeding 5 years who—

(a) rescues any person lawfully ordered to be removed or transferred, as a person detained under Part 21 of the Cook Islands Act 1915, to or from any prison or other place, during the time of such removal or transfer; or

(b) being a constable or an officer of a prison, who has in his or her custody any person lawfully detained under the said Part 21 voluntarily and intentionally permits that person to escape from custody, whether during the time of any such removal or transfer or otherwise.

[The next page is 605,401]

Part 7
Crimes against religion, morality, and public welfare

Crime against religion

134 Blasphemous libel

(1) Every person is liable to imprisonment for a term not exceeding 1 year who publishes any blasphemous libel.

(2) Whether any particular published matter is or is not a blasphemous libel is a question of fact.

(3) It is not an offence against this section to express in good faith and in decent language, or to attempt to establish by arguments used in good faith and conveyed in decent language, any opinion whatever on any religious subject.

(4) No person may be prosecuted for an offence against this section without the leave of the Minister of Justice, who before giving leave may make such inquiries as he or she thinks fit.

Crimes against morality and decency

135 Distribution or exhibition of indecent matter

(1) Every person is liable to imprisonment for a term not exceeding 2 years who, without lawful justification or excuse—

(a) sells, exposes for sale, or otherwise distributes to the public any indecent model or object; or

(b) exhibits or presents in or within view of any place to which the public have or are permitted to have access any indecent object or indecent slow or performance; or

(c) exhibits or presents in the presence of any person in consideration or expectation of any payment or otherwise for gain, any indecent show or performance.

(2) It is a defence to a charge under this section to prove that the public good was served by the acts alleged to have been done.

(3) It is a question of law whether the sale, exposure for sale, distribution, exhibition, or presentation might in the circumstances serve the public good, and whether there is evidence of excess beyond what the public good requires; but it is a question of fact whether or not the acts complained of did so serve the public good and whether or not there was such excess.

(4) It is no defence that the person charged did not know that the model, object, show, or performance to which the charge relatives was indecent, unless that person also satisfies the court—

(a) that he or she had no reasonable opportunity of knowing it; and

(b) that in the circumstances his or her ignorance was excusable.

(5) No person may be prosecuted for an offence against this section without the leave of the Minister of Justice, who before giving leave may make such inquiries as he or she thinks fit.

136 Indecent act in public place

(1) Every person is liable to imprisonment for a term not exceeding 2 years who wilfully does any indecent act in any place to which the public have or are permitted to have access, or within view of any such place.

(2) It is a defence to a charge under this section if the person charged proves that he or she had reasonable grounds for believing that he or she would not be observed.

(3) For the purposes of this section, **place** includes any ship, aircraft, or vehicle used for the carriage of passengers for hire or reward.

137 Indecent act with intent to insult or offend

Every person is liable to imprisonment for a term not exceeding 2 years who with intent to insult or offend any person does any indecent act in any place.

137A Exposure of person or grossly indecent acts

Every person is liable to imprisonment for any term not exceeding 1 year who wilfully and obscenely exposes his or her person in any public place or within the view thereof, or wilfully does any grossly indecent act in any such place or within the view any other person, or does any indecent act in any place intending thereby to insult or offend any person.

[Section 137A: inserted, on 20 January 1971, by section 2 of the Crimes Amendment Act 1970 (1970 No 16).]

138 Indecent documents

(1) Every person commits an offence who—

(a) sells, or delivers by way of hire, or offers for sale or hire, or has in his or her possession for sale or hire, an indecent document; or

(b) prints or causes to be printed or manufactures or causes to be manufactured an indecent document; or

(c) causes to be inserted in a newspaper any matter or thing whereby that newspaper becomes an indecent document; or

(d) sends or causes to be sent, or attempts to send, through the post an indecent document; or

(e) exhibits or causes to be exhibited an indecent document that includes any indecent matter to any person in consideration or expectation of any payment, or otherwise for gain, and whether such payment is made by way of gratuity or otherwise howsoever; or

(f) publicly exhibits or causes to be publicly exhibited an indecent document in a public place, or so that the same is in view of persons in a public place; or

(g) delivers or offers, or causes to be delivered or offered, an indecent document ot any person in a public place; or

(h) delivers or leaves, or causes to be delivered or left, on premises in the occupation of any other person an indecent document, knowing or having reasonable means of knowing that such document is indecent; or

(i) writes, draws, affixes, impresses, or exhibits, or causes to be written, drawn, affixed, impressed or exhibited, any indecent statement, word, picture, drawing, or sign in or upon a public place; or

(k) delivers to any person an indecent document with intent that it should be so dealt with by that or any other person in such a manner as to constitute an offence against this section.

(2) Every person who commits an offence against subsection (1) is liable to a fine not exceeding $100.

(3) Every person commits an offence who wilfully does any act mentioned in subsection (1).

(4) Every person who commits an offence against subsection (3) is liable—
(a) in the case of an individual, to a fine not exceeding $200 or to imprisonment for a term not exceeding 3 months:
(b) in the case of a body corporate to a fine not exceeding $600.

(5) Every person charged with an offence against subsection (3) may be convicted of an offence against subsection (1).

139 Considerations determining whether or not document is indecent

(1) In determining whether any document or other matter is indecent the court shall take into consideration—
(a) the nature of the document or matter:
(b) the nature and circumstances of the act done by the accused with respect thereto, and the purpose for which the act was done:
(c) the literary or artistic merit or medical, legal, political, or scientific character or importance of the document or matter:
(d) the persons, classes of persons, or age group to or amongst whom the document or matter was or was intended or likely to be published, distributed, sold, exhibited, given, sent, or delivered: and the tendency of the matter or thing to deprave or corrupt any such persons, class of persons, or age group (notwithstanding that persons in other classes or age group may not be similarly affected thereby).

(2) No document or matter may be held to be indecent unless, having regard to the aforesaid and all other relevant considerations, the court is of opinion that the act of the accused was of an immoral or mischievous tendency.

Sexual crimes

140 Sexual connection defined

(1) For the purposes of this Act,—

genitalia includes a surgically constructed or reconstructed organ analogous to naturally occurring male or female genitalia (whether the person concerned is male, female, or of indeterminate sex)

penis includes a surgically constructed or reconstructed organ analogous to a naturally occurring penis (whether the person concerned is male, female, or of indeterminate sex)

sexual connection means—

(a) connection effected by the introduction to the slightest degree into the genitalia or anus of one person, otherwise than for genuine medical purposes, of—
(i) a part of the body of another person; or
(ii) an object held or manipulated by another person; or

(b) connection between the mouth or tongue of one person and a part of another person's genitalia or anus; or

(c) the continuation of connection of a kind described in paragraph (a) or (b).

(2) There is no presumption of law that a person is by reason of their age incapable of sexual connection.

(3) To avoid doubt, the actions described in subsection (1)(a) to (c) amount to sexual connection if—
- (a) they are done by the defendant with or on the other person; or
- (b) the defendant induces or permits the other person to do any of those actions with or on them.

[Section 140: replaced, on 1 June 2023, by section 4 of the Crimes (Sexual Offences) Amendment Act 2023 (2023 No 4).]

140A Circumstances that do not amount to consent

(1) For the purposes of sections 141, 142, 147, and 147A, **consent** does not include the following:
- (a) apparent consent extorted by fear of bodily harm or by threats of bodily harm to the person or to a third person; or
- (b) apparent consent obtained by personating another person; or
- (c) apparent consent obtained by a false and fraudulent representation as to the nature and quality of the act.

(2) Subsection (1) does not limit the circumstances in which a person does not consent to sexual activity.

[Section 140A: inserted, on 1 June 2023, by section 4 of the Crimes (Sexual Offences) Amendment Act 2023 (2023 No 4).]

141 Sexual violation

(1) Sexual violation is the act of a person who—
- (a) rapes another person; or
- (b) has unlawful sexual connection with another person.

(2) Person A rapes person B if person A has sexual connection with person B, effected by the penetration to the slightest degree of person B's genitalia by person A's penis,—
- (a) without person B's consent to the connection; and
- (b) without a reasonable belief that B consents to the connection.

(3) Person A has unlawful sexual connection with person B if person A has sexual connection with person B—
- (a) without person B's consent to the connection; and
- (b) without a reasonable belief that B consents to the connection.

(4) A person may be convicted of sexual violation of another person at a time when they were married to each other.

(5) A person who commits sexual violation is liable to imprisonment for a term not exceeding 14 years.

[Section 141: replaced, on 1 June 2023, by section 5 of the Crimes (Sexual Offences) Amendment Act 2023 (2023 No 4).]

142 Attempted sexual violation and assault with intent to commit sexual violation

(1) A person who attempts to commit sexual violation is liable to imprisonment for a term not exceeding 10 years.

(2) A person who assaults another person with intent to commit sexual violation of the other person is liable to imprisonment for a term not exceeding 10 years.

[Section 142: replaced, on 1 June 2023, by section 5 of the Crimes (Sexual Offences) Amendment Act 2023 (2023 No 4).]

143 Incest

(1) Sexual connection is incest if—

(a) it is between 2 people whose relationship is that of parent and child, siblings, half-siblings, or grandparent and grandchild; and

(b) the person charged knows of the relationship.

(2) A person of or over the age of 16 years who commits incest is liable to imprisonment for a term not exceeding 10 years.

(3) In this section—

child includes an illegitimate child; and

grandchild has a corresponding meaning.

[Section 143: replaced, on 1 June 2023, by section 5 of the Crimes (Sexual Offences) Amendment Act 2023 (2023 No 4).]

144 Sexual connection with dependent family member

(1) A person is liable to imprisonment for a term not exceeding 7 years if they have or attempt to have sexual connection with a dependent family member who is under the age of 21 years. (*See* section 144A for the definition of dependent family member.)

(2) It is no defence to a charge under this section that the dependent family member consented.

(2) The dependent family member cannot be charged as a party to an offence under this section.

144A Dependent family member defined

(1) For the purposes of section 144, one person (**person A**) is a dependent family member of another person (**person B**),—

(a) if person A is living with person B, and person B is—

(i) person A's parent, step-parent, foster parent, guardian, uncle, or aunt; or

(ii) a parent, step-parent, or foster parent of a person described in subparagraph (i); or

(iii) a child of person A's parent or step-parent; or

(iv) the spouse or de facto partner of a person described in subparagraphs (i) to (iii); or

(b) if person A is living with person B as a member of person B's family, and person B is not a person referred to in paragraph (a), but has a responsibility for, or significant role in, person A's care or upbringing.

(3) In subsection (1),—

aunt, in relation to person A, includes a half-sister of one of person A's parents

foster parent, includes a former foster parent

guardian includes a former guardian

step-parent, includes a former step-parent

uncle, in relation to person A, includes a half-brother of one of person A's parents.

[Section 144A: inserted, on 1 June 2023, by section 5 of the Crimes (Sexual Offences) Amendment Act 2023 (2023 No 4).]

145 Sexual connection or attempted sexual connection with child under 12

(1) A person is liable to imprisonment for a term not exceeding 14 years if they have sexual connection with a child under the age of 12 years.

(2) A person is liable to imprisonment for a term not exceeding 10 years if they attempt to have sexual connection with a child under the age of 12 years.

(3) It is no defence to a charge under this section that the child consented, or that the person charged believed that the child consented and was of or over the age of 12 years.

(4) The child cannot be charged as a party to an offence against this section.

[Section 145: replaced, on 1 June 2023, by section 5 of the Crimes (Sexual Offences) Amendment Act 2023 (2023 No 4).]

146 Indecent assault of, or indecency with, child under 12

(1) A person is liable to imprisonment for a term not exceeding 10 years if they—

(a) indecently assault a child under the age of 12 years; or

(b) do an indecent act with, or on, a child under the age of 12 years; or

(c) induce or permit a child under the age of 12 years to do an indecent act with or on them.

(2) It is no defence to a charge under this section that the child consented, or that the person charged believed that the child consented or was of or over the age of 12 years.

(3) The child cannot be charged as a party to an offence against this section.

[Section 146: replaced, on 1 June 2023, by section 5 of the Crimes (Sexual Offences) Amendment Act 2023 (2023 No 4).]

[The next page is 605,901]

147 Sexual connection or attempted sexual connection with child between 12 and 16

(1) A person is liable to imprisonment for a term not exceeding 7 years if they have or attempt to have sexual connection with a child who is 12 years of age or older but under the age of 16 years.

(2) Except as provided in this section, it is no defence to a charge under this section that the child consented or that the person believed that the child consented or was of or over the age of 16 years.

(3) It is a defence to a charge under this section if the person charged proves that—
- (a) the child consented; and
- (b) before the time of the act concerned, they had taken reasonable steps to find out whether the child was of or over the age of 16 years; and
- (c) at the time of the act concerned, they believed on reasonable grounds both that the child consented and was of or over the age of 16 years.

(4) The child cannot be charged as a party to an offence against this section.

[Section 147: replaced, on 1 June 2023, by section 5 of the Crimes (Sexual Offences) Amendment Act 2023 (2023 No 4).]

147A Indecent assault of, or indecency with, child between 12 and 16

(1) A person is liable to imprisonment for a term not exceeding 7 years if they—
- (a) indecently assault a child who is 12 years of age or older but under the age of 16 years; or
- (b) do an indecent act with, or on, a child who is 12 years of age or older but under the age of 16 years; or
- (c) induce or permit a child who is 12 years of age or older but under the age of 16 years to do an indecent act with or on them.

(2) Except as provided in this section, it is no defence to a charge under this section that the child consented or that the person believed that the child consented or was of or over the age of 16 years.

(3) It is a defence to a charge under this section if the person charged proves that—
- (a) the child consented; and
- (b) before the time of the act concerned, they had taken reasonable steps to find out whether the child was of or over the age of 16 years; and
- (c) at the time of the act concerned, they believed on reasonable grounds both that the child consented and was of or over the age of 16 years.

(4) The child cannot be charged as a party to an offence against this section.

[Section 147A: inserted, on 1 June 2023, by section 5 of the Crimes (Sexual Offences) Amendment Act 2023 (2023 No 4).]

148 Indecent assault of, or indecency with, person of or over 16

(1) A person is liable to imprisonment for a term not exceeding 7 years if they—
- (a) indecently assault another person of or over the age of 16 years; or
- (b) do anything indecent to another person of or over the age of 16 years with their consent but the consent was obtained by a false and fraudulent representation as to the nature and quality of the act or in other circumstances where apparent consent was not valid.

(2) In this section,—

do anything indecent includes if the defendant—

(a) does the thing on or with the other person; or

(b) induces or permits the other person to do the thing on or with the defendant.

[Section 148: replaced, on 1 June 2023, by section 5 of the Crimes (Sexual Offences) Amendment Act 2023 (2023 No 4).]

149 Conspiracy to induce sexual connection

A person is liable to imprisonment for a term not exceeding 5 years if they conspire with another person by a false representation or other fraudulent means to induce a person to have sexual connection with anyone.

[Section 149: replaced, on 1 June 2023, by section 5 of the Crimes (Sexual Offences) Amendment Act 2023 (2023 No 4).]

150 Inducing sexual intercourse under pretence of marriage

[Repealed]

[Section 150: repealed, on 1 June 2023, by section 6 of the Crimes (Sexual Offences) Amendment Act 2023 (2023 No 4).]

151 Sexual connection with person with significant intellectual impairment

A person is liable to a term of imprisonment not exceeding 7 years if—

(a) they have or attempt to have sexual connection with another person who has a significant intellectual impairment that means they do not understand the nature and quality of the act or its potential consequences; and

(b) they knew, or had good reason to believe, that the other person has a significant intellectual impairment.

[Section 151: replaced, on 1 June 2023, by section 7 of the Crimes (Sexual Offences) Amendment Act 2023 (2023 No 4).]

152 Indecent act between woman and girl

[Repealed]

[Section 152: repealed, on 1 June 2023, by section 8 of the Crimes (Sexual Offences) Amendment Act 2023 (2023 No 4).]

153 Indecency between man and boy

[Repealed]

[Section 153: repealed, on 1 June 2023, by section 8 of the Crimes (Sexual Offences) Amendment Act 2023 (2023 No 4).]

