



ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER C140

CRIMINAL CODE

Showing the Law as at 15 December 2014

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition revises and consolidates—

Act 14/2009, in force 16 July 2009

Act 7/2010, in force 1 November 2010

Act 7/2011, in force 2 August 2012

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CRIMINAL CODE

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CRIMINAL CODE

PART 1

INTERPRETATION

Interpretation

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

“arrestable offence” means an offence for which a person may be arrested without a warrant under section 365;

“court” means the High Court or the Magistrate’s Court as the context requires;

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

“night” or “night-time” means the interval between 7:00 p.m. of any day and 5:00 a.m. of the following day;

“offence” includes an act, attempt or omission punishable by law;

“person employed in the public service” includes—

- (a) a person holding any public office, whether temporarily or permanently, by appointment, by election or by operation of law;
- (b) an arbitrator, umpire or referee in any proceeding or matter acting with the sanction of any court or in pursuance of any law;
- (c) the Magistrate or any justice of the peace;
- (d) any member of any statutory body, tribunal or commission appointed under or in pursuance of any law; and
- (e) any marriage officer appointed under the Marriage Act when acting in performance of his functions as such;

“possession”, in relation to anything, includes not only having that thing in one’s personal custody or possession, but also knowingly having that thing—

- (a) in the actual custody or possession of any other person; or
- (b) in any place (whether belonging to or occupied by oneself or not) for the use or benefit of oneself or of any other person;

and, if there are 2 or more persons and any one or more of them, with the knowledge and consent of all or any of the others, has or have anything in his or their custody or possession, it shall be deemed to be in the custody and possession of each and all of them;

“property” includes any description of real or personal property, money, debts and legacies and any deeds, instruments or other documents relating to or evidencing the title or right to any property or giving a right to recover or receive any money or goods;

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

“public place” includes any highway, road, street, lane, square, sidewalk, court, wharf, pier, jetty, bridge, shop, alley or passage, whether a thoroughfare or not, and any other premises or place to which at the material time the public have or are permitted to have access, whether on payment or otherwise, and the doorways, fences and entrances of premises abutting on any public place (as hereinbefore defined), and any ground adjoining and open to any public place shall be treated as forming part of the public place;

“public way” includes any highway, market place, square, street, bridge or other way which is lawfully used by the public as of right;

“publicly”, when applied to acts done, means either that they are so done in any public place as to be seen by any person, whether such person is or is not in a public place, or that they are so done in any place which is not a public place as to be likely to be seen by any person in a public place;

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

“vessel” includes any thing or device capable of being used for the conveyance of goods or passengers on water from one place to another and includes a hovercraft and any vessel being towed or carried by another vessel;

“wound” means any incision or puncture which breaks the continuity of the whole skin and not merely the cuticle or upper skin.

(2) In this Code, “oath” includes an affirmation or declaration in the case of a person allowed to affirm or declare instead of swear, and “swear” in that case includes affirm or declare.

(3) In this Code, “offence for which the sentence is fixed by law” means an offence for which the court is required to sentence the offender to death or imprisonment for life or to detention during Her Majesty’s pleasure.

(4) The description of an offence in the Schedule to this Code is inserted as an aid to the reader and is not to be construed so as to add to or derogate from the provisions of this Code in relation to that offence.

General rule of construction of this Code

2. Except as otherwise expressly provided in this Code or in the Interpretation and General Clauses Act, this Code shall be interpreted in accordance with the principles of legal interpretation obtaining in England, and expressions used in this Code shall be presumed, so far as is consistent with their context, to be used in accordance with the meanings attached to them in the criminal law of England, and shall be construed in accordance therewith.

PART 2

APPLICATION OF CODE

Application of Code to offences committed in Anguilla

3. Subject to the express provisions of any other law, this Code applies to every person who is in Anguilla at the time of his doing any act or making any omission which constitutes an offence under this Code.

Offences committed partly within and partly beyond the jurisdiction

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

Offences at sea

5. (1) All offences committed upon the high seas shall be deemed to be offences liable to the same punishments respectively, as if they had been committed upon land within Anguilla, and may be dealt with, enquired into, tried, and determined in Anguilla in the same manner, in all respects as if they had been actually committed in Anguilla, and in any complaint or indictment for any such offence, the venue shall be the same as if it had been an offence committed in Anguilla, and the offence shall be averred to have been committed “on the high seas”.

