



TURKS AND CAICOS ISLANDS

CHAPTER 3.10
THEFT ORDINANCE

Revised Edition
showing the law as at 31 August 2009

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Ordinance 1997.

This edition contains a consolidation of the following laws—

THEFT ORDINANCE

Ordinance 13 of 1985 .. in force 14 March 1986 (L.N. 12/1986)

Amended by Ordinance 14 of 1987 .. in force 29 January 1988 (L.N. 6/1988)

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No Subsidiary Legislation has been made under this Ordinance



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THEFT ORDINANCE
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CHAPTER 3.10
THEFT ORDINANCE

(Ordinances 13 of 1985 and 14 of 1987)

AN ORDINANCE TO AMEND THE LAW RELATING TO THEFT AND SIMILAR OR ASSOCIATED OFFENCES; AND FOR PURPOSES CONNECTED THEREWITH.

Commencement

[14 March 1986]

PART I

PRELIMINARY

Short title

1. This Ordinance may be cited as the Theft Ordinance.

Interpretation

2. (1) In this Ordinance “deception” means any deception (whether deliberate or reckless) by words or conduct as to fact or as to law, including deception as to the present intentions of the person using the deception of any other person.

(2) For the purposes of this Ordinance—

(a) “gain” and “loss” are to be construed as extending only to gain or loss in money or other property, but as extending to any such gain or loss whether temporary or permanent; and

(i) “gain” includes a gain by keeping what one has, as well as gain by getting what one has not; and

(ii) “loss” includes a loss by not getting what one might get, as well as a loss by parting with what one has;

(b) “goods”, except in so far as the context otherwise requires, includes money and every other description of property except land, and includes things severed from the land by stealing.

(3) Subsection (1) of section 6 and subsection (1) of section 7 shall apply generally for the purposes of this Ordinance as they apply for the purposes of section 3.

(4) For the purposes of this Ordinance a person shall be deemed to be a director of a body corporate if he is a person in accordance with whose directions or instructions the directors of the body corporate or any of them act.

Basic definition of “theft”

3. (1) A person is guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it; and “thief” and “steal” shall be construed accordingly.

(2) It is immaterial whether the appropriation is made with a view to gain, or is made for the thief’s own benefit.

(3) The five following sections shall have effect as regards the interpretation and operation of this section; and, except as otherwise provided by this Ordinance, shall apply only for the purposes of this section.

“Dishonestly”

4. (1) A person’s appropriation of property belonging to another is not to be regarded as dishonest—

- (a) if he appropriates the property in the belief that he has in law the right to deprive the other of it, on behalf of himself or of a third person;
- (b) if he appropriates the property in the belief that he would have the other’s consent if the other knew of the appropriation and the circumstances of it; or
- (c) except where the property came to him as trustee or personal representative, if he appropriates the property in the belief that the person to whom the property belongs cannot be discovered by taking reasonable steps.

(2) A person’s appropriation of property belonging to another may be dishonest notwithstanding that he is willing to pay for the property.

“Appropriates”

5. (1) Any assumption by a person of the rights of an owner amounts to an appropriation, and this includes, where he has come by the property (innocently or not) without stealing it, any later assumption of a right to it by keeping or dealing with it as owner.

(2) Where property or a right or interest in property is or purports to be transferred for value to a person acting in good faith, no later assumption by him of rights which he believed himself to be acquiring shall, by reason of any defect in the transferor’s title, amount to theft of the property.

“Property”

6. (1) “Property” includes money and all other property, real or personal, including things in action and other intangible property.

(2) A person cannot steal land, or things forming part of land and severed from it by him or by his directions, except in the following cases, that is to say—

- (a) when he is a trustee or personal representative, or is authorised by power of attorney, or as liquidator of a company, or otherwise, to

sell or dispose of land belonging to another and he appropriates the land or anything forming part of it by dealing with it in breach of the confidence reposed in him;

- (b) when he is not in possession of the land and appropriates anything forming part of the land by severing it or causing it to be severed, or after it has been severed; or
- (c) when, being in possession of the land under a tenancy, he appropriates the whole or part of any fixture or structure let to be used with the land.