154 Indecency between males

[Repealed]

[Section 154: repealed, on 1 June 2023, by section 8 of the Crimes (Sexual Offences) Amendment Act 2023 (2023 No 4).]

155 Sodomy

[Repealed]

[Section 155: repealed, on 1 June 2023, by section 8 of the Crimes (Sexual Offences) Amendment Act 2023 (2023 No 4).]

156 Bestiality

(1) Every person is liable to imprisonment for a term not exceeding 7 years who commits bestiality.

(2) This offence is complete upon penetration.

157 Indecency with animal

Every person is liable to imprisonment for a term not exceeding 3 years who commits any act of indecency with an animal.

157A Sexual conduct with children outside Cook Islands

(1) Every person commits an offence who, being a person ordinarily resident in the Cook Islands, does outside the Cook Islands, any act to or in relation to any child under the age of 16 years if that act would, if done in the Cook Islands, constitute an offence against any of the following provisions:

(a) section 145(1) (sexual connection with child under 12):
(b) section 145(2) (attempted sexual connection with child under 12):
(c) section 146 (indecent assault of, or indecency with, child under 12):
(d) section 147 (sexual connection or attempted sexual connection with child between 12 and 16):
(e) section 147A (indecent assault of, or indecency with, child under 16).

(2) Every person who commits an offence against this section in respect of any provision specified in subsection (1) is liable to the same penalty to which he or she would have been liable had he or she been convicted of an offence against that provision.

(3) Where, in respect of any provision specified in subsection (1) (in this subsection referred to as the specified provision), any provision of this Act specifies—

(a) circumstances that constitute a defence to a charge under the specified provision; or
(b) circumstances that do not constitute a defence to a charge under the specified provision; or
(c) circumstances in which the person upon or with whom an offence against the specified provision is committed may not be charged with an offence against the specified provision; or
(d) any time limit on the commencement of proceedings for an offence against the specified provision,

that provision applies in respect of the commencement of proceedings for an offence against this section in respect of the specified provision and in respect of any charge under this section in respect of the specified provision.

[Section 157A: inserted, on 7 May 2003, by section 8 of the Crimes Amendment Act 2003 (2003 No 6).]
[Section 157A(1): amended, on 1 June 2023, by section 13 of the Crimes (Sexual Offences) Amendment Act 2023 (2023 No 4).]

157B Consent of Attorney-General required

(1) No information may be laid for an offence against section 157A except with the consent of the Attorney-General.

(2) A person who is alleged to have committed an offence against this section may be arrested, or a warrant for the arrest of the person may be issued and executed, and any such person may be remanded in custody or on bail, notwithstanding that the consent of the Attorney-General to the laying of an information for the offence has not been obtained, but no further or other proceedings may be taken until that consent has been obtained.

(3) The Attorney-General may, before deciding whether or not to give consent under subsection (1), make such inquiries as he or she thinks fit.

[Section 157B: inserted, on 7 May 2003, by section 8 of the Crimes Amendment Act 2003 (2003 No 6).]

[The next page is 606,401]

Crimes against public welfare

158 Criminal nuisance

(1) Every person commits criminal nuisance who does any unlawful act or omits to discharge any legal duty, such act or omission being one which he or she knew would endanger the lives, safety, or health of the public, or the life, safety, or health of any individual.

(2) Every person who commits criminal nuisance is liable to imprisonment for a term not exceeding 1 year.

159 Keeping place of resort for homosexual acts

[Repealed]

[Section 159: repealed, on 1 June 2023, by section 14 of the Crimes (Sexual Offences) Amendment Act 2023 (2023 No 4).]

160 Brothel-keeping

(1) Every person is liable to imprisonment for a term not exceeding 5 years who—

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

(b) being the tenant, leases, or occupier of any premises or any part thereof to be used as a brothel; or

(c) being the lessor or landlord of any premises, or the agent of the lessor or landlord, lets the premises or any part thereof with knowledge that the premises are to be used part thereof is to be used, or is wilfully a party to the continued use of the premises or any part thereof as a brothel.

(2) In this section, the term **brothel** means any house, room, set of rooms, or place of any kind whatever used for the purposes of prostitution, whatever by one person or more.

[Section 160(2): amended, on 1 June 2023, by section 9 of the Crimes (Sexual Offences) Amendment Act 2023 (2023 No 4).]

161 Living on earnings of prostitution

Every person is liable to imprisonment for a term not exceeding 5 years who knowingly—

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

(b) solicitors or receives any payment, reward, or valuable consideration for soliciting, for any prostitute.

162 Procuring sexual connection

A person is liable to a term of imprisonment not exceeding 5 years if they, for gain or reward, procure or offer to procure another person to have sexual connection with anyone.

[Section 162: replaced, on 1 June 2023, by section 10 of the Crimes (Sexual Offences) Amendment Act 2023 (2023 No 4).]

163 Prostitution

Any common prostitute who loiters and importunes passengers or other persons in any public place for the purpose of prostitution commits an offence and is liable to imprisonment for a term not exceeding 1 month or to a fine not exceeding $20.

164 Misconduct in respect of human remains

Every person is liable to imprisonment for a term not exceeding 2 years who—

(a) neglects to perform any duty imposed on him or her by law or undertaken by him or her with reference to the burial or cremation of any dead human body or human remains; or

(b) improperly or indecently interferences with or offers any indignity to any dead human body or human remains, whether buried or not.

165 Witchcraft

Every person commits an offence and is liable to imprisonment for a term not exceeding 6 months who pretends to exercise or use any kind of witchcraft, sorcery, enchantment or conjuration, or undertakes to tell fortunes.

Public health
[*Repealed*]

[Crossheading: repealed, on 1 September 2024, by Schedule 3 of the Public Health Act 2024 (2024 No 7).]

166–169 *[Repealed]*

Cruelty to animals

170 Cruelty to animals

(1) Every person commits an offence and is liable to imprisonment for a term not exceeding 1 month or to a fine not exceeding $20 who cruelly treats, overdrives, overloads, abuses, tortures, or otherwise ill-treats any animal, or who, being the owner or having the charge of any animal, omits to supply it with proper and sufficient food, water, or shelter.

(2) In this section, **animal** means any beast or bird of any species whatever.

[The next page is 606,901]

Part 8
Crimes against person

170A Standard of care required of persons under legal duties

(1) This section applies in respect of the legal duties specified in any of sections 171, 172, 173, 175, 176 and 177.

(2) For the purposes of this Part, a person is criminally responsible for—

(a) omitting to discharge or perform a legal duty to which this section applies; or

(b) neglecting a legal duty to which this section applies,

only if in the circumstances of the particular case, the omission or neglect is a major departure from the standard of care expected of a reasonable person to whom that legal duty applies in those circumstances.

[Section 170A: inserted, on 7 May 2003, by section 9 of the Crimes Amendment Act 2003 (2003 No 6).]

Duties tending to preservation of life

171 Duty to provide the necessaries of life

(1) Every person who has charge of any other person unable, by reason of detention, age, sickness, insanity, or any other cause, to withdraw himself or herself from such charge, and unable to provide himself or herself with the necessaries of life, is (whether such charge is undertaken by him or her under any contract or is imposed upon him or her by law or by reason of his or her unlawful act or otherwise howsoever) under a legal duty to supply that person with the necessaries of life, and is criminally responsible for omitting without lawful excuse to perform such duty if the death of that person is caused, or if his or her life is endangered or his or her health permanently injured, by such omission.

(2) Every person is liable to imprisonment for a term not exceeding 7 years who, without lawful excuse, neglects the duty specified in this section so that the life of the person under his or her charge is endangered or his or her health permanently injured by such neglect.

172 Duty of parent or guardian to provide necessaries

(1) Every person who as a parent or person in place of a parent is under a legal duty to provide necessaries for any child under the age of 16 years, being a child in his or her actual custody, is criminally responsible for omitting without lawful excuse to do so, whether the child is helpless or not, if the death of the child is caused, or if his or her life is endangered or his or her health permanently injured, by such omission.

(2) Every person is liable to imprisonment for a term not exceeding 7 years who, without lawful excuse, neglects the duty specified in this section so that the life of the child is endangered or his or her health permanently injured by such neglect.

173 Duty of employers to provide necessaries

(1) Every person who as employer has contracted to provide necessary food, clothing, or lodging for any servant or apprentice under the age of 16 years is under a legal duty to provide the same, and is criminally responsible for omitting without lawful excuse to perform such duty if the death of that servant or apprentice is caused, or if his or her life is endangered or his or her health permanently injured, by such omission.

(2) Every person is liable to imprisonment for a term not exceeding 5 years who, without lawful excuse, neglects the duty specified in this section so that the life of the servant or apprentice is endangered or his or her health permanently injured by such neglect.

174 Abandoning child under 6

Every person is liable to imprisonment for a term not exceeding 7 years who unlawfully abandons or exposes any child under the age of 6 years.

175 Duty of persons doing dangerous acts

Every person who undertakes (except in case of necessity) to administer surgical or medical treatment, or to do any other lawful act the doing of which is or may be dangerous to life, is under a legal duty to have and to use reasonable acknowledge, skill, and care in doing any such act, and is criminally responsible for the consequences of omitting without lawful excuse to discharge that duty.

176 Duty of persons in charge of dangerous things

Every person who has in his or her charge or under his or her control anything whatever, whether animate or inanimate, or who erects, makes, operates, or maintains anything whatever, which, in the absence of precaution or care, may endanger human life is under a legal duty to take reasonable precautions against and to use reasonable care to avoid such danger, and is criminally responsible for the consequences of omitting without lawful excuse to discharge that duty.

177 Duty to avoid omissions dangerous to life

Every person who undertakes to do any act the omission to do which is or may be dangerous to life is under a legal duty to do that act, and is criminally responsible for the consequences of omitting without lawful excuse to discharge that duty.

Homicide

178 Homicide defined

Homicide is the killing of a human being by another, directly or indirectly, by any means whatsoever.

179 Killing of a child

(1) A child becomes a human being within the meaning of this Act when it has completely proceeded in a living state from the body of its mother, whether it has breathed or not, whether it has an independent circulation or not, and whether the navel string is severed or not.

(2) The killing of such child is homicide if it dies in consequence of injuries received before, during, or after birth.

180 Culpable homicide

(1) Homicide may be either culpable or not culpable.

(2) Homicide is culpable when it consists in the killing of any person—

(a) by an unlawful act; or

(b) by an omission without lawful excuse to perform or observe any legal duty; or

(c) by both combined; or

(d) by causing that person by threats or fear of violence, or by deception, to do an act which causes his or her death; or

(e) by wilfully frightening a child under the age of 16 years or a sick person.

(3) Except as provided in section 198, culpable homicide is either murder or manslaughter.

(4) Homicide that is not culpable is not an offence.

181 Procuring death by false evidence

Procuring by false evidence the conviction and death of any person by the sentence of the law is not homicide.

182 Death must be within a year and a day

(1) No person is criminally responsible for the killing of another unless the death takes place within a year and a day after the cause of death.

(2) The period of a year and a day must be reckoned inclusive of the day on which the last unlawful act contributing to the cause of death took place.

(3) Where the cause of death is an omission to fulfill a legal duty, the period must be reckoned inclusive of the day on which such omission ceased.

(4) Where death is in part caused by an unlawful act and in part by an omission, the period must be reckoned inclusive of the day on which the last unlawful act took place or the omission ceased, whichever happened last.

183 Killing by influence on the mind

No person is criminally responsible for the killing of another by any influence on the mind alone, except by wilfully frightening a child under the age of 16 years or a sick person, nor for the killing of another by any disorder or disease arising from such influence, except by wilfully frightening any such child as aforesaid or a sick person.

184 Acceleration of death

Every person who by any act or omission causes the death of another person kills that person, although the effect of the bodily injury caused to that person was merely to hasten his or her death while labouring under some disorder or disease arising from some other cause.

185 Causing death that might have been prevented

Every person who by any act or omission causes the death of another person kills that person, although death from that cause might have been prevented by resorting to proper means.

186 Causing injury the treatment of which causes death

Every person who causes to another person any bodily injury, in itself of a

dangerous nature, from which death results, kills that person, although the immediate cause of death be treatment, proper or improper, applied in good faith.

Murder, manslaughter, etc

187 Murder defined

Culpable homicide is murder in each of the following cases—

(a) if the offender means to cause the death of the person killed:

(b) if the offender means to cause to the person killed any bodily injury that is known to the offender to be likely to cause death, and is reckless whether death ensues or not:

(c) if the offender means to cause death, or, being so reckless as aforesaid, means to cause such bodily injury as aforesaid to 1 person, and by accident or mistake kills another person, though he or she does not mean to hurt the person killed:

(d) if the offender for any unlawful object does an act that he or she knows to be likely to cause death, and thereby kills any person, though he or she may have desired that his or her object should be effected without hurting any person.

188 Further definition of murder

(1) Culpable homicide is also murder in each of the following cases, whether the offender means or does not mean death to ensue, or knows or does not know that death is likely to ensue—

(a) if he or she means to cause grievous bodily injury for the purpose of facilitating the commission of any of the offences mentioned in subsection (2), or facilitating the flight or avoiding the detection of the offender upon the commission or attempted commission thereof, or for the purpose of resisting lawful apprehension in respect of any offence whatsoever, and death ensues from such injury:

(b) if he or she administers any stupefying or overpowering thing for any of the purposes aforesaid, and death ensues from the effects thereof:

(c) if he or she by any means wilfully stops the breath of any person for any of the purposes aforesaid, and death ensues from such stopping of breath.

(2) The offences referred to in subsection (1) are those specified in the following provisions—

(a) section 75 (treason) or section 80 (communicating secrets):

(b) section 81 (sabotage):

(c) section 103 (piracy):

(d) section 104 (piratical acts):

(e) sections 129 to 132 (escape or rescue from prison or lawful custody or detention):

(f) section 141 (sexual violation):

(g) section 187 (murder):

(h) section 263 (burglary):

(l) section 317 (arson).

[Section 188(2)(f): replaced, on 1 January 2024, by Schedule 3 of the Legislative Service Amendment Act 2023.]

189 Provocation

(1) Culpable homicide that would otherwise be murder may be reduced to manslaughter if the person who caused the death did so under provocation.

(2) Anything done or said may be provocation if—

(a) in the circumstances of the case it was sufficient to deprive a person having the power of self-control of an ordinary person, but otherwise having the characteristics of the offender, of the power of self-control; and

(b) it did in fact deprive the offender of the power of self-control and thereby induced him or her to commit the act of homicide.

(3) Whether there is any evidence of provocation is a question of law.

(4) Whether, if there is evidence of provocation, the provocation was sufficient as aforesaid, and whether it did in fact deprive the offender of the power of self-control and thereby induced him or her to commit the act of homicide, are questions of fact.

(5) No person may be held to give provocation to another by lawfully exercising any power conferred by law, or by doing anything which the offender incited him or her to do in order to provide the offender with an excuse for killing or doing bodily harm to any person.

(6) This section applies in any case where the provocation was given by the person killed, and also in any case where the offender, under provocation given by one person, by accident or mistake killed another person.

(7) The fact that by virtue of this section one party to a homicide has not been or is not liable to be convicted of murder does not affect the question whether the homicide amounted to murder in the case of any other party to it.

190 Illegal arrest may be evidence of provocation

An illegal arrest does not necessarily reduce the offence from murder to manslaughter; but if the illegality was known to the offender it may be evidence of provocation.

191 Manslaughter

Except as provided in section 198, culpable homicide not amounting to murder is manslaughter.

192 Punishment of murder

Every person who commits murder must upon conviction thereof be sentenced to imprisonment for life.

193 Attempt to murder

Every person who attempts to commit murder is liable to imprisonment for a term not exceeding 14 years.

194 Counselling or attempting to procure murder

Every person is liable to imprisonment for a term not exceeding 10 years who incites, counsels, or attempts to procure any person to murder any other person in the Cook Islands, when that murder is not in fact committed.

195 Conspiracy to murder

(1) Every person is liable to imprisonment for a term not exceeding 10 years who

conspires or agrees with any person to murder any other person, whether the murder is to take place in the Cook Islands or elsewhere.