(2) Nothing herein contained shall alter or affect any of the laws relating to the government of Her Majesty’s land or naval forces.

Application of Code to other laws

6. Except where the context otherwise requires, the following provisions apply to offences under any other law as they apply to offences under this Code—

- (a) section 4 (Offences committed partly within and partly beyond the jurisdiction);
- (b) Part 3 (Offences Triable Summarily or on Indictment);
- (c) Part 4 (General Rules as to Criminal Liability);
- (d) Part 5 (Attempts);
- (e) Part 6 (Parties to Offences);
- (f) Part 7 (Conspiracy);
- (g) Part 8 (Punishments), other than section 39;
- (h) section 365 and 366 (arrestable offences);
- (i) section 367 (Provisions relating to cases in which consent of the Attorney General is required);

- (j) section 370 (Abolition of distinctions between felony and misdemeanour);
- (k) section 372 (Abolition of corporal punishment).

Code not to affect certain laws

7. Except as hereinafter expressly provided, nothing in this Code shall affect—
- (a) the liability, trial or punishment of a person for an offence against the common law;
 - (b) the power of any court to punish a person for contempt of court;
 - (c) any power of Her Majesty, or of the Governor vested in him as the representative of Her Majesty, to grant any pardon or to remit or commute, in whole or in part, or to respite the execution of any sentence passed or to be passed; or
 - (d) any law for the time being in force for the government of Her Majesty's naval, military or air forces.

PART 3**OFFENCES TRIABLE SUMMARILY OR ON INDICTMENT****When offences triable summarily or on indictment**

8. Subject to the Magistrate's Code of Procedure Act, the Criminal Procedure Act and any provision to the contrary in this or any other Act, an offence punishable under this Code is triable as follows—

- (a) when the maximum term of imprisonment for the offence is 2 years or less, the offence is triable summarily; and
- (b) when the maximum term of imprisonment for the offence is more than 2 years, the offence is triable on indictment.

PART 4**GENERAL RULES AS TO CRIMINAL LIABILITY****Ignorance of the law**

9. Ignorance of the law does not afford any excuse for any act or omission which would otherwise constitute an offence unless knowledge of the law by the offender is expressly declared to be an element of the offence.

Bona fide claim of right

10. A person is not criminally responsible in respect of an offence relating to property, if the act done or omitted to be done by him with respect to the property was done in the exercise of an honest claim of right and without intention to defraud.

Intention and motive

11. (1) Subject to the express provisions of this Code or any other law, a person is not criminally responsible for an act or omission which occurs independently of the exercise of his will or for an event which occurs by accident.

(2) Unless the intention to cause a particular result is expressly declared to be an element of an offence constituted in whole or in part by an act or omission, the result intended to be caused by an act or omission is immaterial.

(3) Unless otherwise expressly declared, the motive by which a person is induced to do or omit to do an act, or to form an intention, is immaterial as regards criminal responsibility.

(4) In determining whether a person has committed an offence, a court or jury—

(a) shall not be bound in law to infer that he intended or foresaw a result of his actions by reason only of its being a natural and probable consequence of those actions;

but

(b) shall decide whether he did intend or foresee that result by reference to all the evidence, drawing such inferences from the evidence as appear proper in the circumstances.

Provisions relating to negligence

12. (1) A person causes an event negligently if, without intending to cause the event, he causes it by voluntary act, done without such skill and precaution as are reasonably necessary under the circumstances, or as he is in the particular case bound by law to have and use, for preventing the event from being caused.

(2) If an act is such that, notwithstanding the use of skill and precaution, it is likely to cause an event which there is no justification for causing, the act (if not done with intent to cause that event) is negligently done with reference to causing that event, even though it is done with skill and precaution.

Mistake of fact

13. Subject to the express or implied provisions of this Code or any other law, a person who does or omits to do an act under an honest and reasonable, but mistaken, belief in the existence of any state of things is not criminally responsible for the act or omission to any greater extent than if the real state of things had been such as he believed to exist.

Presumption of sanity

14. Every person is presumed to be of sound mind, and to have been of sound mind at any material time, until the contrary is proved.

Insanity

15. (1) Subject to subsection (2) and to the provisions of this Code with regard to persons suffering from diminished responsibility, a person shall not be criminally responsible for an act or omission if at the time of doing the act or making the omission he is, through any disease affecting his

mind, incapable of understanding what he is doing or of knowing that he ought not to do the act or make the omission.