(3) For the purposes of subsection (2) “land” does not include incorporeal hereditaments; “tenancy” means a tenancy for years or any less period, and includes an agreement for such a tenancy, but a person who after the end of a tenancy remains in possession is to be treated as having possession under the tenancy; and “let” shall be construed accordingly.

(4) A person who picks flowers, fruit or foliage from a plant growing wild on any land, does not (although not in possession of the land) steal what he picks, unless he does it for reward or for sale or other commercial purpose.

(5) For the purposes of subsection (4) “plant” includes any shrub or tree.

(6) Wild creatures, tamed or untamed, shall be regarded as property; but a person cannot steal a wild creature not tamed nor ordinarily kept in captivity, or the carcase of any such creature, unless it has been reduced into possession by or on behalf of another person and possession of it has not since been lost or abandoned, or another person is in course of reducing it into possession.

“Belonging to another”

7. (1) Property shall be regarded as belonging to any person having possession or control of it, or having in it any proprietary right or interest (not being an equitable interest arising only from an agreement to transfer or grant an interest).

(2) Where property is subject to a trust, the persons to whom it belongs shall be regarded as including any person having a right to enforce the trust; and an intention to defeat the trust shall be regarded accordingly as an intention to deprive of the property any person having that right.

(3) Where a person receives property from or on account of another, and is under an obligation to the other to retain and deal with that property or its proceeds in a particular way, the property or proceeds shall be regarded (as against him) as belonging to the other.

(4) Where a person gets property by another’s mistake, and is under an obligation to make restoration (in whole or in part) of the property or its proceeds or of the value thereof, then to the extent of that obligation the property or proceeds shall be regarded (as against him) as belonging to the person entitled to restoration, and an intention not to make restoration shall be regarded accordingly as an intention to deprive that person of the property or proceeds.

(5) Property of a corporation sole shall be regarded as belonging to the corporation notwithstanding a vacancy in the corporation.

“With the intention of permanently depriving the other of it”

8. (1) A person appropriating property belonging to another, without meaning the other permanently to lose the thing itself, is nevertheless to be regarded as having the intention of permanently depriving the other of it if his intention is to treat the thing as his own to dispose of regardless of the other’s rights; and a borrowing or lending of it may amount to so treating it if, but only if, the borrowing or lending is for a period and in circumstances making it equivalent to an outright taking or disposal.

(2) Without prejudice to the generality of subsection (1), where a person, having possession or control (lawfully or not) of property belonging to another, parts with the property under a condition as to its return which he may not be able to perform, this (if done for purposes of his own and without the other’s authority) amounts to treating the property as his own to dispose of regardless of the other’s rights.

PART II

THEFT, ROBBERY, BURGLARY, ETC

Theft

9. A person guilty of theft shall on conviction on indictment be liable to a term of imprisonment of ten years.

Robbery

10. (1) A person is guilty of robbery if he steals, and immediately before or at the time of doing so, and in order to do so, he uses force on any person or puts or seeks to put any person in fear of being then and there subjected to force.

(2) A person guilty of robbery, or of an assault with intent to rob, shall on conviction on indictment be liable to imprisonment for life.

Burglary

11. (1) A person is guilty of burglary if—

- (a) he enters any building or part of a building as a trespasser and with intent to commit any such offence as is mentioned in subsection (2); or
- (b) having entered any building or part of a building as a trespasser, he steals or attempts to steal anything in the building or that part of it, or inflicts or attempts to inflict on any person therein any grievous bodily harm.

(2) The offences referred to in subsection (1)(a) are offences of stealing anything in the building or part of a building in question, of inflicting on any person therein any grievous bodily harm or raping any woman therein, and of doing unlawful damage to the building or anything therein.

(3) References in subsections (1) and (2) to building shall apply also to an inhabited vehicle or vessel, and shall apply to any such vehicle or vessel at times when the person having a habitation in it is not there as well as at times when he is.