(2) For the purposes of this section, **to murder** includes to cause the death of another person out of the Cook Islands in circumstances that would amount to murder if the act were committed in the Cook Islands.

196 Accessory after fact to murder

Every person is liable to imprisonment for a term not exceeding 7 years who is an accessory after the fact to murder.

197 Punishment of manslaughter

Every person who commits manslaughter is liable to imprisonment for life.

198 Infanticide

(1) Where a woman causes the death of any child of hers under the age of 10 years in a manner that amounts to culpable homicide, and where at the time of the offence the balance of her mind was disturbed, by reason of her not having fully recovered from the effect of giving birth to that or any other child, or by reason of the effect of lactation, or by reason of any disorder consequent upon childbirth or lactation, to such an extent that she should not be held fully responsible, she is guilty of infanticide, and not of murder or manslaughter, and is liable to imprisonment for a term not exceeding 3 years.

(2) Where upon the trial of a woman for the murder or manslaughter of any child of hers under the age of 10 years there is evidence that would support a verdict of infanticide, the jury or the court as the case may be may return such a verdict instead of a verdict of murder or manslaughter, and the accused is liable accordingly. Section 354(2) must be read subject to the provisions of this subsection, but nothing in this subsection affects the power of the jury or the court as the case may be under that section to return a verdict of manslaughter.

(3) Where upon the trial of a woman for infanticide, or for the murder or manslaughter of any child of hers under the age of 10 years, the jury are, or, as the case may be, the court is, of opinion that at the time of the alleged offence the balance of her mind was disturbed, by reason of her not having fully recovered from the effect of giving birth to that or any other child, or by reason of the effect of lactation, or by reason of any disorder consequent upon childbirth or lactation, to such an extent that she was insane, the jury or the court as the case may be must return a special verdict of acquittal on account of insanity caused by childbirth.

(4) Where the jury or the court as the case may be return a special verdict under subsection (3), the Judge must order that the woman be examined by 2 medical officers, and, the following provisions apply—

(a) if each of the medical officers certifies that the woman is no longer insane and that she is in no need of care and treatment in any institution, the Judge must order that the woman be discharged from custody forthwith:

(b) unless each of the medical officers certifies as aforesaid, the Judge must make an order for medical custody pursuant to section 576 of the Cook Islands Act 1915, and at the same time he or she must issue a warrant for removal to New Zealand pursuant to section 582 of that Act, and thereupon the provisions of sections 584 to 587 of that Act apply.

(7) Nothing in this section affects the power of the jury or the court as the case may be, upon the trial of any woman for infanticide or for murder or manslaughter, to return a verdict, otherwise than under this section, of acquittal on account of insanity; and where any such verdict is returned the provisions of sections 591 to 593 of the Cook Islands Act 1915 apply accordingly.

(8) The fact that by virtue of this section any woman has not been or is not liable to be convicted of murder or manslaughter, whether or not she has been or is liable to be convicted of infanticide, does not affect the question whether the homicide amounted to murder or manslaughter in the case of any other party to it.

199 Aiding and abetting suicide

Every person is liable to imprisonment for a term not exceeding 14 years who—

(a) incites, counsels, or procures any person to commit suicide, if that person commits or attempts to commit suicide in consequence thereof; or

(b) aids or abets any person in the commission of suicide.

200 Suicide pact

(1) Every person who in pursuance of a suicide pact kills any other person is guilty of manslaughter and not of murder, and is liable accordingly.

(2) Where 2 or more persons enter into a suicide pact, and in pursuance of it 1 or more of them kills himself, any survivor is guilty of being a party to a death under a suicide pact contrary to this subsection and is liable to imprisonment for a term not exceeding 5 years; but he or she must not be convicted of an offence against section 199.

(3) For the purposes of this section, **suicide pact** means a common agreement between 2 or more persons having for its object the death of all of them, whether or not each is to take his or her own life; but nothing done by a person who enters into a suicide pact may be treated as done by him or her in pursuance of the pact unless it is done while he or she has the settled intention of dying in pursuance of the pact.

(4) It is for the person charged to prove that by virtue of subsection (1) he or she is not liable to be convicted of murder, or that by virtue of subsection (2) he or she is not liable to be convicted of an offence against section 199.

(5) The fact that by virtue of this section any person who in pursuance of a suicide pact has killed another person has not been or is not liable to be convicted of murder does not affect the question whether the homicide amounted to murder in the case of a third person who is a party to the homicide and is not a party to the suicide pact.

201 Concealing dead body of child

Every person is liable to imprisonment for a term not exceeding 2 years who disposes of the dead body of any child in any manner with intent to conceal the fact of its birth, whether the child died before, or during, or after birth.

[The next page is 607,401]

Abortion

202 Killing unborn child

(1) Every person is liable to imprisonment for a term not exceeding 7 years who causes the death of any child that has not become a human being in such a manner that he or she would have been guilty of murder if the child had become a human being.

(2) No person is guilty of any crime who before or during the birth of any child causes its death by means employed in good faith for the preservation of the life of the mother.

203 Procuring abortion by drug or instrument

(1) Every person is liable to imprisonment for a term not exceeding 7 years who, with intent to procure the miscarriage of any woman or girl, whether she is with child or not—

(a) unlawfully administers to or causes to be taken by her any poison or any drug or any noxious thing; or

(b) unlawfully uses on her any instrument.

(2) The woman or girl must not be charged as a party to an offence against this section.

204 Procuring abortion by other means

(1) Every person is liable to imprisonment for a term not exceeding 5 years who, with intent to procure the miscarriage of any woman or girl, whether she is with child or not, unlawfully uses on her any means whatsoever, not being means to which section 203 applies.

(2) The woman or girl must not be charged as a party to an offence against this section.

205 Female procuring her own miscarriage

Every woman or girl is liable to imprisonment for a term not exceeding 3 years who with intent to procure miscarriage, whether she is with child or not—

(a) unlawfully administers to herself, or permits to be administered to her, any poison or any drug or any noxious thing; or

(b) unlawfully uses on herself, or permits to be used on her, any instrument; or

(c) unlawfully uses on herself, or permits to be used on her, any other means whatsoever.

206 Supplying means of procuring abortion

Every person is liable to imprisonment for a term not exceeding 3 years who unlawfully supplies or procures any poison or any drug or any noxious thing, or any instrument or other thing, whether of a like nature or not, believing that it is intended to be unlawfully used to procure miscarriage.

207 Effectiveness of means used immaterial

The provisions of sections 203 to 206 apply whether or not the poison, drug, thing, instrument, or means administered, taken, used, supplied, or procured was in fact capable of procuring miscarriage.

Assaults and injuries to person

208 Wounding with intent

(1) Every person is liable to imprisonment for a term not exceeding 14 years who, with intent to cause grievous bodily harm to any person, wounds, maims, disfigures, or causes grievous bodily harm to any person.

(2) Every person is liable to imprisonment for a term not exceeding 7 years who, with intent to injure any person, or with reckless disregard for the safety of others, wounds, maims, disfigures, or causes grievous bodily harm to any person.

209 Injuring with intent

(1) Every person is liable to imprisonment for a term not exceeding 10 years who, with intent to cause grievous bodily harm to any person, injures any person.

(2) Every person is liable to imprisonment for a term not exceeding 5 years who, with intent to injure any person, or with reckless disregard for the safety of others, injures any person.

210 Injuring by unlawful act

Every person is liable to imprisonment for a term not exceeding 3 years who injures any other person in such circumstances that if death had been caused he or she would have been guilty of manslaughter.

211 Aggravated wounding or injury

(1) Every person is liable to imprisonment for a term not exceeding 14 years who with intent—

(a) to commit or facilitate the commission of any crime; or

(b) to avoid the detection of himself or herself or of any other person in the commission of any crime; or

(c) to avoid the arrest or facilitate the flight of himself or herself or of any other person upon the commission or attempted commission of any crime—

wounds, maims, disfigures, or causes grievous bodily harm to any person, or stupefies or renders unconscious any person, or by any violent means renders any person incapable of resistance.

(2) Every person is liable to imprisonment for a term not exceeding 7 years who, with any such intent as aforesaid, injures any person.

212 Aggravated assault

(1) Every person is liable to imprisonment for a term not exceeding 3 years who assaults any other person with intent—

(a) to commit or facilitate the commission of any crime; or

(b) to avoid the detection of himself or herself or of any other person in the commission of any crime; or

(c) to avoid the arrest or facilitate the flight of himself or herself or of any other person upon the commission or attempted commission of any crime.

(2) Every person is liable to imprisonment for a term not exceeding 3 years who assaults any constable or any person acting in aid of any constable, or any

person in the lawful execution of any process, with intent to obstruct the person so assaulted in the execution of his or her duty.

213 Assault with intent to injure

Every person is liable to imprisonment for a term not exceeding 3 years who, with intent to injure any person, assaults any person.

214 Assault on a child, or by a male on a female

Every person is liable to imprisonment for a term not exceeding 2 years who—

(a) assaults any child under the age of 14 years; or

(b) being a male, assaults any female.

215 Cruelty to a child

Every person is liable to imprisonment for a term not exceeding 5 years who, having the custody, control, or charge of any child under the age of 16 years, wilfully ill-treats or neglects the child, or wilfully causes or permits the child to be ill-treated, in a manner likely to cause him or her unnecessary suffering, actual bodily harm, injury to health, or any mental disorder or disability.

216 Common assault

Every person is liable to imprisonment for a term not exceeding 1 year who assaults any other person.

217 Award of part of fine as compensation to party injured by assault

(1) Where under this Act any person is convicted of any assault and the court is satisfied that the assault—

(a) was wanton and unprovoked; and

(b) was attended with bodily injury to the person assaulted or with injury to his or her clothes, or with injury to any property then in his or her immediate personal custody—

and where in any such case a fine is imposed on the offender, the court, in its discretion, may award to the person assaulted, by way of compensation, any portion, not exceeding half, of the fine so imposed.

(2) In any case, the order of the court is a sufficient authority to the Registrar receiving the fine for the payment of the portion so awarded to the person assaulted.

(3) The award of any portion of a fine under this section does not affect the right of the person assaulted or of any other person to recover by civil proceedings any damages in excess of the amount so awarded.

218 Assaulting or resisting constables, etc

If any person resists or assaults or wilfully obstructs, or invites or encourages any person to resist, assault, or obstruct, any constable in the execution of his or her duty, or any person acting in aid of such constable, such person may be taken into custody without warrant by any constable, and on conviction is liable to imprisonment for a term not exceeding 6 months or a fine not exceeding $100.

219 Disabling

Every person is liable to imprisonment for a term not exceeding 5 years who, wilfully and without lawful justification or excuse, stupefies or renders unconscious any other person.

220 Discharging firearm or doing dangerous act with intent

(1) Every person is liable to imprisonment for a term not exceeding 14 years who, with intent to do grievous bodily harm—

(a) discharges any firearm, airgun, or other similar weapon at any person; or

(b) sends or delivers to any person, or puts in any place, any explosive or injurious substance or device; or

(c) sets fire to any property.

(2) Every person is liable to imprisonment for a term not exceeding 7 years who, with intent to injure, or with reckless disregard for the safety of others, does any of the acts referred to in subsection (1).

221 Acid throwing

Every person is liable to imprisonment for a term not exceeding 14 years who, with intent to injure or disfigure any person, throws at or applies to any person any corrosive or injurious substance.

222 Poisoning with intent

(1) Every person is liable to imprisonment for a term not exceeding 14 years who, with intent to cause grievous bodily harm to any person, administers to or causes to be taken by any person any poison or other noxious substance.

(2) Every person is liable to imprisonment for a term not exceeding 3 years who, with intent to cause inconvenience or annoyance to any person, or for any unlawful purpose, administers to, or causes to be taken by, any person any poison or other noxious substance.

223 Infecting with disease

Every person is liable to imprisonment for a term not exceeding 14 years who, wilfully and without lawful justification or excuse, causes or produces in any other person any disease or sickness.

224 Setting traps, etc

(1) Every person is liable to imprisonment for a term not exceeding 5 years who, with intent to injure, or with reckless disregard for the safety of others, sets or places or causes to be set or placed any trap or device that is likely to injure any person.

(2) Every person is liable to imprisonment for a term not exceeding 3 years who, being in occupation or possession of any place where any such trap or device has been set or placed, knowingly and wilfully permits it to remain there in such a condition that any person is likely to be injured by it.

224A Possession of offensive weapons or disabling substances

(1) In subsection (4)(a), **offensive weapon** means any article made or altered for use for causing bodily injury, or intended by the person having it with him or her for such use.

(2) In subsection (4)(b), **offensive weapon** means any article capable of being used for causing bodily injury.

(3) In this section, **disabling substance** means any anaesthetising or other substance produced for use for disabling persons, or intended by any person having it with him or her for such use.

(4) Every person is liable to imprisonment for a term not exceeding 2 years—
- (a) who, without lawful authority or reasonable excuse, has with him or her in any public place any knife or offensive weapon or disabling substance; or
- (b) who has in his or her possession in any place any offensive weapon or disabling substance in circumstances that *prima facie* show an intention to use it to commit an offence involving bodily injury or the threat or fear of violence.

(5) It is a defence to a charge under subsection (4)(b) if the person charged proves that he or she did not intend to use the offensive weapon or disabling substance to commit an offence involving bodily injury or the threat or fear of violence.

[Section 224A: inserted, on 7 May 2003, by section 10 of the Crimes Amendment Act 2003 (2003 No 6).]

225 Endangering transport

(1) Every person is liable to imprisonment for a term not exceeding 14 years who, with intent to injure or to endanger the safety of any person—
- (a) removes anything from or places anything on, in, over, or under any place, or any area of water, that is used for or in connection with the carriage of persons or of goods by land, water, or air; or
- (b) does anything to any property that is used for or in connection with the carriage of persons or of goods by land, water, or air; or
- (c) shoots or throws anything at, into, or upon any vehicle, ship, or aircraft; or
- (d) causes anything to come in contact with any vehicle, ship, or aircraft; or
- (e) does any other unlawful act, or wilfully omits to do any act which it is his or her duty to do, in respect of any such place, area of water, or property as aforesaid, or in respect of any vehicle, ship, or aircraft.

(2) Every person is liable to imprisonment for a term not exceeding 5 years who, intentionally and in a manner likely to injure or endanger the safety of any person, does any of the acts referred to in subsection (1).

226 Impeding rescue

(1) Every person is liable to imprisonment for a term not exceeding 10 years who, without lawful justification or excuse, prevents or impedes or attempts to prevent or impede any person who is attempting to save his or her own life or the life of any other person.

(2) No person is guilty of an offence against this section who does any such act as aforesaid in the course of saving his or her own life or the life of any other person.

Bigamy, feigned marriage

227 Bigamy defined

(1) Bigamy is—
- (a) the act of a person who, being married, goes through a form of marriage in the Cook Islands with a third person; or
- (b) the act of a person who goes through a form of marriage in the Cook Islands with any other person whom he or she knows to be married; or

(c) the act of a person ordinarily resident in the Cook Islands, who, being married, goes through a form of marriage with a third person anywhere outside the Cook Islands; or

(d) the act of a person ordinarily resident in the Cook Islands, who goes through a form of marriage anywhere outside the Cook Islands with any other person whom he or she knows to be married.

(2) For the purposes of this section—

(a) a form of marriage is any form of marriage recognised by the law of the Cook Islands, or by the law of the place where it is solemnised, as a valid form of marriage:

(b) no form of marriage may be held to be an invalid form of marriage by reason of any act or omission of the person charged with bigamy, if it is otherwise a valid form.

(3) It is not a defence to a charge of bigamy to prove that if the parties were unmarried they would have been incompetent to contract marriage.

(4) No person commits bigamy by going through a form of marriage if that person—

(a) has been continuously absent from his or her spouse for 7 years then last past; and

(b) is not proved to have known that his or her spouse was alive at any time during those 7 years.