(2) A person may be criminally responsible for an act or omission, although his mind is affected by disease, if such disease does not in fact produce upon his mind one or other of the effects in subsection (1) in reference to that act or omission.

Intoxication

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

(2) Intoxication shall be a defence to a criminal charge if by reason thereof, at the time of the act or omission complained of, the person charged did not know that such act or omission was wrong or did not know what he was doing, and—

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

(3) Where a defence under subsection (2) is established, then—

- (a) in a case falling within paragraph (2)(a), the accused shall be discharged; and
- (b) in a case falling within paragraph (2)(b), the provisions of section 15 shall apply and the person charged shall be dealt with in accordance with the provisions relating to insanity contained in the Criminal Procedure Act.

(4) Intoxication shall be taken into account for the purpose of determining whether the person charged had formed any specific intention, in the absence of which he would not be guilty of the offence.

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

Immature age

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

(2) A person 10 years of age, or above 10 years of age but under 14 years of age, is not criminally responsible for an act or omission unless it is proved that at the time of doing the act or making the omission he had capacity to know that he ought not to do the act or make the omission.

(3) Where a person is charged with an offence under this Code or any other law in respect of a child who is alleged to be under any specified age and the child appears to the court to be under that age, the child shall be presumed to be under that age unless the contrary is proved.

Duress

18. (1) Except for the offences of murder, genocide and treason, a person is not criminally responsible for an offence if the act is done or omitted to be done only because, during the time at which it is being done or omitted to be done, the person is compelled to do or not to do the act by threats on the part of another person.

(2) For the purpose of subsection (1), a threat must consist of immediate or proximate death or grievous bodily harm upon refusal to comply therewith to that person or any third party.

Compulsion by husband

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

Defence of person or property

20. Subject to the express provisions of this Code or any other law for the time being in force in Anguilla, criminal responsibility for the use of force in the defence of person or property shall be determined according to the common law.

Use of force in effecting arrest

21. A person may use such force as is reasonable in the circumstances in preventing crime, or in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large.

Person not to be punished twice for same offence

22. A person shall not be punished more than once, either under the provisions of this Code or under the provisions of any other law, for the same offence, but nothing in this section precludes the imposition of any or all of the punishments prescribed by law under this Code or any other law of Anguilla for an offence of which a person is convicted.

PART 5**ATTEMPTS****Attempt defined**

23. (1) Where a person, intending to commit an offence, begins to put his intention into execution by an act which goes so far towards the commission of the offence as to be more than merely a preparatory act, but does not fulfil his intention to such an extent as to commit the offence, he is deemed to attempt to commit the offence.

(2) It is immaterial, except insofar as regards punishment, whether the offender does all that is necessary on his part for completing the commission of the offence, or whether the complete fulfilment of his intention is prevented by circumstances independent of his will, or whether he desists on his own motion from the further prosecution of his intention.

Punishment for attempt to commit an offence

24. (1) A person who attempts to commit an offence commits an offence and is, unless any other punishment is provided in this Code or any other law, liable on conviction—

- (a) if the completed offence is punishable by imprisonment for life, or for 10 years or more, to imprisonment for 7 years; and
- (b) in any other case, to the same penalty as may be imposed for the completed offence.

(2) A person charged with an attempt to commit an offence shall be charged under the section, whether of this Code or any other law, creating the offence under which he would be charged if the charge was of the complete offence.

(3) A provision in any law, including this Code, as to the consequences which may or shall follow conviction for any offence or as to the procedure or any other matter applicable where a person is convicted of an offence, shall apply equally where a person is charged or convicted of an attempt to commit the offence.

PART 6**PARTIES TO OFFENCES****Principal offenders**

25. (1) When an offence is committed, each of the following persons is deemed to have taken part in committing the offence and to be guilty of the offence, and may be charged with actually committing it, that is to say—

- (a) every person who actually does the act or makes the omission which constitutes the offence;
- (b) every person who does or omits to do any act for the purpose of enabling or aiding any other person to commit the offence;
- (c) every person who aids or abets another person in committing the offence; and
- (d) any person who counsels or procures any person to commit the offence.

(2) In a case arising out of paragraph (1)(d), the accused may be charged with committing the offence or with counselling or procuring its commission.