(4) A person guilty of burglary shall on conviction on indictment be liable to a term of imprisonment of fourteen years.

Aggravated burglary

12. (1) A person is guilty of aggravated burglary if he commits any burglary and at the time has with him any firearm, any weapon of offence, or any explosive.

(2) For the purposes of subsection (1)—

- (a) “firearm” includes an imitation firearm and an airgun or air pistol, and “imitation firearm” means anything which has the appearance of being a firearm, whether capable of being discharged or not;
- (b) “weapon of offence” means any article made or adapted for use for causing injury to or incapacitating a person, or intended by the person having it with him for such use; and
- (c) “explosive” means any article manufactured for the purpose of producing a practical effect by explosion, or intended by the person having it with him for that purpose.

(3) A person guilty of aggravated burglary shall on conviction on indictment be liable to imprisonment for life.

Removal of articles from places open to the public

13. (1) Subject to subsections (3) and (4), where the public have access to a building in order to view the building or part of it, or a collection or part of a collection housed in it, any person who without lawful authority removes from the building or its grounds the whole or part of any article displayed or kept for display to the public in the building or that part of it, or in its grounds, shall be guilty of an offence.

(2) For the purposes of subsection (1) “collection” includes a collection got together for a temporary purpose, but references in this section to a collection do not apply to a collection made or exhibited for the purpose of effecting sales or other commercial dealings.

(3) It is immaterial for the purposes of subsection (1) that the public’s access to a building is limited to a particular period or particular occasion; but where anything removed from a building or its grounds is there otherwise than as forming part of, or being on loan for exhibition with, a collection intended for permanent exhibition to the public, the person removing it does not thereby

commit an offence under this section unless he removes it on a day when the public have access to the building as mentioned in subsection (1).

(4) A person does not commit an offence under this section if he believes that he has lawful authority for the removal of the thing in question or that he would have it if the person entitled to give it knew of the removal and the circumstances of it.

(5) A person guilty of an offence under this section shall on conviction on indictment be liable to imprisonment for a term of five years.

Taking motor vehicle or other conveyance without authority

14. (1) Subject to subsections (5) and (6), a person is guilty of an offence if, without having the consent of the owner or other lawful authority, he takes any conveyance for his own or another's use or, knowing that any conveyance has been taken without such authority, drives it or allows himself to be carried in or on it.

(2) A person guilty of an offence under subsection (1) shall on conviction on indictment be liable to imprisonment for three years.

(3) Offences under subsection (1) and attempts to commit them shall be deemed for all purposes to be arrestable offences within the meaning of section 3(1) of the Criminal Law Ordinance.

(4) If on the trial of an indictment for theft the jury are not satisfied that the accused committed theft, but it is proved that the accused committed an offence under subsection (1), the jury may find him guilty of the offence under subsection (1).

(5) Subsection (1) shall not apply in relation to pedal cycles; but, subject to subsection (6), a person who, without having the consent of the owner or other lawful authority, takes a pedal cycle for his own or another's use, or rides a pedal cycle knowing it to have been taken without such authority, shall on summary conviction be liable to a fine of \$200.

(6) A person does not commit an offence under this section by anything done in the belief that he has lawful authority to do it, or that he would have the owner's consent if the owner knew of his doing it and the circumstances of it.

(7) For the purposes of this section—

- (a) "conveyance" means any conveyance constructed or adapted for the carriage of a person or persons whether by land, water or air, except that it does not include a conveyance constructed or adapted for use only under the control of a person not carried in or on it, and "drive" shall be construed accordingly; and
- (b) "owner", in relation to a conveyance which is the subject of a hiring agreement or hire-purchase agreement, means the person in possession of the conveyance under that agreement.

Interference with vehicles

15. (1) A person commits the offence of vehicle interference if he interferes with a motor vehicle or trailer or with anything carried in or on a motor vehicle or trailer with the intention that an offence specified in subsection (2) shall be committed by himself or some other person.