228 Punishment of bigamy

Every person who commits bigamy is liable to imprisonment for a term not exceeding 7 years:

Provided that if the Judge is satisfied that the person with whom the offender went through the form of marriage knew, at the time when the offence was committed, that the marriage would be void, the offender is liable to imprisonment for a term not exceeding 2 years.

229 Feigned marriage

Every person is liable to imprisonment for a term not exceeding 7 years who goes through a form of marriage with any other person, knowing that the marriage will be void for any reason other than that one of the parties is already married:

Provided that if the Judge is satisfied that that other person knew, at the time when the offence was committed, that the marriage would be void, the offender is liable to imprisonment for a term not exceeding 2 years.

Abduction, kidnapping

230 Abduction of person

A person is liable to imprisonment for a term not exceeding 14 years if they take away or detain another person without their consent, or with consent obtained by fraud or duress or in other circumstances where apparent consent was not valid, with intent—

(a) to marry the other person or have sexual connection with them; or

(b) to cause the other person to be married or to have sexual connection with another person.

[Section 230: replaced, on 1 June 2023, by section 11 of the Crimes (Sexual Offences) Amendment Act 2023 (2023 No 4).]

231 Kidnapping

(1) Every person is liable to imprisonment for a term not exceeding 14 years who unlawfully carries off or detains any person without his or her consent, or with his or her consent obtained by fraud or duress, with intent—

(a) to cause him or her to be confined or imprisoned; or

(b) to cause him or her to be sent or taken out of the Cook Islands: or

(c) to hold him or her for ransom or to service.

(2) A child under the age of 16 years is deemed to be incapable of consenting to being carried off or detained.

(3) No person may be convicted of an offence against this section who gets possession of any child, claiming in good faith a right to the possession of the child.

232 Abduction of child under 16

(1) A person is liable to imprisonment for a term not exceeding 7 years if they, with intent to deprive a parent or guardian or other person having the lawful care or charge of a child under 16 years of age of the possession of that child, or with the intent to have sexual connection with the child—

(a) take or entice away or detain the child; or

(b) receive the child, knowing that the child has been taken or enticed away or detained.

(2) It is immaterial whether or not the child consents, or is taken or goes at the child's own suggestion, or whether or not the offender believed the child to be of or over the age of 16.

(3) No person may be convicted of an offence against this section who gets possession of any child, claiming in good faith a right to the possession of the child.

[Section 232(1): replaced, on 1 June 2023, by section 12 of the Crimes (Sexual Offences) Amendment Act 2023 (2023 No 4).]

[The next page is 607,901]

Part 9
Crimes against reputation

233 Criminal libel and publishing defined

(1) A criminal libel is matter published, without lawful justification or excuse, either designed to insult any person or likely to injure the person's reputation by exposing them to hatred, contempt, or ridicule or likely to injure the person in their profession, office, business, trade, or occupation, whether such matter is expressed by words, written or printed, or legibly marked on any substance, or by any object signifying such matter otherwise than by words, and whether expressed directly or by insinuation or irony.

(2) Publishing a criminal libel is—

(a) exhibiting it in public; or

(b) causing it to be read or seen, or showing or delivering it, or causing it to be shown or delivered, with a view to its being read or seen by any person other than the person defamed.

234 Publishing upon invitation

A person does not commit a crime by publishing defamatory matter on the invitation or challenge of the person defamed thereby, or if it is necessary to publish it in order to refute some other defamatory statement published by the last-mentioned person concerning the alleged offender, if such defamatory matter is believed to be true, and is relevant to the invitation or challenge or the required refutation, and if the publishing does not in manner or extent exceed what is reasonably sufficient for the occasion.

235 No prosecution without leave of Judge

(1) No prosecution for criminal libel may be commenced without the leave of a Judge of the High Court.

(2) Notice of intention to apply for such leave must be given to the person to be charged, who must have an opportunity of being heard against the application.

236 Plea of justification

(1) Every person accused of publishing a criminal libel may plead—

(a) that the defamatory matter published by him or her was true, or that he or she believed on reasonable grounds that it was true, or both; and

(b) that it was for the public benefit that the matters charged should, if true, be published in the manner in which and at the time when they were published.

(2) A plea under subsection (1) may justify the defamatory matter in any sense in which it is specified in the information, or in the sense that it bears without being so specified; or separate pleas justifying it in each sense may be pleaded separately to each charge as if 2 libels had been charged in separate informations.

(3) Every such plea must be in writing, and must set out the particular fact or facts by reason of which it is alleged that it was for the public benefit that the matter should be so published.

(4) The prosecutor may in his or her reply deny generally the truth of the plea.

(5) The truth of the matters charged in an alleged libel, and the belief of the accused in the truth thereof, must not be inquired into in the absence of a plea of justification under this section:

Provided that, if the accused is charged with publishing the libel knowing it to be false, evidence of the truth or of such belief as aforesaid may be given in order to negative the allegation that the accused knew the libel to be false.

(6) In addition to a plea of justification under this section, the accused may plead not guilty; and the pleas must be inquired into together.

(7) Where justification is pleaded in accordance with this section and the accused is convicted, the court, in pronouncing sentence, may consider whether his or her guilt is aggravated or mitigated by the plea.

(8) If on a plea of justification under this section the issue is found against the accused the prosecutor is entitled to recover from the accused the costs sustained by the prosecutor by reason of the plea.

(9) If the accused is acquitted he or she is entitled to recover from the prosecutor, if a private person, the costs sustained by the accused by reason of the prosecution, including the costs, if any, incurred in connection with the application for leave to prosecute under section 235.

(10) The costs so to be recovered by the accused or by the prosecutor shall be taxed by the Registrar.

237 Punishment of criminal libel

(1) Every person is liable to imprisonment for a term not exceeding 1 year who publishes any criminal libel.

(2) Every person is liable to imprisonment for a term not exceeding 2 years who publishes any criminal libel knowing it to be false.

238 Criminal slander

(1) Every person is guilty of criminal slander who, without lawful justification or excuse, uses any words that are likely to injure the reputation of any other person by exposing the person to hatred, contempt, or ridicule, or likely to injure the person in their profession, office, business, trade, or occupation, if the words are—

(a) spoken, or reproduced from a recording, within the hearing of more than 12 persons at a meeting to which the public are invited or have access, or within the hearing of more than 12 persons in any place to which the public have or are permitted to have access; or

(b) broadcast by means of radio or television.

(2) The provisions of sections 234 to 237 apply, so far as they are applicable and with the necessary modifications, to criminal slander:

Provided that no prosecution for criminal slander may be commenced under this Act unless the application to the Judge for leave, under section 235, is made to a Judge within 2 months after the commission of the alleged offence.

[The next page is 608,401]

Part 10
Crimes against rights of property

Theft

239 Things capable of being stolen

Every inanimate thing whatsoever, and every thing growing out of the earth, which is the property of any person, and either is or may be made movable, is capable of being stolen as soon as it becomes movable, although it is made movable in order to steal it.

240 Theft of electricity

Electricity is hereby declared to be a thing capable of being stolen; and every person commits theft who fraudulently abstracts, consumes, or uses any electricity.

241 Animals capable of being stolen

(1) All tame living creatures, whether tame by nature or wild by nature and tamed, are capable of being stolen; but tame pigeons are capable of being stolen so long only as they are in a dovecote or on their owner's land.

(2) All living creatures wild by nature, such as are not commonly found in a condition of natural liberty in the Cook Islands are, if kept in a state of confinement, capable of being stolen, not only while so confined, but after they have escaped from confinement.

(3) All other living creatures wild by nature are, if kept in a state of confinement, capable of being stolen so long as they remain in confinement, or are being actually pursued after escaping therefrom, but no longer.

(4) A wild living creature is deemed to be in a state of confinement so long as it is in a den, cage, small enclosure, sty, or tank, or is otherwise so situated that it cannot escape and that its owner can take possession of it at pleasure.

(5) Oysters and oyster-brood are capable of being stolen when in oyster-beds, oyster farms, layings, and fisheries that are the property of any person and are sufficiently marked out or known as such property.

(6) Wild creatures in the enjoyment of their natural liberty are not capable of being stolen, nor shall the taking of their dead bodies by or by the orders of the person who killed them be deemed to be theft.

(7) Everything produced by or forming part of any living creature capable of being stolen is capable of being stolen.

242 Theft defined

(1) Theft or stealing is the act of intentionally and dishonestly taking, or intentionally and dishonestly converting to the use of any person, anything capable of being stolen, with intent—

(a) to deprive the owner, or any person having any special property or interest therein, permanently of such thing or of such property or interest; or

(b) to pledge the same or deposit it as security; or

(c) to part with it under a condition as to its return which the person parting 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 of such taking or conversion.

(2) For the purposes of subsection (1), **taking** does not include obtaining property in or possession of anything with the consent of the person from whom it is obtained, although that consent may be induced by a false pretence; but a subsequent conversion of anything of which possession only is so obtained may be theft.

(3) It is immaterial whether the thing converted was taken for the purpose of conversion or whether it was at the time of the conversion in the possession of the person converting.

(4) Theft is committed when the offender moves the thing, or causes it to move or to be moved, with intent to steal it.

(5) A factor or agent is not guilty of theft by pledging or giving a lien on any goods or document of title to goods entrusted to him or her for the purpose of sale or otherwise for any sum of money not greater than the amount due to him or her from his or her principal at the time of pledging or giving a lien on the same, together with the amount of any bill of exchange or promissory note accepted or made by him or her for or on account of his or her principal.

(6) A servant who, contrary to the orders of master, takes from his or her possession any food for the purpose of giving it or having it given to any horse or other animal belonging to or in the possession of his or her master is not by reason thereof guilty of theft.

243 Theft of animals

Every person commits theft and steals the creature killed who kills any living creature capable of being stolen, with intent to steal its carcass, skin, or plumage, or any part of it.

244 Theft by person required to account

Every person commits theft who, having received any money or valuable security or other thing whatsoever on terms requiring him or her to account for or pay it, or the proceeds of it, or any part of such proceeds, to any other person though not requiring him or her to deliver over *in specie* the identical money, valuable security or other thing received, dishonestly converts to his or her own use or dishonestly omits to account for or pay the same or any part thereof, or to account for or pay such proceeds or any part thereof, which he or she was required to account for or pay as aforesaid:

Provided that if it is part of the said terms that the money or other thing received, or the proceeds thereof, shall form an item in a debtor and creditor account between the person receiving it and the person to whom he or she is to account for or pay the same, and that such last-mentioned person shall rely only on the personal liability of the other as his or her debtor in respect thereof, the proper entry of the amount of the money or proceeds or any part thereof in that account is a sufficient accounting for the amount so entered; and in such case no dishonest conversion of the amount accounted for is deemed to have taken place.

245 Theft by person holding power of attorney

Every person commits theft who, being entrusted, either solely or jointly with any power of attorney for the sale, mortgage, pledge, or other disposition of any real or personal property, whether it is capable of being stolen or not, dishonestly sells, mortgages, pledges, or otherwise disposes of the property or any part thereof, or dishonestly converts the proceeds of any part of the property, to some purpose other than that for which he or she was entrusted with the power of attorney.

246 Theft by misappropriating proceeds held under direction

Every person commits theft who, having received, either solely or jointly with any other person, any money or valuable security, or any power of attorney for the sale of any real or personal property, with a direction that the money or any part thereof, or the proceeds or any part of the proceeds of the security or property, be applied to any purpose or paid to any person specified in the direction, in violation of good faith and contrary to the direction, dishonestly applies to any other purpose or pays to any other person the money or proceeds, or any part thereof:

Provided that where the person receiving the money, security, or power of attorney, and the person from whom he or she 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, this section does not apply unless the direction is in writing.

247 Theft by co-owner

Theft may be committed—

(a) by the owner of anything capable of being stolen against a person having a special property or interest therein; or

(b) by a person having a special property or interest in any such thing against the owner thereof; or

(c) by a lessee against his or her reversioner; or

(d) by one of several joint owners or tenants in common of, or partners in, any such thing against the other persons interested therein; or

(e) by any director, officer, or member of any body corporate against that body corporate.

248 Theft by husband or wife

(1) It is not theft for a husband or a wife to take or convert or otherwise deal with the property of his or her spouse, unless they are living apart from each other.

(2) Despite anything in subsection (1), every person commits theft who, while a husband and wife are living together, knowingly assists either of them in dealing with anything that is the property of the other in a manner that would amount to theft if they were not married.

249 Punishment of theft

Every person who commits theft is liable to the following punishment—

(a) to imprisonment for a term not exceeding 5 years if the theft is one to which section 244 (which relates to theft by a person required to account) or section 245 (which relates to theft by an attorney) or section 246 (which relates to theft by misappropriation) applies:

(b) to imprisonment for a term not exceeding 5 years if the object stolen is—

(i) a testamentary instrument, whether it is stolen during the testator's life or after their death:

(ii) anything stolen by a clerk or servant which belongs to or is in the possession of their employer:

(iii) anything in the possession of the offender as a clerk or servant, or as an officer of the Government or of any Island Council, or as a constable:

(iv) anything stolen from the person of another:

(v) anything stolen from a dwellinghouse:

(vi) anything stolen from a separate receptacle, locked or otherwise secured:

(viii) anything exceeding in value the sum of $40:

(c) to imprisonment for a term not exceeding 1 year if the theft is one for which no other punishment is prescribed by this Act, and if the object stolen exceeds in value the sum of $10:

(d) to imprisonment for a term not exceeding 3 months if the theft is one for which no other punishment is prescribed by this Act, and if the object stolen does not exceed in value the sum of $10.

[The next page is 608,901]

Crimes resembling theft

250 Conversion or attempted conversion of motorcars, etc

(1) Every person is liable to imprisonment for a term not exceeding 5 years who, intentionally and dishonestly, but not so as to be guilty of theft, takes or converts to his or her use or to the use of any other person any of the following things, namely—

(a) any motorcar, or any vehicle of any description:
(b) any ship:
(c) any aircraft:
(d) any part of any motorcar, vehicle, ship, or aircraft:
(e) any horse, mare, or gelding.

(2) Every person is liable to imprisonment for a term not exceeding 2 years who attempts to commit the offence referred to in subsection (1), or who, intentionally and dishonestly interferes with or gets into or upon or attempts to get into or upon any of the things referred to in paragraphs (a) to (d) of that subsection.

(3) In addition to imposing any penalty for an offence against this section the convicting court may order the person convicted of the offence to pay to the owner of any thing or animal destroyed or damaged, by way of compensation for the destruction or damage, a sum not exceeding the amount of the loss suffered by him. The making or enforcement of an order under this subsection does not affect the right of the owner or of any other person to recover by civil proceedings any damages in excess of the sum recovered under the order.

(4) Any order for payment under this section may be enforced in the same manner as a fine.

251 Being in possession of instrument for conversion

(1) Every person is liable to imprisonment for a term not exceeding 1 year who—

(a) has in his or her possession by night any instrument, being an instrument capable of being used for taking or converting any of the things mentioned in section 250(1)(a) to (d), in circumstances that, *prima facie*, show an intention to use it for the taking or converting of any such thing as aforesaid:
(b) has in his or her possession by day any such instrument as aforesaid with intent to take or covert any such thing as aforesaid.

(2) It is a defence to a charge under subsection (1)(a) if the person charged proves that he or she had lawful excuse for having the instrument in his or her possession.

251A Taking or dealing with certain documents with intent to defraud

Everyone is liable to imprisonment for a term not exceeding 5 years, who, with intent to defraud—

(a) takes or obtains any document that is capable of being used to obtain any privilege, benefit, pecuniary advantage, or valuable consideration; or
(b) uses or attempts to use any such document for the purposes of obtaining, for himself or herself or for any other person, any privilege, benefit, pecuniary advantage, or valuable consideration.

[Section 251A: inserted, on 24 July 1986, by section 3 of the Crimes Amendment Act 1986 (1986 No 9).]

252 Criminal breach of trust

(1) Every person commits the crime of criminal breach of trust and is liable to imprisonment for a term not exceeding 7 years who, being a trustee, with intent to defraud and in violation of his or her trust, converts anything of which he or she is trustee to any use not authorised by the trust.