(3) A conviction of counselling or procuring the commission of an offence entails the same consequences in all respects as a conviction of committing the offence.

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

Offences committed by joint offenders in prosecution of common purposes

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

Counselling another to commit an offence

27. When a person counsels another to commit an offence, and an offence is actually committed after such counsel by the person to whom it is given, it is immaterial whether the offence actually committed is the same as that counselled or a different one, or whether the offence is committed in the way counselled or in a different way, if in either case the facts constituting the offence actually committed are a probable consequence of the carrying out of the counsel, and in either case the person who gave the counsel is deemed to have counselled the other person to commit the offence actually committed by him.

Assisting offenders

28. (1) Subject to subsections (2) and (3), where a person has committed an arrestable offence, any other person who, knowing or believing him to be guilty of that offence or of some other arrestable offence, does, without lawful authority or reasonable excuse, an act to impede his apprehension or prosecution, commits an offence and is said to be an accessory after the fact.

(2) A wife does not become an accessory after the fact to an offence which her husband has committed by receiving him or assisting him to escape punishment, or by receiving in her husband's presence and by his authority, another person who has committed an offence in the commission of which her husband has taken part, in order to enable that other person to escape punishment or avoid apprehension.

(3) A husband does not become an accessory after the fact to an offence which his wife has committed by receiving her or assisting her in order to enable her to escape punishment or avoid apprehension.

(4) If on the trial of an indictment for an arrestable offence the jury are satisfied that the offence charged (or some other offence of which the accused might on that charge be found guilty) was committed, but find the accused not guilty of it, they may find him guilty of any offence under subsection (1) of which they are satisfied that he is guilty in relation to the offence charged (or that other offence).

(5) Any person who is convicted of being an accessory after the fact is liable to imprisonment according to the gravity of the offence to which he was an accessory, as follows—

- (a) if the offence is one for which the sentence is fixed by law, he is liable to imprisonment for 10 years;
- (b) if the offence is one for which a person (not previously convicted) may be sentenced to imprisonment for 14 years or more, he is liable to imprisonment for 7 years;
- (c) if the offence is not included in paragraph (a) or (b) but is one for which a person (not previously convicted) may be sentenced to imprisonment for 10 years, he is liable to imprisonment for 5 years;

(d) in any other case, he is liable to imprisonment for 3 years.

Concealing an offence

29. Where a person has committed an arrestable offence, any other person who, knowing or believing that the offence or some other arrestable offence has been committed, and that he has information which might be of material assistance in securing the prosecution or conviction of an offender for it, accepts or agrees to accept for not disclosing that information any consideration, commits an offence and is liable on conviction to imprisonment for 2 years.

PART 7

CONSPIRACY

Interpretation for purposes of this Part

30. For the purposes of this Part—

“offence” means an offence triable in Anguilla, and it includes murder notwithstanding that the murder in question would not be so triable if committed in accordance with the intention of the parties;

“trade dispute” means any dispute or differences between employers and workmen, or between workmen alone, connected with the employment or non-employment, or the terms of employment, or the conditions of labour, of any person.

Conspiracy to commit an offence

31. (1) Subject to the provisions of this Part, if a person agrees with any other person that a course of conduct shall be pursued which, if the agreement is carried out in accordance with their intentions, will necessarily amount to or involve the commission of an offence by one or more of the parties to the agreement, he is guilty of conspiracy to commit the offence in question.

(2) Where liability for an offence may be incurred without knowledge on the part of the person committing it of any particular fact or circumstance necessary for the commission of the offence, a person shall not be convicted of conspiracy to commit that offence by virtue of subsection (1) unless he and at least one other party to the agreement intend, or know, that the fact or circumstance shall or will exist at the time when the conduct constituting the offence is to take place.

(3) Where in pursuance of an agreement the acts in question in relation to an offence are to be done in contemplation or furtherance of a trade dispute, that offence shall be disregarded for the purposes of subsection (1), unless it is an offence which is not punishable with imprisonment except in default of payment of a fine.

Exceptions to section 31

32. A person shall not, by virtue of section 31, be convicted of conspiracy to commit an offence, if—

(a) he is the sole intended victim of the offence; or

- (b) the only other person with whom he agrees is (both initially and at all times during the currency of the agreement) a person of any one or more of the following descriptions—
 - (i) his spouse,
 - (ii) a person under the age of 10 years,
 - (iii) the sole intended victim of that offence.