(2) The offences mentioned in subsection (1) are—

- (a) theft of the motor vehicle or trailer or part of it;
- (b) theft of anything carried in or on the motor vehicle or trailer; and
- (c) an offence under section 14(1),

and if it is shown that a person accused of an offence under subsection (1) intended that one of those offences should be committed, it is immaterial that it cannot be shown which it was.

(3) A person who commits an offence under subsection (1) is liable on summary conviction to a term of imprisonment of three months or to a fine of \$1,000 or to both.

(4) An offence under subsection (1) shall be deemed for all purposes to be an arrestable offence within the meaning of the Criminal Law Ordinance.

(5) In this section “motor vehicle” and “trailer” have the meanings assigned to them by section 2 of the Road Traffic Ordinance.

Abstracting of electricity

16. A person who dishonestly uses without due authority, or dishonestly causes to be wasted or diverted, any electricity shall on conviction on indictment be liable to imprisonment for a term of five years.

Handling stolen goods

17. (1) A person handles stolen goods if (otherwise than in the course of stealing) knowing or believing them to be stolen goods he dishonestly receives the goods, or dishonestly undertakes or assists in their retention, renewal, disposal or realisation by or for the benefit of another person, or if he arranges to do so.

(2) A person guilty of handling stolen goods shall on conviction on indictment be liable to a term of imprisonment of fourteen years.

Advertising rewards for return of goods stolen or lost

18. Where any public advertisement of a reward for the return of any goods which have been stolen or lost uses any words to the effect—

- (a) that no questions will be asked;
- (b) that the person producing the goods will be safe from apprehension or inquiry; or

- (c) that any money paid for the purchase of the goods or advanced by way of a loan on them will be repaid,

the person advertising the reward and any person who prints or publishes the advertisement shall be liable on summary conviction to a fine of \$500.

Scope of offences relating to stolen goods

19. (1) The provisions of this Ordinance relating to goods which have been stolen shall apply whether the stealing occurred in the Islands or elsewhere.

(2) For the purposes of the provisions referred to in subsection (1) references to stolen goods shall include, in addition to the goods originally stolen and parts of them (whether in their original state or not),—

- (a) any other goods which directly or indirectly represent, or have at any time represented, the stolen goods in the hands of the thief as being the proceeds of any disposal or realisation of the whole or part of the goods stolen or of goods so representing the stolen goods; and
- (b) any other goods which directly or indirectly represent, or have at any time represented, the stolen goods or any part of them as being the proceeds of any disposal or realisation of the whole or part of the stolen goods handled by him or of goods so representing them.

(3) Notwithstanding the foregoing provisions of this section, no goods shall be regarded as having continued to be stolen goods after they have been restored to the person from whom they were stolen or to other lawful possession or custody, or after that person and any other person claiming through him have otherwise ceased, as regards these goods, to have any right to restitution in respect of the theft.

(4) For the purposes of the provisions of this Ordinance relating to goods which have been stolen (including subsections (1) and (2)) goods obtained in the Islands or elsewhere by blackmail or in the circumstances described in section 24(1) shall be regarded as stolen; and “steal”, “theft” and “thief” shall be construed accordingly.

Going equipped for stealing, etc

20. (1) A person commits an offence if, when not at his place of abode, he has with him any article for use in the course of, or in connection with, any burglary, theft or cheat.

(2) A person who commits an offence under subsection (1) is liable on conviction on indictment to a term of imprisonment of three years.

(3) Where a person is charged with an offence under subsection (1), proof that he had with him any article made or adapted for use in committing a burglary, theft or cheat shall be evidence that he had it with him for such use.

(4) Any person may arrest without warrant anyone who is, or whom he, with reasonable cause, suspects to be, committing an offence under this section.

(5) For purposes of this section an offence under section 14(1) of taking a conveyance shall be treated as theft, and “cheat” means an offence under section 24.