(2) The following persons and no others are trustees within the meaning of this section—

(a) trustees upon express trusts created by any deed, will, or instrument in writing, whether for any public or private or charitable object:

(b) every person upon whom the duty of any such trust devolves or comes:

(c) executors and administrators:

(d) official assignees, liquidators, and other like officers acting in any winding up or dissolution of any company, society, or other body corporate, or in any bankruptcy, and any administrator under Part 4 of the Administration Act 1952:

(e) receivers and managers acting on behalf of debenture holders or creditors, or on behalf of any other persons or classes or persons.

(3) No person may be prosecuted for an offence against this section without the leave of the Minister of Justice, who before giving leave may make such inquiries as he or she thinks fit.

253 Dishonestly destroying document

Every person who destroys, cancels, conceals, or obliterates any document for any dishonest purpose is liable to the same punishment as if he or she had stolen the document, or to imprisonment for a term not exceeding 3 years, whichever is the greater.

254 Dishonest concealment

Every person is liable to imprisonment for a term not exceeding 2 years who moves, takes, or conceals anything capable of being stolen, with the dishonest intention of thereby depriving some person other than the owner of any pecuniary benefit arising from the possession thereof.

255 Bringing into Cook Islands things stolen, etc

(1) Every person is liable to imprisonment for a term not exceeding 3 years who, having obtained elsewhere than in the Cook Islands any property by any act which, if done in the Cook Islands, would have amounted to a crime involving dishonesty brings that property into or has it in the Cook Islands.

(2) It is a defence to a charge under this section to prove that the doing of the act by which the property was so obtained was not an offence under the law of the place where it was done.

Robbery and extortion

256 Robbery

(1) Robbery is theft accompanied by violence or threats of violence, to any person or property, used to extort the property stolen or to prevent or overcome resistance to its being stolen.

(2) Every person who commits robbery is liable to imprisonment for a term not exceeding 10 years.

257 Aggravated robbery

Every person is liable to imprisonment for a term not exceeding 14 years who—

(a) robs any person, and at the time of or immediately before or immediately after such robbery causes grievous bodily harm to any person; or

(b) being together with any other person or persons, robs or assaults with intent to rob, any person; or

(c) being armed with any offensive weapon or instrument, robs or assaults with intent to rob, any person.

258 Compelling execution of documents by force

Every person is liable to imprisonment for a term not exceeding 14 years who, with intent to defraud, by violence to or restraint of the person of another, or by the threat that either the offender or any other person will employ such violence or restraint, compels any person—

(a) to execute, make, accept, endorse, alter, or destroy the whole or any part of any valuable security; or

(b) to write, impress, or affix any name or seal upon or to any document in order that it may be afterwards made or converted into or used or dealt with as a valuable security.

[Section 258(b): amended, on 10 December 2011, by clause 2(4) of the Schedule of the Digital Registers Act 2011 (2011 No 11).]

259 Assault with intent to rob

Every person is liable to imprisonment for a term not exceeding 7 years who assaults any person with intent to rob him.

260 Extortion by certain threats

(1) Every person is liable to imprisonment for a term not exceeding 14 years who, with intent to extort or gain anything from any person—

(a) threatens expressly or by implication to make against or about that person or any other person, living or dead, any accusation or disclosure of any offence, or of any sexual misconduct, whether the accusation or disclosure is true or false; or

(b) threatens expressly or by implication that any person will make any such accusation against or disclosure about any person, living or dead; or

(c) threatens to publish, or offers to abstain from publishing, any criminal libel or criminal slander; or

(d) sends or causes to be sent to any person any document or writing containing any such threat as aforesaid, knowing the contents of that document of writing; or

(e) by any of the means aforesaid compels or attempts to compel any person to execute, make, accept, endorse, alter, or destroy the whole or any part of any valuable security, or to write, impress, or affix any name or seal upon or to any document, in order that it may be afterwards used or dealt with as a valuable security.

(2) For the purposes of subsection (1), **intent to extort or gain** includes an intent to induce any person to confer upon or procure for any person any appointment or office of profit or trust or business.

(3) Every person is liable to imprisonment for a term not exceeding 7 years who does any of the acts mentioned in subsection (1)(a) to (e), with intent to induce any person—

(a) to do any act against his or her will, other than an act which it is his or her legal duty to do; or
(b) not to do any lawful act.

261 Demanding with intent to steal

Every person is liable to imprisonment for a term not exceeding 7 years who, with menaces, demands from any person, either for himself or herself or for any other person, anything capable of being stolen, with intent to steal it.

Burglary

262 Interpretation

(1) For the purposes of this section and of sections 263 to 266—

to break, in relation to any building or ship, means to break any part, internal or external, of the building or ship, or to open by any means whatsoever (including lifting, in the case of things kept in their places by their own weight) any door, window, shutter, cellar-flap, port, hatch, scuttle, or other thing intended to cover openings to the building or ship or to give passage from one part of it to another

building means any building, erection, or structure of any description, whether permanent or temporary and includes a tent, a caravan, or a houseboat; and also includes any enclosed yard or any closed cave or tunnel.

(2) For the purposes of the said sections—
(a) every person who obtains entrance into any building or ship by any threat or artifice used for that purpose, or by collusion with any person in the building or ship, or who enters any chimney or aperture of the building or ship permanently left open for any necessary purpose, is deemed to have broken and entered that building or ship:
(b) an entrance into a building or ship is made as soon as any part of the body of the person making the entrance, or any part of any instrument used by him, is within the building or ship.

263 Burglary

Every person is guilty of burglary and is liable to imprisonment for a term not exceeding 10 years who—
(a) breaks and enters any building or ship with intent to commit a crime therein; or
(b) breaks out of any building or ship either after committing a crime therein or after having entered with intent to commit a crime therein.

264 Entering with intent

Every person is liable to imprisonment for a term not exceeding 5 years who unlawfully enters or is in any building or ship with intent to commit any crime therein.

265 Being armed with intent to break or enter

Every person is liable to imprisonment for a term not exceeding 5 years who is found armed with any dangerous or offensive weapon or instrument whatever, with intent to break or enter any building or ship and to commit any crime therein.

266 Being disguised or in possession of instruments for burglary

(1) Every person is liable to imprisonment for a term not exceeding 3 years who—

(a) has in his or her possession by night any instrument, being an instrument capable of being used for burglary, in circumstances that *prima facie* show an intention to use it for burglary; or

(b) has in his or her possession by day any such instrument as aforesaid with intent to commit any crime; or

(c) has his or her face masked or blackened or is otherwise disguised by night, without lawful excuse (the proof of which lies on the person); or

(d) has his or her face masked or blackened or is otherwise disguised by day, with intent to commit any crime.

(2) It is a defence to a charge under subsection (1)(a) if the person charged proves that he or she had lawful excuse for having the instrument in his or her possession.

267 Being found on property without lawful excuse but not under circumstances disclosing criminal intent

Every person commits an offence and is liable to imprisonment for a term not exceeding 3 months or to a fine not exceeding $40 who without lawful excuse (the proof of which excuse is on the person), but in circumstances that do not disclose the commission of or an intention to commit any other offence, is found at any time in or on any building or in any enclosed yard, garden or area, or in or on board any ship, launch, dredge, yacht, boat, or other vessel.

[The next page is 609,401]

False pretences

268 Definition of false pretence

(1) In this section,—

false representation means—

(a) a representation known to the person making it to be false; or

(b) a representation in the form of a promise which the promisor intends not to perform

representation means a representation—

(a) of a matter of fact, either present or past; or

(b) about a future event; or

(c) about an existing intention, opinion, belief, knowledge, or other state of mind.

(2) A false pretence is a false representation, either by words or otherwise, made with a fraudulent intent to induce the person to whom it is made to act upon it.

(3) Where the representation is in the form of a promise, the existence of an intention not to perform the promise must not be inferred from the fact alone that the promise is not performed.

(4) Exaggerated commendation or depreciation of the quality or anything is not a false pretence unless it is carried to such an extent as to amount to a fraudulent misrepresentation of fact.

(5) It is a question of fact whether such commendation or depreciation as aforesaid does or does not amount to a fraudulent misrepresentation of fact.

269 Obtaining by false pretence

(1) Every person is liable to imprisonment for a term not exceeding 7 years who, with intent to defraud or cause loss to any person by any false pretence, causes or induces any person to execute, make, accept, endorse, or destroy the whole or any part of any valuable security, or to write, impress, or affix any name or seal on any document in order that it may afterwards be made or converted into or used or dealt with as a valuable security.

(2) Every person who, with intent to defraud by any false pretence, either directly or through the medium of any contract obtained by the false pretence, obtains possession of or title to anything capable of being stolen or procures anything capable of being stolen to be delivered to any person other than himself, is liable—

(a) to imprisonment for a term not exceeding 5 years if the value of the thing so obtained or procured exceeds the sum of $40:

(b) to imprisonment for a term not exceeding 1 year if the value of the thing so obtained or procured exceeds the sum of $10 and does not exceed the sum of $40:

(c) to imprisonment for a term not exceeding 3 months if the value of the thing so obtained or procured does not exceed the sum of $10.

[Section 269(2): amended, on 18 May 1973, by section 2 of the Crimes Amendment Act 1973 (1973 No 5).]

270 Obtaining credit fraudulently

Every person is liable to imprisonment for a term not exceeding 1 year who, in incurring any debt or liability, obtains credit by means of any false pretence or by means of any other fraud.

Personation

271 Personation

Every person is liable to imprisonment for a term not exceeding 7 years who personates or represents himself or herself to be any person, living or dead, or the husband, wife, widower, widow, executor, administrator, or any relative of any such person, with intent to fraudulently obtain, for himself or herself or any other person, possession, of or title to any property or any qualification, certificate, diploma, licence, or benefit.

272 Acknowledging instrument in false name

Every person is liable to imprisonment for a term not exceeding 7 years who, without lawful authority or excuse (the proof of which lies on him or her), acknowledges in the name of any other person before any court, Judge, or other person lawfully authorised in that behalf, any recognisance or bond, or any confession of judgment, consent to judgment, or judgment, or any deed or other instrument.

Fraud

273 False statement by promoter, etc

Every person is liable to imprisonment for a term not exceeding 10 years who, being a promoter, director, manager, or officer of any company or body corporate, either existing or intended to be formed, makes, circulates, or publishes, or concurs in making, circulating, or publishing, any prospectus, statement, or account which he or she knows to be false in any material particular—

(a) with intent to induce persons, whether ascertained or not, to become shareholders or members; or

(b) with intent to deceive or defraud the members, shareholders, or creditors of the company or body corporate, or any of them, whether ascertained or not; or

(c) with intent to induce any person or persons, whether ascertained or not, to entrust or advance any property to the company or body corporate, or to enter into any security for its benefit.

274 Falsifying accounts relating to public funds

Every person is liable to imprisonment for a term not exceeding 10 years who, with intent to defraud—

(a) makes any false entry or any alteration in any accounts kept by any Government Department or by any Island Council or public body, or by any bank, being accounts of any public money, or of any other public fund, or being accounts of the owners of any stock, debentures, or other interest in the debt of any Island Council or public body; or

(b) in any manner wilfully falsifies any such accounts as aforesaid; or

(c) makes any transfer of any interest in any stock, debentures, or debt, in the name of any person other than the owner of that interest.

275 False accounting by officer or member of body corporate

Every person is liable to imprisonment for a term not exceeding 7 years who, being a director or an officer or a member of any company or body corporate, with intent to defraud—

(a) destroys, mutilates, alters, or falsifies any account, valuable security, or document belonging to the company or body corporate, or concurs in so doing; or

(b) makes or concurs in making any false entry in, or omits or alters, or concurs in omitting or altering, any material particular from or in any such account, valuable security, or document.

[Section 275(a): amended, on 10 December 2011, by clause 2(5) of the Schedule of the Digital Registers Act 2011 (2011 No 11).]

[Section 275(b): amended, on 10 December 2011, by clause 2(5) of the Schedule of the Digital Registers Act 2011 (2011 No 11).]

276 False accounting by employee

Every person is liable to imprisonment for a term not exceeding 7 years who, being or acting in the capacity of an officer or a clerk or servant, with intent to defraud—

(a) destroys, mutilates, alters, or falsifies any account, valuable security, or document belonging to or in the possession of his or her employer, or received by him or her for or on behalf of his or her employer, or concurs in so doing; or

(b) makes or concurs in making any false entry in, or omits or alters, or concurs in omitting or altering, any material particular from or in any such account, valuable security, or document.

[Section 276(a): amended, on 10 December 2011, by clause 2(6) of the Schedule of the Digital Registers Act 2011 (2011 No 11).]

277 False statement by public officer

Every person is liable to imprisonment for a term not exceeding 2 years who, being an officer, collector, or receiver entrusted with the receipt, custody, or management of any public money, or any part of the revenues of any Island Council or public body, knowingly furnishes any false statement or return of any sum of money collected by him, or entrusted to his or her care, or of any balance of money in his or her hands or under his or her control.

278 Issuing false dividend warrants

Every person is liable to imprisonment for a term not exceeding 7 years who, being in the employment of the Crown or of any Island Council or public body, or of any bank, or of any company or body corporate, with intent to defraud makes out or delivers any dividend warrant, or any warrant for the payment of any interest or money, for an amount, greater or less than that to which the person on whose account the warrant is made out is entitled.

279 Concealing deeds and encumbrances

Every person is liable to imprisonment for a term not exceeding 5 years who, being a seller or mortgagor of any property, or being the solicitor or agent of any

such seller or mortgagor, in order to induce the purchaser or mortgagee to accept the title offered or produced to him, and with intent to defraud, conceals from the purchaser or mortgagee any instrument material to the title, or any encumbrance, or falsifies any document or other evidence on which the title depends or may depend.

280 Conspiracy to defraud

Every person is liable to imprisonment for a term not exceeding 5 years who conspires with any other person by deceit or falsehood or other fraudulent means to defraud the public, or any person ascertained or unascertained, or to affect the public market price of stocks, funds, shares, merchandise, or anything else publicly sold, whether the deceit or falsehood or other fraudulent means would or would not amount to a false pretence as hereinbefore defined.

280A Money laundering

(1) For the purposes of this section, **serious offence** means—

(a) an act or omission that constitutes an offence against the law of the Cook Islands punishable by imprisonment for not less than 12 months or the imposition of a fine of more than $5,000; or

(b) an act or omission that constitutes an offence against the law of another country that, had that act or omission occurred in the Cook Islands, it would have constituted an offence against the law of the Cook Islands punishable by imprisonment for not less than 12 months or the imposition of a fine of more than $5,000.

(2) A person commits the offence of money-laundering if the person—

(a) acquires, possesses or uses property, or engages in a transaction that involves property, knowing or having reason to believe that it is derived directly or indirectly from a serious offence:

(b) converts or transfers property with the aim of—

(i) concealing or disguising the illicit origin of that property; or

(ii) aiding any person involved in the commission of the offence, to evade the legal consequences thereof,

knowing or having reason to believe that the property is derived directly or indirectly from a serious offence:

(c) conceals or disguises the true nature, origin, location, disposition, movement or ownership of the property knowing or having reason to believe that it is derived directly or indirectly from a serious offence:

(d) renders assistance to another person for any of the above.

(3) A person commits an offence under this section if the person—

(a) acquires, possesses or uses property, or engages in a transaction that involves property and is wilfully blind as to the fact that the property is derived directly or indirectly from a serious offence:

(b) converts or transfers property with the aim of—

(i) concealing or disguising the illicit origin of that property; or

(ii) aiding any person involved in the commission of the offence, to evade the legal consequences thereof,

and is wilfully blind as to the fact that the property is derived directly or indirectly from a serious offence:

(c) conceals or disguises the true nature, origin, location, disposition, movement or ownership of the property and is wilfully blind as the fact that the property is derived directly or indirectly from a serious offence:

(e) renders assistance to another person for any of the above.

(4) Knowledge, intent or purpose required as an element of the offence under subsections (2) or (3) may be inferred from objective factual circumstances.

(5) Any person may be convicted of an offence under this section notwithstanding the absence of a conviction in respect of a crime which generated the proceeds alleged to have been laundered.