Search for stolen goods

21. (1) If it is made to appear by information on oath before the Magistrate or a Justice of the Peace that there is reasonable cause to believe that any person has in his custody or possession or on his premises any stolen goods, the Magistrate or Justice of the Peace may grant a warrant to search for and seize the same; but no warrant to search for stolen goods shall be addressed to a person other than a police officer, except under the authority of an enactment expressly so providing.

(2) A police officer not below the rank of Inspector may give a police officer written authority to search any premises for stolen goods—

- (a) if the person in occupation of the premises has been convicted within the preceding five years of handling stolen goods or of any offence involving dishonesty and punishable with imprisonment; or
- (b) if a person who has been convicted within the preceding five years of handling stolen goods has within the preceding twelve months been in occupation of the premises.

(3) Where under this section a person is authorised to search premises for stolen goods, he may enter and search the premises accordingly, and may seize any goods he believes to be stolen goods.

(4) The Police Force Ordinance (which makes provision for the disposal of property in the possession of the Police Force) shall apply to property which has come into the possession of the Police Force under this section as it applies to property which has come into the possession of the Police Force in the circumstances mentioned in that Ordinance.

(5) This section shall be construed in accordance with section 19; and in subsection (2) the references to handling stolen goods shall include any corresponding offence committed before the commencement of this Ordinance.

Evidence and procedure on charge of theft or handling stolen goods

22. (1) Any number of persons may be charged in one indictment with reference to the same theft, with having at different times or at the same time handled all or any of the stolen goods, and the persons so charged may be tried together.

(2) On the trial of two or more persons indicted for jointly handling any stolen goods, the jury may find any of the accused guilty if the jury are satisfied that he handled all or any of the stolen goods, whether or not he did so jointly with the other accused or any of them.

(3) Where a person is being proceeded against for handling stolen goods (but not for any offence other than handling stolen goods), then, at any stage of the proceedings, if evidence has been given of his having, or arranging to have,

in his possession the goods which are the subject of the charge, or of his undertaking or assisting in, or arranging to undertake or assist in, their retention, removal, disposal or realisation, the following evidence shall be admissible for the purpose of proving that he knew or believed the goods to be stolen goods—

- (a) evidence that he has had in his possession, or has undertaken or assisted in the retention, removal, disposal or realisation, of stolen goods from any theft taking place not earlier than twelve months before the offence charged; and
- (b) (provided that seven days' notice in writing has been given to him of the intention to prove the conviction) evidence that he has, within the five years preceding the date of the offence charged, been convicted of theft or of handling stolen goods.

(4) In any proceedings for the theft of anything in the course of transmission (whether by post or otherwise), or for handling stolen goods from such a theft, a statutory declaration made by any person that he despatched or received or failed to receive any goods or postal packet, or that any goods or postal packet when despatched or received by him were in a particular state or condition, shall be admissible as evidence of the facts stated in the declaration, subject to the following conditions—

- (a) a statutory declaration shall only be admissible where and to the extent to which oral evidence to the like effect would have been admissible in the proceedings; and
- (b) a statutory declaration shall only be admissible if, at least seven days before the hearing or trial, a copy of it has been given to the person charged, and he has not, at least three days before the hearing or trial, or within such further time as the court may in special circumstances allow, given the prosecutor written notice requiring the attendance at the hearing or trial of the person making the declaration.

(5) This section shall be construed in accordance with section 19.

Orders for restitution

23. (1) Where goods have been stolen, and a person is convicted of any offence with reference to the theft (whether or not stealing is the gist of his offence), the court by or before which the offender is convicted may, on the conviction (whether or not the passing of the sentence is in other respects deferred), exercise any of the following powers—

- (a) the court may order anyone having possession or control of the goods to restore them to any person entitled to recover them from him;
- (b) on the application of a person entitled to recover from the person convicted any other goods directly or indirectly representing the first-mentioned goods (as being the proceeds of any disposal or realisation of the whole or part of them or of goods so

representing them), the court may order those other goods to be delivered or transferred to the applicant; or

- (c) the court may order that a sum not exceeding the value of the first-mentioned goods shall be paid, out of any money of the person convicted which was taken out of his possession on his apprehension, to any person who, if those goods were in the possession of the person convicted, would be entitled to recover them from him.