(6) A person guilty of an offence under the provisions of subsection (2) is liable on conviction, in the case of a person, to a term of imprisonment of up to 5 years or a fine of up to $50,000 and in the case of a person which is a body corporate, 5 times such fine plus (notwithstanding the provisions of any other Act) suspension or cancellation of any licence which it may hold in order to carry out its business activities as determined by the court.

(7) A person guilty of an offence under the provisions of subsection (3) is liable on conviction, in the case of a person, to a term of imprisonment of up to 3 years or a fine of up to $30,000 or to both, and in the case of a person which is a body corporate, 5 times such fine plus (notwithstanding the provisions of any other Act) suspension or cancellation of any licence which it may hold in order to carry out its business activities as determined by the court.

(8) For the avoidance of doubt, a person may be found guilty of an offence under subsections (2) or (3) even if the property involved in the offence is property that is derived directly or indirectly from a serious offence committed by that person.

[Section 280A: inserted, on 7 May 2003, by section 11 of the Crimes Amendment Act 2003 (2003 No 6); replaced, on 1 June 2004, by section 3 of the Crimes Amendment Act 2004 (2004 No 5).]

280B Prejudicing investigation by disclosing information

(1) A person who discloses to another person information or other matter likely to prejudice any investigation of an offence or possible offence of money-laundering, is guilty of an offence by a fine of up to $50,000, or a term of imprisonment of up to 5 years, or both.

(2) In proceedings for an offence against subjection (1), it is a defence to prove that the accused did not know, and had no reasonable grounds for suspecting, that the disclosure was likely to prejudice any investigation of an offence or possible offence of money-laundering where disclosure does not fall within the scope of that person's duties.

[Section 280B: inserted, on 7 May 2003, by section 11 of the Crimes Amendment Act 2003 (2003 No 6).]

280C Immunity from liability for disclosure of information

Where—

(a) any person discloses, to any member of the Police, any information relating to money laundering; and

(b) that information is so disclosed in good faith for the purpose of or in connection with the enforcement or intended enforcement of—

(i) this Act; or

(ii) the Proceeds of Crime Act 2003; or

(iii) the Mutual Assistance in Criminal Matters Act 2003; or

(iv) the Financial Transactions Reporting Act 2003; and

(c) that person is otherwise under any obligation (whether arising by virtue of any enactment or any rule of law or otherwise howsoever) to maintain secrecy in relation to, or not to disclose, that information,—

then, notwithstanding that the disclosure would otherwise constitute a breach of that obligation of secrecy or non-disclosure, the disclosure by that person, to that member of the Police, of that information is not a breach of that obligation of secrecy or non-disclosure or (whether applicable) of any enactment by which that obligation is imposed.

[Section 280C: inserted, on 7 May 2003, by section 11 of the Crimes Amendment Act 2003 (2003 No 6).]

[The next page is 609,901]

Receiving

281 Receiving property dishonestly obtained

(1) Every person who receives anything obtained by any crime, or by any act wherever committed which, if committed in the Cook Islands, would constitute a crime, knowing that thing to have been dishonestly obtained, is liable—

(a) to imprisonment for a term not exceeding 5 years if the value of the thing so received exceeds the sum of $40:

(b) to imprisonment for a term not exceeding 1 year if the value of the thing so received exceeds the sum of $10 and does not exceed the sum of $40:

(c) to imprisonment for a term not exceeding 3 months if the value of the thing so received does not exceed the sum of $10.

(2) Except as provided in subsection (3), where any person is being proceeded against for an offence against this section, the following matters may be given in evidence to prove guilty knowledge, that is to say—

(a) the fact that other property obtained by means of any such crime or act as aforesaid was in the possession of the accused within the period of 12 months before the date on which he or she was first charged with the offence for which he or she is being tried:

(b) the fact that, within the period of 5 years before the date on which he or she was first charged with the offence for which he or she is being tried, he or she was convicted of the crime of receiving:

Provided that the last-mentioned fact may not be proved unless there has been given to the accused, either before or after an information has been laid 7 days notice in writing of the intention to prove the previous conviction, nor until evidence has been given that the property in respect of which the accused is being tried was in his or her possession.

(3) Nothing in subsection (2) applies in any case where the accused is at the same time being tried on a charge of any offence other than receiving.

282 Receiving property of husband or wife

Every person commits the crime of receiving within the meaning of section 281 who, while a husband and wife are living together, receives from either of them anything the property of the other obtained from that other in a manner that would amount to a crime if they were not married, knowing it to have been dishonestly obtained; and the provisions of that section apply accordingly.

283 When receiving is complete

The act of receiving anything unlawfully obtained is complete as soon as the offender has, either exclusively or jointly with the thief or any other person, possession of or control over the thing, or aids in concealing or disposing of it.

284 Receiving after restoration to owner

When the thing unlawfully obtained has been restored to the owner, or when a legal title to the thing so obtained has been acquired by any person, a subsequent receiving of it is not an offence, although the receiver may know that the thing had previously been dishonestly obtained.

285 Taking reward for recovery of stolen goods

Every person is liable to imprisonment for a term not exceeding 3 years who corruptly takes or bargains for any reward, directly or indirectly, in

consideration that he or she will help any person to recover anything obtained by any crime, unless he or she has used all due diligence to cause the offender to be brought to trial for the crime.

Forgery

286 Interpretation

(1) For the purposes of this section and of sections 287 to 302,—

bank note means any negotiable instrument used or intended for use as currency and issued by the Reserve Bank of New Zealand, or by any bank in any country other than New Zealand, or by the Government of any such country, or by any other authority authorised by law to issue notes

document does not include any trade mark on any goods, or any inscription on stone or metal or other like material

false document means a document—

(a) of which the whole or any material part purports to be made by any person who did not make it or authorise its making; or

(b) of which the whole or any material part purports to be made on behalf of any person who did not authorise its making; or

(c) in which, though it purports to be made by the person who did in fact make it or authorise its making, or purports to be made on behalf of the person who did in fact authorise its making, the time or place of its making, where either is material, or any number or distinguishing mark identifying the document, where either is material, is falsely stated; or

(d) of which the whole or some material part purports to be made by a fictitious or deceased person, or purports to be made on behalf of any such person; or

(e) which is made in the name of an existing person, either by him or her or by his or her authority, with the intention that it should pass as being made by some person, real or fictitious, other than the person who makes or authorises it

revenue paper means any paper provided by the proper authority in the Cook Islands or in any other country for the purpose of being used for stamps, licences, permits, post office money orders, postal notes, or postal orders, or for any purpose whatsoever connected with the public revenue of the Cook Islands or of any other country.

(2) For the purposes aforesaid—

(a) it is immaterial in what language a document is expressed or in what country or place it is expressed to have effect:

(b) a crossing on any cheque, draft on a banker, post office money order, postal note, postal order, coupon, or other document of which the crossing is authorised or recognised by law is deemed to be a material part of it.

[Section 286(1) document: replaced, on 10 December 2011, by clause 2(7) of the Schedule of the Digital Registers Act 2011 (2011 No 11).]

287 Forgery

(1) Forgery is making a false document, knowing it to be false, with the intent that

it will in any way be used or acted upon as genuine, whether within the Cook Islands or not, or that some person will be induced by the belief that it is genuine to do or refrain from doing anything, whether within the Cook Islands or not.

(2) For the purposes of this section, **making a false document** includes making any material alteration in a genuine document, whether by addition, insertion, obliteration, erasure, removal, or otherwise.

(3) Forgery is complete as soon as the document is made with such knowledge and intent as aforesaid, although the offender may not have intended that any particular person should use or act upon it as genuine, or should be induced by the belief that it is genuine to do or refrain from doing anything.

(4) Forgery is complete although the false document may be incomplete, or may not purport to be such a document as would be binding or sufficient in law, if it is so made and is such as to indicate that it was intended to be acted on as genuine.

288 Punishment of forgery

Every person who commits forgery is liable to imprisonment for a term not exceeding 10 years.

289 Uttering forged documents

(1) Every person is liable to imprisonment for a term not exceeding 10 years who, knowing a document to be forged—

(a) uses, deals with, or acts upon it as if it were genuine; or

(b) causes any person to use, deal with, or act upon it as if it were genuine.

(2) For the purposes of this section, a document made or altered outside the Cook Islands in a manner that would have amounted to forgery if the making or alteration had been done in the Cook Islands is deemed to be a forged document.

289A Altering or reproducing document with intent to defraud

(1) Every person is liable to imprisonment for a term not exceeding 10 years who, with intent to defraud—

(a) makes any alteration in any document, whether by addition, insertion, deletion, obliteration, erasure, removal, or otherwise; or

(b) by any means, makes a document that is a reproduction of the whole or any part or parts of another document, or of the whole or any parts of 2 or more documents, or of any combination of any of those things,

(2) An offence against subsection (1) is complete as soon as the alteration or document is made with such intent as aforesaid, although the offender may not have intended that any particular person should use or act upon the document so altered or made, or should be induced by it to do or refrain from doing anything.

[Section 289A: inserted, on 7 May 2003, by section 12 of the Crimes Amendment Act 2003 (2003 No 6).]

289B Using altered or reproduced document with intend to defraud

(1) Every person is liable to imprisonment for a term not exceeding 10 years who with intent to defraud, knowing a document to have been altered or made in a manner and with the intent referred to in section 289A(1)—

(a) uses, deals with, or acts upon it; or

(b) causes any person to use, deal with, or act upon it.

(2) For the purposes of this section, it is immaterial that the document was altered or made outside the Cook Islands.

[Section 289B: inserted, on 7 May 2003, by section 12 of the Crimes Amendment Act 2003 (2003 No 6).]

290 Counterfeiting public seals

Every person is liable to imprisonment for a term not exceeding 10 years who—

(a) unlawfully makes or counterfeits any public seal in use at any time in the Cook Islands or any other country, or any seal or stamp used in the Cook Islands or any other country by any court, Island Council public body, or public officer, or the impression of any such seal; or

(b) uses any such seal, stamp, or impression, knowing it to be counterfeit.

291 Counterfeiting corporate seals

Every person is liable to imprisonment for a term not exceeding 5 years who—

(a) unlawfully makes or counterfeits any seal or stamp used in the Cook Islands or any other country by any company or any body corporate to which section 290 does not apply, or by any other person whomsoever, or the impression of any such seal or stamp; or

(b) uses any such seal, stamp, or impression, knowing it to be counterfeit.

292 Sending false telegram

Every person is liable to imprisonment for a term not exceeding 5 years who, with intent to defraud, causes or procures any telegram to be sent or delivered as being sent by the authority of any other person—

(a) knowing that it is not sent by that person's authority; and

(b) with intent that it should be acted upon as being so sent.

293 Procuring execution of document by fraud

Every person is liable to imprisonment for a term not exceeding 10 years who procures the execution of any document by any person by falsely and fraudulently pretending that the contents thereof are different from what they really are.

294 Possessing forged bank notes

Every person is liable to imprisonment for a term not exceeding 7 years who, without lawful authority or excuse (the proof of which lies on him or her), purchases or receives from any person, or has in his or her custody or possession, any forged bank note, whether complete or not, knowing it to be forged.

295 Drawing document without authority

Every person is liable to imprisonment for a term not exceeding 10 years who, without colour of lawful authority, makes or executes, draws, signs, accepts, or endorses in the name or on the account of another person, by procuration or otherwise, any document, or makes use of or utters any such document knowing it to be so made, executed, drawn, signed, accepted, or endorsed.

296 Using probate obtained by forgery or perjury

(1) Every person is liable to imprisonment for a term not exceeding 10 years who demands, receives, or obtains, or causes or procures to be delivered or paid to

any person, anything whatever under, upon, or by virtue of any probate or letters of administration, knowing the will, codicil, or testamentary writing on which the probate or letters of administration were obtained to be forged, or knowing the probate or letters of administration to have been obtained by any false oath, affirmation, or affidavit.

(2) For the purposes of this section, the expression **probate or letters of administration** has the same meaning as in Part 2 of the Administration Act 1952.

297 Paper or implements for forgery

Every person is liable to imprisonment for a term not exceeding 10 years who, without lawful authority or excuse, the proof of which lies on him or her—

(a) makes, uses, or knowingly has in his or her custody or possession, any paper intended to resemble and pass as revenue paper, or as special paper such as is provided and used for making any bank notes; or

(b) makes, uses, or knowingly has in his or her custody or possession, any frame, mould, or instrument for making any such paper, or for producing in or on any such paper any words, figures, letters, marks, lines, or devices peculiar to and used in or on any such paper; or

(c) engraves or in any way makes upon any plate, wood, stone, or other material any words, figures, letters, marks, lines, or devices, the print whereof resembles in whole or in part any words, figures, letters, marks, lines, or devices peculiar to and used in or on any bank note, or in or on any document entitling or evidencing the title of any person to any share or interest in any public stock, annuity, fund, or debt of the Cook Islands or any other country, or in any stock, annuity, fund, or debt of any Island Council or public body, or of any company or any body corporate, whether in the Cook Islands or not; or

(d) uses or knowingly has in his or her custody or possession any plate, wood, stone, or other material upon which any such words, figures, letters, marks, lines, or devices have been engraved or in any way made as aforesaid; or

(e) uses or knowingly has in his or her custody or possession any paper upon which any such words, figures, letters, marks, lines, or devices have been printed or in any way made as aforesaid.

298 Counterfeiting stamps

Every person is liable to imprisonment for a term not exceeding 7 years who—

(a) counterfeits any stamp, whether impressed or adhesive, used at any time for the purposes of postage or revenue by the Government of the Cook Islands or of any other country; or

(b) knowingly sells or exposes for sale or utters or uses any such counterfeit stamp; or

(c) without lawful excuse (the proof of which lies on him or her) makes or knowingly has in his or her possession any die or instrument capable of making the impression of any such stamp as aforesaid; or

(d) fraudulently cuts, tears, or in any way removes from any material any such stamp with intent that any use should be made of the stamp or of any part thereof; or

(e) fraudulently mutilates any such stamp with intent that any use should be made of any part of any such stamp; or

(f) fraudulently fixes or places upon any material, or upon any such stamp as aforesaid, any stamp or part of a stamp which, whether fraudulently or not, has been cut, torn, or in any way removed from any other stamp; or

(g) fraudulently erases or otherwise removes, whether really or apparently, from any stamped material any name, sum, date, or other matter or thing whatsoever written on it, with the intent that any use should be made of the stamp upon such material; or

(h) knowingly and without lawful excuse (the proof of which lies on him or her) has in his or her possession any stamp or part of a stamp which has been fraudulently cut, torn, or otherwise removed from any material, or any stamp which has been fraudulently mutilated, or any stamped material out of which any name, sum, date, or other matter or thing has been fraudulently erased or otherwise removed whether wholly or partially.

299 Falsifying registers

Every person is liable to imprisonment for a term not exceeding 10 years who unlawfully—

(a) destroys, defaces, or damages any register of births, baptisms, marriages, deaths, burials, or cremations, or any copy of any such register, or of any part thereof required by law to be transmitted to the Registrar of the High Court or any other officer; or

(b) inserts in any such register, or in any such copy as aforesaid, any entry, known by him or her to be false, of any matter relating to any birth, baptism, marriage, death, burial, or cremation.

300 Falsifying extracts from registers

Every person is liable to imprisonment for a term not exceeding 7 years who—

(a) certifies any writing to be a true copy of any entry in any such register as is mentioned in section 299, or to be an extract from any such register, knowing the writing to be false; or

(b) knowingly utters any such certificate; or

(c) unlawfully and for any fraudulent purpose takes any such register or any certificate relating thereto from its place of deposit or conceals it; or

(d) being a person having the custody of any such register or certificate, permits it to be so taken or concealed as aforesaid.

301 Uttering false certificates

Every person is liable to imprisonment for a term not exceeding 7 years who—

(a) being by law required to certify that any entry has been made in any such register as is mentioned in section 299, makes such certificate knowing that the entry has not been made:

(b) being by law required to make any statement, or a certificate or declaration, concerning any particular required for the purpose of making entries in any such register, knowingly makes such statement falsely, or makes any such certificate or declaration knowing the same to contain a falsehood:

(c) being an officer having custody of the records of any court, or being the deputy of any such officer, wilfully utters a false copy or certificate of any record:

(d) being an officer required or authorised by law to make or issue a certified copy of any document, or a certified extract from any document, wilfully certifies as a true copy of any document or as a true extract from any document any writing which he or she knows to be untrue in any material particular.

302 Forging certificates

Every person is liable to imprisonment for a term not exceeding 7 years who—

(a) not being an officer, or the deputy of an officer, having custody of the records of any court, fraudulently signs or certifies any copy or certificate of any record, or any copy of any certificate, as if he or she were such an officer or deputy:

(b) not being an officer required or authorised by law to make or issue a certified copy of any document, or a certified extract from any document, fraudulently signs or certifies any copy of any document, or any extract from any document, as if he or she were such an officer.

303 Imitating authorised marks

Every person is liable to imprisonment for a term not exceeding 5 years who, with intent to defraud or deceive, counterfeits or imitates any mark, word, or description which under law is impressed upon or otherwise made or written upon or affixed to any chattel, or upon or to anything containing or connected with any chattel, for the purpose of denoting the quality of that chattel or the fact that it has been tested or examined and approved by or under the authority of any Island Council or public body, or by any public officer.

304 Imitating customary marks

Every person is liable to imprisonment for a term not exceeding 5 years who, with intent to defraud or deceive, counterfeits or imitates any mark, word or description impressed or otherwise made or written upon or affixed to any chattel, or upon or to anything containing or connected with any chattel, which mark, word, or description is by recognised practice understood to denote that the thing upon or to which it is impressed, made, written, or affixed has been examined and certified to be of a particular quality by any particular officer or person, whether that officer or person is or is not authorised by law so to certify.

[The next page is 610,401]

Coinage

305 Interpretation

(1) For the purposes of this section and of sections 306 to 315—

counterfeit coin includes any coin which has been gilt, silvered, washed, coloured, or cased over, or in any manner altered, so as to resemble any current coin of a higher denomination

current coin means coin of any substance whatsoever lawfully current in the Cook Islands or in any other country.

(2) For the purposes aforesaid—

(a) a thing is deemed to be in the possession of any person if he or she has it in his or her personal custody or possession, or if he or she knowingly and wilfully has it in the actual custody or possession of any other person, or in some place (whether occupied by himself or herself or not), for the use or benefit of himself or herself or of any other person:

(b) a coin apparently intended to resemble or pass for any current coin is deemed to resemble that current coin.

306 Preparations for coining

(1) Every person is liable to imprisonment for a term not exceeding 10 years who, without lawful justification or excuse (the proof of which lies on him or her), knowingly makes or mends, or begins or proceeds to make or mend, or buys or sells or has in his or her possession, any puncheon, counter-puncheon, matrix, stamp, die, pattern, or mould in or upon which there is made or impressed, or which will make or impress, or which is adapted and intended to make or impress, the figure, stamp, or apparent resemblance of both or either of the sides of any current coin, or any part of both or either of those sides.

(2) Every person is liable to imprisonment for a term not exceeding 10 years who, without lawful justification or excuse (the proof of which lies on him or her), makes or mends, or begins or proceeds to make or mend, or buys or sells, or has in his or her possession—

(a) any edger, edging or other tool, collar, instrument, or engine adapted and intended for the marking of coin round the edges with letters, grainings, or other marks or figures apparently resembling those on the edges of any current coin, knowing it to be so adapted and intended as aforesaid; or

(b) any press for coinage, or any cutting engine for cutting, by force of a screw or of any other contrivance, round blanks out of any metal or other substance, or any other machine, knowing the press to be a press for coinage or knowing the engine or machine to have been used or to be intended to be used for the false making or counterfeiting of any current coin.

307 Counterfeiting coin

(1) Every person is liable to imprisonment for a term not exceeding 10 years who falsely makes or counterfeits any coin resembling any current coin.

(2) This offence is deemed to be complete although the coin made or counterfeited is not in a fit state to be uttered or the making or counterfeiting thereof has not been finished or perfected.

308 Altering coin

(1) Every person is liable to imprisonment for a term not exceeding 10 years who gilds or silvers, or with any wash or materials capable of producing the colour or appearance of gold or silver or by any means whatsoever washes, cases over, or colours—

(a) any coin whatsoever resembling any current coin; or

(b) any current coin, with intent to make it resemble or pass for any other current coin; or

(c) any substance, being of a fit nature, size, and figure to be coined, with intent that it be coined into counterfeit coin resembling any current coin.

(2) Every person is liable to imprisonment for a term not exceeding 10 years who files or in any manner alters any current coin with intent to make it resemble or pass for any other current coin.

309 Impairing coin

(1) Every person is liable to imprisonment for a term not exceeding 7 years who impairs, diminishes, or lightens any current coin with intent that the coin so impaired, diminished, or lightened may pass for a current coin.

(2) Every person is liable to imprisonment for a term not exceeding 5 years who unlawfully has in his or her possession any filing or clipping, or any gold or silver bullion, or any metal or other substance in dust, solution, or otherwise, which has been produced or obtained by impairing, diminishing, or lightening any current coin, knowing that it has been so produced or obtained.

310 Defacing coin

Every person is liable to imprisonment for a term not exceeding 1 year who—

(a) defaces any current coin by stamping thereon any names, words, or figures, whether the coin is or is not thereby diminished or lightened; or

(b) utters any current coin, knowing it to have been so defaced.

311 Melting coin

(1) Every person is liable to imprisonment for a term not exceeding 1 year who, without the consent of the Minister of Finance (the proof of which lies on the person charged), melts down, breaks up, or uses otherwise than as currency any current coin.

(2) Despite anything in subsection (1), where any person suspects that any coin tendered to him or her as current coin has been diminished otherwise than by reasonable wear, or that it is counterfeit, it is lawful for him or her to break the coin. If the coin, when so broken, appears to have been diminished otherwise than by reasonable wear, or to be counterfeit, the person tendering it bears the loss; but if it is of due weight and appears to be current coin, the person breaking it shall receive it at the rate it was coined for. In this subsection, references to breaking include references to cutting, bending, and defacing.

312 Possessing counterfeit coin

Every person is liable to imprisonment for a term not exceeding 1 year who has in his or her possession any counterfeit coin resembling any current coin, knowing it to be counterfeit, with intent to utter it.

313 Uttering counterfeit coin

Every person is liable to imprisonment for a term not exceeding 3 years who—

(a) utters any counterfeit coin resembling any current coin, knowing it to be counterfeit; or

(b) with intent to defraud, utters as current coin any coin which is not current coin, or any medal or piece of metal or other substance.

314 Buying and selling counterfeit coin

(1) Every person is liable to imprisonment for a term not exceeding 7 years who, without lawful justification or excuse (the proof of which lies on him or her), buys, sells, receives, pays, or puts off, or offers to buy, sell, receive, pay, or put off, any counterfeit coin resembling any current coin at or for a lower rate or value than the counterfeit coin imports, or apparently is intended to import.

(2) An offence against this section is deemed to be complete although the coin bought, sold, received, paid, or put off, or offered to be bought, sold, received, paid, or put off is not in a fit state to be uttered, or the counterfeiting thereof has not been finished or perfected.

315 Importing and exporting counterfeit coin

Every person is liable to imprisonment for a term not exceeding 7 years who, without lawful justification or excuse (the proof of which lies on him or her)—

(a) imports or receives into the Cook Islands any counterfeit coin resembling any current coin, knowing it to be counterfeit; or

(b) exports from the Cook Islands, or puts on board any ship or aircraft for the purpose of being so exported, any counterfeit coin resembling any current coin, knowing it to be counterfeit.

Criminal damage

316 What constitutes criminal damage

(1) For the purposes of sections 317 to 328, every person who causes any event by an act which he or she knew would probably cause it, being reckless whether that event happens or not, is deemed to have caused it wilfully.

(2) Nothing is an offence against any of the provisions of those sections unless it is done without lawful justification or excuse, and without colour of right.

(3) Where the act done results in the destruction of or any damage to anything in which the person charged has an interest, whether total or partial, the existence of that interest does not prevent his or her act being a crime if it is done with intent to defraud or to cause loss to any other person. For the purposes of this subsection, where any property is subject to any mortgage or charge, each of the parties to the mortgage or charge is deemed to have a partial interest in that property.

317 Arson

Every person commits arson and is liable to imprisonment for a term not exceeding 14 years who wilfully sets fire to, or damages by means of any explosive—

(a) any building, erection, or structure, or any ship or aircraft, or any well of any combustible substance, or any mine, or any bush, forest, or plantation; or

(b) any property, whether he or she has an interest in it or not, if he or she knows or ought to know that danger to life is likely to ensue.

318 Attempted arson

Every person is liable to imprisonment for a term not exceeding 10 years who attempts to commit arson, or who wilfully sets fire to, or damages by means or any explosive, any property, whether he or she has an interest in it or not, knowing that any property mentioned in section 317(a) is likely to catch fire or be damaged in consequence thereof.

319 Damage to other property by fire or explosive

Every person is liable to imprisonment for a term not exceeding 7 years who wilfully sets fire to, or damages by means of any explosive, any property other than that mentioned in section 317(a).

320 Attempt to damage property by fire or explosive

Every person is liable to imprisonment for a term not exceeding 5 years who attempts to commit any offence specified in section 319, or who wilfully sets fire to or damages by means of any explosive his or her own property, knowing that any property other than that mentioned in section 317(a) is likely to catch fire or be damaged in consequence thereof.

321 Wilful damage

(1) Every person is liable to imprisonment for a term not exceeding 14 years who wilfully destroys or damages—

(a) any property, whether he or she has an interest in it or not, if he or she knows or ought to know that danger to life is likely to ensue; or

(b) any road, railway, bridge, tunnel, or similar means of communication, or any aerodrome, wharf, quay, or jetty, if he or she knows or ought to know that it is thereby likely to be rendered dangerous, impassable, or unusuable; or

(c) any power station or gas works, or any building, erection, or structure, or any equipment, line, cable, or pipe, used for or in connection with the production, transmission, or distribution of electricity or gas, if he or she knows or ought to know that the supply of electricity or gas is thereby likely to be affected.

(2) Every person is liable to imprisonment for a term not exceeding 7 years who wilfully destroys or damages—

(a) any stopbank, wall, dam, or sluice gate, or any pumping station or pumping equipment, or any other works, if the destruction or damage causes actual danger of flooding; or

(b) any container, building, erection, or structure used for the storage of bulk supplies of gas or liquid fuel.

(3) Every person is liable to imprisonment for a term not exceeding 7 years who wilfully destroys or damages any rare or irreplaceable book, manuscript, original painting, etching, engraving, print, or other work of art, or any rare or irreplaceable article kept for purposes of art or science.

(4) Everyone who wilfully destroys or damages any property in any case not provided for elsewhere in this Act, is liable for—

(a) imprisonment for a term not exceeding 1 year where the value of the property destroyed or damage done, does not exceed $50:

(b) imprisonment for a term not exceeding 3 years where the value of the property destroyed or damage done, exceeds $50.

[Section 321(4): replaced, on 18 August 1972, by section 2 of the Crimes Amendment Act 1972 (1972 No 4).]

322 Wilful waste or diversion of water, gas, or electricity

Every person is liable to imprisonment for a term not exceeding 5 years who, wilfully and with intent to cause loss or harm to any other person, wastes or diverts, or causes to be wasted or diverted, any water, gas, or electricity, not being water, gas, or electricity that he or she has, or honestly believes he or she has, a legal right to use.

323 Interfering with means of transport

(1) Every person is liable to imprisonment for a term not exceeding 7 years who, with intent to cause danger to property—

(a) removes anything from or places anything on, in, over, or under any place, or any area of water, that is used for or in connection with the carriage of persons or of goods by land, water, or air; or

(b) does anything to any property that is used for or in connection with the carriage of persons or of goods by land, water, or air; or

(c) shoots or throws anything at, into, or upon any vehicle, ship, or aircraft; or

(d) causes anything to come in contact with any vehicle, ship, or aircraft; or

(e) does any other unlawful act, or wilfully omits to do any act which it is his or her duty to do, in respect of any such place, area of water, or property as aforesaid, or in respect of any vehicle, ship, or aircraft.

(2) Every person is liable to imprisonment for a term not exceeding 5 years who, intentionally and in a manner likely to cause danger to property, does any of the acts referred to in subsection (1).

324 Wrecking

Every person is liable to imprisonment for a term not exceeding 14 years who—

(a) casts away or destroys any ship or aircraft, whether complete or unfinished; or

(b) does any act tending to the immediate loss or destruction of any ship or aircraft in distress, whether or not he or she has an interest in the ship or aircraft; or

(c) interferes with any marine or aeronautical mark, light, signal, or equipment used for the guidance or control of ships or aircraft, or exhibits or transmits any false mark, light, or signal, with intent to bring any ship or aircraft into danger, whether or not he or she has an interest in the ship or aircraft.

325 Attempting to wreck

Every person is liable to imprisonment for a term not exceeding 10 years who attempts to cast away or destroy any ship or aircraft, whether complete or unfinished.

326 Interfering with signals, etc

Every person is liable to imprisonment for a term not exceeding 7 years who destroys, damages, alters, removes, or conceals, or attempts to destroy, damage, alter, remove, or conceal, any mark, light, signal, or equipment used for the guidance or control of ships or aircraft.

327 Interfering with mines

Every person is liable to imprisonment for a term not exceeding 7 years who, with intent to damage a mine or obstruct the working thereof—

(a) causes water to run into the mine or any subterranean channel communicating therewith; or
(b) damages any shaft or any passage of the mine; or
(c) damages, with intent to render useless, any apparatus, building, bridge, or road belonging to the mine, whether the object damaged is complete or not; or
(d) hinders the working of any such apparatus; or
(e) damages or unfastens, with intent to render useless, any rope, chain, or tackle used in any mine, or upon any way or work connected therewith.

328 Providing explosive to commit crime

Every person is liable to imprisonment for a term not exceeding 7 years who knowingly has in his or her possession or makes any explosive substance, or any dangerous engine, instrument, or thing, with intent thereby to commit, or for the purpose of enabling any other person to commit, a crime.

[Section 328: amended, on 1 June 2004, by section 4 of the Crimes Amendment Act 2004 (2004 No 5).]

328A Use of explosive or toxic or poisonous substances in fishing

[*Repealed*]

[Section 328A: repealed, on [TBC], by section 62 of the Marine Resources Act 1989 (1989 No 33).]

[The next page is 610,901]

Part 10A
Offences relating to passports

[Part 10A: inserted, on 15 August 1994, by section 2 of the Crimes Amendment Act 1994 (1994 No 8).]

328A Interpretation

In this Part, unless the context otherwise requires—

applicant, in relation to an application for a passport, means the person who will be the holder of the passport if the application is granted

certificate of identity means a document (other than a passport) issued by the Government of any country to any person for the purposes of facilitating his or her entry into or his or her exit from any country, and purporting to establish the identity but not the nationality of that person

New Zealand passport means a passport issued by or on behalf of the Government of New Zealand to a New Zealand citizen

passport means a document that is issued by or on behalf of the Government of any country, and that purports to establish the identity and nationality of the holder; but does not include such a document that has expired and is incapable of being renewed, or that has been cancelled.

328B Possession of unauthorised material

(1) Every person commits an offence who, without lawful authority or reasonable excuse, makes or uses or has in his or her possession or disposes of any paper or other material that he or she knows is specially provided by the proper authorities for any purpose relating to passports.

(2) Every person who commits an offence against subsection (1) is liable on conviction to imprisonment for a term not exceeding 2 years or to a fine not exceeding $1,000, or to both.