(2) Where under subsection (1) the court has power on a person's conviction to make an order against him both under paragraph (b) and under paragraph (c) with reference to the stealing of the same goods, the court may make orders under both paragraphs provided that the person in whose favour the orders are made does not thereby recover more than the value of those goods.

(3) Where under subsection (1) the court, on a person's conviction, makes an order under paragraph (a) for the restoration of any goods, and it appears to the court that the person convicted has sold the goods to a person acting in good faith, or has borrowed money on the security of them from a person so acting, the court may order that there shall be paid to the purchaser or lender, out of any money of the person convicted which was taken out of his possession on his apprehension, a sum not exceeding the amount paid for the purchase by the purchaser or, as the case may be, the amount owed to the lender in respect of the loan.

(4) The court shall not exercise the powers conferred by this section unless, in the opinion of the court, the relevant facts sufficiently appear from evidence given at the trial or the available documents, together with admissions made by or on behalf of any person in connection with any proposed exercise of the powers; and for this purpose "the available documents" means any written statements or admissions which were made for use, and would have been admissible, as evidence at the trial, the depositions taken at any committal proceedings and any written statements or admissions used as evidence in those proceedings.

(5) The powers conferred by paragraph (c) of subsection (1) and subsection (3) shall be exercisable without any application being made in that behalf or on the application of any person appearing to the court to be interested in the property concerned.

(6) Subject to subsection (7), any order under this section made by the Magistrate's Court or by the Supreme Court shall be suspended—

- (a) in any case until the expiration of the period for the time being prescribed by law for the giving of notice of appeal against a decision of the Magistrate's Court or Supreme Court, as the case may be;
- (b) where such notice of appeal is given within the period so prescribed, until the determination of the appeal.

(7) Subsection (6), and as respects an order under this section made by the Magistrate's Court, section 165 of the Magistrate's Court Ordinance shall not

apply where an order under this section is made under paragraph (a) or (b) of subsection (1) and the court by which the order was made so directs, being of the opinion that the title to the goods to be restored or, as the case may be, delivered or transferred under the order is not in dispute.

(8) In cases where the operation of an order under this section is suspended—

- (a) the court by which the order was made may make such order as it deems fit for securing the safe custody of the property in question during the period of suspension;
- (b) if the order under this section is suspended pending the determination of an appeal against conviction—
 - (i) the order shall not take effect as to the property in question if the conviction is quashed on appeal;
 - (ii) the court hearing the appeal may, by order, annul or vary the order under this section although the conviction is not quashed, and if the order under this section is annulled, it shall not take effect, and if it is varied, it shall take effect as so varied.

(9) References in this section to stealing are to be construed in accordance with subsections (1) and (4) of section 19.

PART III

FRAUD AND BLACKMAIL

Obtaining property by deception

24. (1) A person who by any deception dishonestly obtains property belonging to another, with the intention of permanently depriving the other of it, shall be liable on conviction on indictment to a term of imprisonment of ten years.

(2) For the purposes of this section a person is to be treated as obtaining property if he obtains ownership, possession or control of it; and “obtains” includes obtaining for another or enabling another to obtain or to retain.

(3) Section 6 shall apply for purposes of this section, with the necessary adaptation of the reference to appropriating, as it applies for purposes of section 3.

Obtaining services by deception

25. (1) A person who by any deception dishonestly obtains services from another shall be liable on conviction on indictment to imprisonment for a term of five years.

(2) It is an obtaining of services where the other is induced to confer a benefit by doing some act, or causing or permitting some act to be done, on the understanding that the benefit has been or will be paid for.

Obtaining pecuniary advantage by deception

26. A person who by any deception dishonestly obtains for himself or another any pecuniary advantage shall be liable on conviction on indictment to imprisonment for a term of five years.

Evasion of liability by deception

27. (1) Subject to subsection (2), where a person by any deception—

- (a) dishonestly secures the remission of the whole or part of any existing liability to make a payment, whether his own liability or another's; or
- (b) with intent to make permanent default in whole or in part on any existing liability to make a payment, or with intent to let another do so, dishonestly induces the creditor or any person claiming payment on behalf of the creditor to wait for payment (whether or not the due date for payment is deferred) or to forego payment; or
- (c) dishonestly obtains any exemption from or abatement of liability to make a payment,

he shall be liable on conviction on indictment to a term of imprisonment of five years.

(2) For the purposes of this section “liability” means legally enforceable liability; and subsection (1) shall not apply in relation to a liability that has not been accepted or established to pay compensation for a wrongful act or omission.

(3) For the purposes of paragraph (b) of subsection (1) a person induced to take in payment a cheque or other security for money by way of conditional satisfaction of a pre-existing liability is to be treated not as being paid but as being induced to wait for payment.

(4) For the purposes of paragraph (c) of subsection (1) “obtains” includes obtaining for another or enabling another to obtain.

Making off without payment

28. (1) Subject to subsection (3), a person who, knowing that payment on the spot for any goods supplied or service done is required or expected from him, dishonestly makes off without having paid as required or expected and with intent to avoid payment of the amount due shall be liable on conviction on indictment to imprisonment for a term of two years.

(2) For the purposes of this section “payment on the spot” includes payment at the time of collecting goods on which work has been done or in respect of which service has been provided.

(3) Subsection (1) shall not apply where the supply of the goods or the doing of the service is contrary to law, or where the service done is such that payment is not legally enforceable.

(4) Any person may arrest without warrant anyone who is, or whom he, with reasonable cause, suspects to be, committing or attempting to commit an offence under this section.

False accounting

29. (1) Where a person dishonestly, with a view to gain for himself or another or with intent to cause loss to another—

- (a) destroys, defaces, conceals or falsifies any account or any record or document made or required for any accounting purpose; or
- (b) in furnishing information for any purpose produces or makes use of any account, or any such record or document, which to his knowledge is or may be misleading, false or deceptive in a material particular,

he shall be liable on conviction on indictment to a term of imprisonment of seven years.

(2) For the purposes of this section a person who makes or concurs in making in an account or other document an entry which is or may be misleading, false or deceptive in a material particular, or who omits or concurs in omitting a material particular from an account or other document, is to be treated as falsifying the account or document.

Liability of company officers for certain offences by company

30. (1) Where an offence committed by a body corporate under section 24, 25, 26, 27 or 29 is proved to have been committed with the consent or connivance of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate commits that offence, and is liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, this section shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

False statements by company directors, etc

31. (1) Where an officer of a body corporate or unincorporated association (or person purporting to act as such), with intent to deceive members or creditors of the body corporate or association about its affairs, publishes or concurs in publishing a written statement or account which to his knowledge is or may be misleading, false or deceptive in a material particular, he shall be liable on conviction on indictment to a term of imprisonment of seven years.

(2) For the purposes of this section a person who has entered into a security for the benefit of a body corporate or association is to be treated as a creditor of it.

(3) Where the affairs of a body corporate or association are managed by its members, this section shall apply to any statement which a member publishes or concurs in publishing in connection with his functions of management as if he were an officer of the body corporate or association.

Suppression etc. of documents

32. (1) A person who dishonestly, with a view to gain for himself or another or with intent to cause loss to another, destroys, defaces or conceals any valuable security, any will or other testamentary document or any original document of or belonging to, or filed or deposited in, any court of justice or any government department shall be liable on conviction on indictment to a term of imprisonment of seven years.

(2) A person who dishonestly, with a view to gain for himself or another or with intent to cause loss to another, by any deception procures the execution of a valuable security shall be liable on conviction on indictment to a term of imprisonment of seven years; and this subsection shall apply in relation to the making, acceptance, indorsement, alteration, cancellation or destruction in whole or in part of a valuable security, and in relation to the signing or sealing of any paper or other material in order that it may be made or converted into, or used or dealt with as, a valuable security, as if that were the execution of a valuable security.