328C Misusing passport

(1) Every person commits an offence who—

(a) except as may be permitted by law for purposes of travel and without reasonable excuse, uses a New Zealand passport that has expired or has been cancelled; or

(b) for purposes of travel or identification and without reasonable excuse, uses a New Zealand passport that was issued to or in respect of another person; or

(c) being a person to whom a New Zealand passport has been issued, without reasonable excuse permits another person to use that passport for purposes of travel or identification; or

(d) without lawful authority, takes or retains in his or her possession or under his or her control a New Zealand passport against the will of the holder; or

(e) without reasonable excuse, has in his or her possession or under his or her control—

(i) a New Zealand passport that he or she knows or has reason to suspect has been falsified; or

(ii) a document (not being a New Zealand passport) that purports to be a passport; or

(f) without reasonable excuse, has in his or her possession or under his or her control within the Cook Islands—

(i) a passport issued by or on behalf of the Government of any country other than New Zealand, being a passport that he or she knows or has reason to suspect has been falsified; or

(ii) a document (not being a passport issued at any time by or on behalf of the Government of any country other than New Zealand) that purports to be a passport issued by or on behalf of such a Government.

(2) Every person commits an offence who wilfully defaces or destroys a New Zealand passport.

(3) Every person who commits an offence against subsection (1) or subsection (2) is liable on conviction to imprisonment for a term not exceeding 2 years or to a fine not exceeding $1,000, or to both.

328D False representation

(1) Every person commits an offence who whether for his or her own benefit or for the benefit of any other person—

(a) makes a statement that he or she knows to be false in a material particular; or

(b) recklessly makes a statement that is false in a material particular—

for the purpose of procuring a passport, seeking a renewal or endorsement of any such passport, or procuring the issue, endorsement or renewal of any certificate of identity.

(2) Every person who commits an offence against subsection (1) is liable on conviction to imprisonment for a term not exceeding 2 years, or to a fine riot exceeding $1,000, or to both.

[The next page is 611,401]

Part 11
Threatening, conspiring, and attempting to commit offences

329 Threatening to kill or do grievous bodily harm

Every person is liable to imprisonment for a term not exceeding 7 years who—

(a) threatens to kill or do grievous bodily harm to any person; or

(b) sends or causes to be received, knowing the contents thereof, any letter or writing containing any threat to kill or do grievous bodily harm to any person.

330 Threatening to destroy property

(1) Every person is liable to imprisonment for a term not exceeding 3 years who sends or causes to be received, knowing the contents thereof, any letter or writing threatening to destroy or damage any property, or to destroy or injure any animal.

(2) Nothing is an offence against subsection (1) unless it is done without lawful justification or excuse, and without colour of right.

331 Threatening acts

Every person is liable to imprisonment for a term not exceeding 3 years who, with intent to intimidate or annoy any person—

(a) breaks or damages or threatens to break or damage any dwellinghouse; or

(b) by the discharge of firearms or otherwise, alarms or attempts to alarm any person in any dwellinghouse.

332 Conspiring to prevent collection of rates or taxes

Every person is liable to imprisonment for a term not exceeding 2 years who conspires with any person by force or intimidation to prevent the collection of any rates or taxes the levying and collection of which is authorised by law.

333 Conspiring to commit offence

(1) Subject to the provisions of subsection (2), every person who conspires with any person to commit any offence, or to do or omit, in any part of the world, anything of which the doing or omission in the Cook Islands would be an offence, is liable to imprisonment for a term not exceeding 7 years if the maximum punishment for that offence exceeds 7 years' imprisonment, and in any other case is liable to the same punishment as if he or she had committed that offence.

(2) This section does not apply where a punishment for the conspiracy is otherwise expressly prescribed by this Act or by some other enactment.

(3) Where under this section any person is charged with conspiring to do or omit anything anywhere outside the Cook Islands it is a defence to prove that the doing or omission of the act to which the conspiracy relates was not an offence under the law of the place where it was, or was to be, done or omitted.

334 Attempt to commit or procure commission of offence

(1) Every person who attempts to commit any offence in respect of which no punishment for the attempt is expressly prescribed by this Act or by some other

enactment is liable to imprisonment for a term not exceeding 10 years if the maximum punishment for that offence is imprisonment for life, and in any other case is liable to not more than half the maximum punishment to which he or she would have been liable if he or she had committed that offence.

(2) Every person who incites, counsels, or attempts to procure any person to commit any offence, when that offence is not in fact committed, is liable to the same punishment as if he or she had attempted to commit that offence, unless in respect of any such case a punishment is otherwise expressly provided by this Act or by some other enactment.

335 Accessory after fact to crime

Every person who is accessory after the fact to any crime punishable by imprisonment, being a crime in respect of which no express provision is made by this Act or by some other enactment for the punishment of an accessory after the fact, is liable to imprisonment for a term not exceeding 7 years if the maximum punishment for that crime is imprisonment for life, and not exceeding 5 years if such maximum punishment is imprisonment for 10 or more years; and in any other case is liable to not more than half the maximum punishment to which he or she would have been liable if he or she had committed the crime.

[The next page is 611,901]

Part 12
Market trading offences

[Part 12: repealed, on 5 June 1981, by Schedule 4 of the Criminal Procedure Act 1980–81 (1980–81 No 28); inserted, on 7 May 2003, by section 13 of the Crimes Amendment Act 2003 (2003 No 6).]

336 Interpretation of Part 12

(1) In this Part, unless the context otherwise requires—

disseminate includes make available, publish, and circulate; and also includes disseminate by letter, newspaper, broadcasting, television, cinematograph film, or any other means whatsoever

financial market is an exchange, market, or other facility whether within or beyond the Cook Islands, through which offers to acquire or dispose of, or trade securities are regularly made or accepted

information includes—

(a) matters of supposition and other matters that are insufficiently definite to warrant being made known to the public; and

(b) matters relating to the intentions, or likely intentions, of a person

inside information means information in relation to particular securities which—

(a) is not generally available; and

(b) if the information were generally available, a reasonable person would expect it to have a material effect on the price or value of such securities

insider means a person who has inside information

person includes a corporation sole, a company or other body corporate (whether incorporated in the Cook Islands or elsewhere), an unincorporated body of persons, a public body, and a Government department

security means any class of interest or right to participate in any capital, assets, earnings, royalties, or other property of any person which is traded on a financial market, and includes any interest in or right to be paid money that is, or is to be, deposited with, lent to, or otherwise owing by, any person (whether or not the interest or right is secured by a charge over any property); and **securities** has a corresponding meaning.

(2) For the purposes of this Part, information is generally available if—

(a) it consists of readily observable matter; or

(b) both of the following subparagraphs apply:

(i) it has been made known in a manner that would, or would be likely to, bring it to the attention of persons who commonly invest in securities of a kind whose price might be affected by the information; and

(ii) since it was made known, a reasonable period for it to be disseminated among such persons has elapsed; or

(c) it consists of deductions, conclusions or inferences made or drawn from either or both of the following:

(i) information referred to in paragraph (a):

(ii) information made known as mentioned in subparagraph (b)(i).

(3) For the purposes of this Part, a reasonable person would be taken to expect information to have a material effect on the price or value of particular securities if (and only if) the information would, or would be likely to, influence persons who commonly acquire such securities in deciding whether or not to acquire or dispose of the first-mentioned securities.

337 Prohibited conduct by person in possession of inside information

(1) If an insider knows, or ought reasonably to know, that the matters specified in paragraphs (a) and (b) of the definition of inside information in section 336 are satisfied in relation to the information, the insider must not (whether as principal or agent)—

(a) apply for, acquire, or dispose of, such securities, or enter into an agreement to apply for, acquire, or dispose of, such securities; or

(b) procure another person to apply for, acquire, or dispose of, relevant securities, or enter into an agreement to apply for, acquire, or dispose of, such securities.

(2) If an insider knows, or ought reasonably to know, that the matters specified in paragraphs (a) and (b) of the definition of inside information in section 336 are satisfied in relation to the information, the insider must not, directly or indirectly, communicate the information, or cause the information to be communicated, to another person if the insider knows, or ought reasonably to know, that the other person would or would be likely to—

(a) apply for, acquire, or dispose of, such securities, or enter into an agreement to apply for, acquire, or dispose of, such securities; or

(b) procure another person to apply for, acquire, or dispose of, such securities, or enter into an agreement to apply for, acquire, or dispose of, such securities.

338 Exceptions to section 337

(1) No action may be brought against an insider under section 337 if—

(a) the securities are disposed of, or acquired, in that person's own name or in the name, or on behalf, of that person's spouse or child; and

(b) in disposing of or acquiring the securities that person complies with a procedure approved by the relevant supervisory authority for ensuring that no insider uses that information in disposing of or acquiring securities for personal gain.

(2) No action may be brought against an insider under section 337 in respect of the acquisition of securities which results from a take-over offer made by the insider in accordance with applicable companies legislation.

339 Market manipulation

A person must not take part in, or carry out (whether directly or indirectly) in 1 or more transactions that have or are likely to have the effect of—

(a) creating an artificial price for trading in securities; or

(b) maintaining at a level that is artificial (whether or not it was previously artificial) a price for trading in securities.

340 False trading and market rigging

(1) A person must not do, or omit to do, an act if that act or omission has or is likely to have the effect of creating, or causing the creation of, a false or misleading appearance—

(a) of active trading in securities; or
(b) with respect to the market for, or the price for trading in, securities.

(2) A person must not enter into, or engage in, a fictitious or artificial transaction or device if that transaction or device results in—
(a) the price for trading in securities being maintained, inflated or depressed; or
(b) fluctuations in the price for trading in securities.

(3) For the purposes of subsection (1), but without limiting that subsection, a person is taken to have created a false or misleading appearance of active trading in particular securities if the person enters into, or carries out, either directly or indirectly, any transaction of acquisition or disposal of any of those securities that does not involve any change in the beneficial ownership of the securities.

(4) For the purposes of subsection (3), an acquisition or disposal of securities does not involve a change in the beneficial ownership if—
(a) a person who had an interest in the securities before the acquisition or disposal; or
(b) an associate of such a person;

has an interest in the securities after the acquisition or disposal.

341 False or misleading statements

(1) A person must not make a statement, or disseminate information, if—
(a) the statement or information is false in a material particular or is materially misleading; and
(b) the statement or information is likely;
(i) to induce persons to apply for securities; or
(ii) to induce persons to dispose of or acquire securities; or
(iii) to have the effect of increasing, reducing, maintaining or stabilising the price for trading in securities; and
(c) when the person makes the statement, or disseminates the information;
(i) the person does not care whether the statement or information is true or false; or
(ii) the person knows, or ought reasonably to have known, that the statement or information is false in a material particular or is materially misleading.

342 Offences

Any person who fails to comply with any of the requirements of this Part is guilty of an offence punishable on conviction—
(a) if an individual by a fine not exceeding $50,000 or imprisonment for a term not exceeding 2 years or both:
(b) if a body corporate to a fine not exceeding $250,000.

[The next page is 612,401]

Part 13
Miscellaneous provisions

412 Consent of Attorney-General to proceedings in certain cases for offences on ships or aircraft

[*Repealed*]

[Section 412: repealed, on 5 June 1981, by Schedule 4 of the Criminal Procedure Act 1980–81 (1980–81 No 28).]

413 Contempt of court

[*Repealed*]

[Section 413: repealed, on 5 June 1981, by Schedule 4 of the Criminal Procedure Act 1980–81 (1980–81 No 28).]

414 Costs

(1) Where any person is convicted by the court of any offence, the court may order the offender to pay such sum as it thinks just and reasonable towards the costs of the prosecution.

(2) Where on the arrest of the offender any money was taken from him or her the court may in its discretion order the whole or any part of the money to be applied to any such payment.

(3) Where any person is acquitted by the court of any offence, the court may order the prosecutor to pay to that person such sum as it thinks just and reasonable towards the costs of his or her defence.

(4) Any order for payment under this section, upon being filed in the court, has the effect of a judgment.

415 Compensation for loss of property

(1) On the conviction of any person for any offence the court may order the offender to pay to any person such sum as it thinks fit by way of compensation for any loss of or damage to property suffered by that person through or by means of the offence.

(2) Where on the arrest of the offender any money was taken from him or her the court may in its discretion order the whole or any part of the money to be applied to any such payment.

(3) Any order for payment under this section may be enforced in the same manner as a fine.

(4) An order under this section does not affect the right of any person to recover by civil proceedings any sum in excess of the amount recovered under the order.

416 Restitution of property

(1) Where any person is convicted of any offence, any property found in his or her possession, or in the possession of any other person for him, may be ordered by the court to be delivered to the person who appears to the court to be entitled thereto.

(2) Where an order is made under subsection (1), and it appears to the court that a purchaser has bought the property in good faith and without knowledge that it

was dishonestly obtained, the court may order that on the restitution of the property the offender must pay to the purchaser a sum not exceeding the amount paid by him. The provisions of section 415(2) to (4) apply to any such order.

(3) Where any person is convicted of having stolen or dishonestly obtained any property, and it appears to the court that the property has been pawned to a pawnbroker, the court may order the pawnbroker to deliver it to the person appearing to the court to be entitled to it, either on payment or without payment to the pawnbroker of the amount of the loan or any part thereof, as the court in all the circumstances of the case deems just:

Provided that before an order is made for the delivery of the property without payment to the pawnbroker, he or she must be given an opportunity to be heard.

(4) If the person in whose favour any order under subsection (3) is made thereby obtains the property, he or she must not afterwards question the validity of the pawn.

(5) Except as provided in subsection (4), no order made under this section has any further effect than to change the possession, and no such order prejudices any right of property, or any right of action in respect of any property, existing or acquired in the goods either before or after the offence was committed.

417 Civil remedy not suspended

No civil remedy for any act or omission is suspended by reason that such act or omission amounts to an offence.

418 Act binds the Crown

This Act binds the Crown.

419 Regulations

(1) The Queen's Representative may from time to time, by Order in Executive Council, make all such regulations as may in his or her opinion be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

(2) All regulations made under this section must be laid before Parliament within 28 days after the date of their making if Parliament is then in session, and if not, must be laid before Parliament within 28 days after the date of the commencement of the next ensuing session.

[Section 419(1): amended, on 6 April 1982, by section 4(3) of the Constitution Amendment (No 10) Act 1981–82 (1981–82 No 20).]

419A Transitional provision relating to Crimes (Sexual Offences) Amendment Act 2023

(1) This section applies if—

(a) proceedings are commenced on or after the day the Crimes (Sexual Offences) Amendment Act 2023 (the **amendment Act**) comes into force for—

(i) an offence under a repealed section in reliance on section 20(h) of the Acts Interpretation Act 1924; or

(ii) an offence under a repealed section in reliance on section 20(h) of the Acts Interpretation Act 1924 and, in the alternative, for an offence under a replacement section; and

(b) for—

(i) subclause (1)(a)(i), the date of the act or omission by the defendant constituting the alleged offence is alleged to have occurred before the amendment Act comes into force:

(ii) for subclause (1)(a)(ii), the date of the act or omission by the defendant constituting the alleged offence cannot be established with sufficient certainty to determine whether it occurred before or after the amendment Act comes into force.

(2) A repealed section continues to have effect for the purpose of the proceedings and the defendant is entitled to raise any defence to the offence under the repealed section that would have been available to them immediately before its repeal.

(3) Despite subsections (1) and (2), on and from the date the amendment Act comes into force, no prosecution may be taken against a person for an offence under—

(a) repealed sections 154 and 155, unless the alleged offending was against a child under 16 years:

(b) repealed section 159.

(4) In this section,—

repealed section means any section or part of a section that is repealed or amended by the amendment Act as it read immediately before its repeal or amendment

replacement section means any section or part of a section that is replaced or amended by the amendment Act as it read after its replacement or amendment.

[Section 419A: inserted, on 1 June 2023, by section 15 of the Crimes (Sexual Offences) Amendment Act 2023 (2023 No 4).]

420 Amendments, repeals and revocation

(1) The Cook Islands Act 1915 is amended in the manner indicated in Schedule 2.

(2) The enactments specified in Schedule 3 are repealed.

(3) Rule 87 of the Rules of the High Court 1916 is revoked.

[The next page is 612,901]

Schedule 1

[Repealed]

[Schedule 1: repealed, on 5 June 1981, by Schedule 4 of the Criminal Procedure Act 1980–81 (1980–81 No 28).]

This Act is administered by the Justice Department.
Published under the authority of the Parliament of the Cook Islands.

[The next page is 630,001]