(3) For purposes of this section “valuable security” means any document creating, transferring, surrendering or releasing any right to, in or over property, or authorising the payment of money or delivery of any property, or evidencing the creation, transfer, surrender or release of any such right, or the payment of money or delivery of any property, or the satisfaction of any obligation.

Blackmail

33. (1) A person commits blackmail if, with a view to gain for himself or another or with intent to cause loss to another, he makes any unwarranted demand with menaces; and for this purpose a demand with menaces is unwarranted unless the person making it does so in the belief—

- (a) that he has reasonable grounds for making the demand; and
- (b) that the use of the menaces is a proper means of reinforcing the demand.

(2) The nature of the act or omission demanded is immaterial, and it is also immaterial whether the menaces relate to action to be taken by the person making the demand.

(3) A person who commits blackmail is liable on conviction on indictment to a term of imprisonment of fourteen years.

PART IV

SUPPLEMENTARY

Husband and wife

34. (1) This Ordinance shall apply in relation to the parties to a marriage, and to property belonging to the wife or husband, whether or not by reason of an interest derived from the marriage, as it would apply if they were not married and any such interest subsisted independently of the marriage.

(2) Subject to subsection (5), a person shall have the same right to bring proceedings against that person's wife or husband for any offence (whether under this Ordinance or otherwise) as if they were not married, and a person bringing any such proceedings shall be competent to give evidence for the prosecution at every stage of the proceedings.

(3) Subject to subsection (4), where a person is charged in proceedings not brought by that person's wife or husband with having committed any offence with reference to that person's wife or husband or to property belonging to the wife or husband, the wife or husband shall be competent to give evidence at every stage of the proceedings, whether for the defence or for the prosecution, and whether the accused is charged solely or jointly with any other person.

(4) In any proceedings mentioned in subsection (3)—

- (a) the wife or husband (unless compellable at common law) shall not be compellable either to give evidence or, in giving evidence, to disclose any communication made to her or him during the marriage by the accused; and
- (b) her or his failure to give evidence shall not be made the subject of any comment by the prosecution.

(5) Subject to subsection (6) and (7), proceedings shall not be instituted against a person for any offence of stealing or doing unlawful damage to property which at the time of the offence belongs to that person's wife or husband, or for any attempt, incitement or conspiracy to commit such an offence, unless the proceedings are instituted by or with the consent of the Attorney General.

(6) Subsection (5) shall not apply to proceedings against a person for an offence—

- (a) if that person is charged with committing the offence jointly with the wife or husband; or
- (b) if by virtue of any judicial decree or order (whenever made) that person and the wife or husband are at the time of the offence under no obligation to cohabit.

(7) Subsection (5) shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of a person for an offence, or the remand in custody or on bail of a person charged with an offence, where the arrest (if without a warrant) is made, or the warrant of arrest issues on an information laid, by a person other than the wife or husband.

Effect on civil proceedings and rights

35. (1) A person shall not be excused, by reason that to do so may incriminate that person or the wife or husband of that person of an offence under this Ordinance—

(a) from answering any question put to that person in proceedings for the recovery or administration of any property, for the execution of any trust or for an account of any property or dealings with property; or

(b) from complying with any order made in any such proceedings,

but no statement or admission made by a person in answering a question put or complying with an order made as aforesaid shall, in proceedings for an offence under this Ordinance, be admissible in evidence against that person or (unless they married after the making of the statement or admission) against the wife or husband of that person.

(2) Notwithstanding any Ordinance to the contrary, where property has been stolen or obtained by fraud or other wrongful means, the title to that or any other property shall not be affected by reason of the conviction of the offender.

Certain common law offences abolished

36. The following offences are hereby abolished—

any offence at common law of larceny, robbery, burglary, receiving stolen property, obtaining property by threats, extortion by colour of office or franchise, false accounting by public officers, concealment of treasure trove and, except as regards offences relating to the public revenue, cheating.