Punishment for conspiracy

33. Any person who is convicted of conspiracy to commit an offence is, unless any other punishment is provided in this Code or any other law, liable to imprisonment for 3 years.

Conspiracy to corrupt public morals or outrage public decency

34. A person who conspires with any other person to engage in conduct which tends to corrupt public morals or outrage public decency but would not amount to, or involve, the commission of an offence if carried out by a single person otherwise than in pursuance of an agreement, commits an offence and is liable on conviction to imprisonment for 6 months or to a fine of \$500.

Supplementary provisions regarding conspiracy

35. (1) The rules laid down by sections 31 and 32 shall apply for determining whether a person is guilty of an offence of conspiracy under any provision of any enactment other than section 34.

(2) Incitement and attempt to commit the offence of conspiracy (whether the conspiracy incited or attempted would be an offence at common law or under section 31 or any other enactment) shall on the 13th October, 2000 cease to be offences.

(3) The fact that the person who, so far as appears from the charge on which any person has been convicted of conspiracy, was the only other party to the agreement on which his conviction was based, has been acquitted of conspiracy by reference to that agreement (whether after being tried with the person convicted or separately) shall not be a ground for quashing his conviction, unless in all the circumstances of the case his conviction is inconsistent with the acquittal of the other person in question.

(4) Any rule of law or practice that is inconsistent with subsection (3) is abolished.

PART 8

PUNISHMENTS

Application of Part

36. Nothing in this Part affects the application of the Probation Act or any punishment expressly provided for under any other law.

(Act 7/2011, s. 43)

Imprisonment

37. (1) All imprisonment for an offence shall be without hard labour.

(2) A person liable to imprisonment for life or any other period may be sentenced to a shorter term, except in the case of a sentence passed in pursuance of section 187.

Court may take other offences into consideration

38. (1) When the court sentences an offender for an offence, it may take one or more other offences committed by the offender into consideration, if—

- (a) the offender has admitted one or more other charges and requested that they be taken into consideration;
- (b) the offences to which the other charges relate are of a similar nature to the offence for which sentence is being imposed and are otherwise within the jurisdiction of the court; and
- (c) the prosecutor does not object to those offences being taken into consideration.

(2) The court shall not take an offence into consideration if it considers that it would be in the public interest for the offence to be charged and tried separately.

(3) Where the court takes one or more other offences into consideration, it may impose, in respect of the offence with which the defendant is charged, a sentence more severe than it would have imposed had it not taken any offence into consideration except that, if the maximum sentence for an offence is fixed by law, the court shall not exceed that maximum sentence.

(4) Where an offence is taken into consideration in accordance with this section, no further proceedings may be taken with respect to that offence unless the conviction for the offence with which the offender is charged is set aside or quashed on appeal.

(Act 14/2009, s.1)

Fines and fines in relation to imprisonment

39. (1) Subject to the provisions of this Code or any other law—

- (a) a person liable to imprisonment may be sentenced to pay a fine in addition to or instead of imprisonment; and
- (b) in the case of an offence punishable by a fine or a term of imprisonment or to both, the imposition of a fine or of a term of imprisonment or to both shall be in the discretion of the court.

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

- (a) where no limit is expressed as regards the amount of the fine, the amount of the fine which may be imposed is unlimited but shall not be excessive;

(b) where a court is imposing a fine—

- (i) in the case of an offence punishable with imprisonment as well as a fine, and in which the offender is sentenced to a fine (with or without imprisonment), or
- (ii) in every case of an offence punishable with a fine only, in which the offender is sentenced to a fine,

the court imposing the fine may, in its discretion, direct by its sentence that in default of payment of the fine, within such time (if any) as the court may direct, the offender shall suffer imprisonment for the maximum term specified in section 40, which imprisonment shall be in addition to and consecutive with any other imprisonment to which he may have been sentenced or may be liable under a commutation of sentence.

(3) For the purpose of paragraph (2)(b), where the sentence directs that in default of payment of the fine the offender shall be imprisoned, and if such person has undergone the whole of such imprisonment in default, no court shall issue a distress warrant unless, for special reasons to be recorded in writing by the court, it considers it necessary to do so.

Term of imprisonment for non-payment of fine, costs, compensation, etc.

40. (1) In the absence of express provisions in any law relating thereto, the term of imprisonment which may be ordered by a court in respect of the non-payment of any sum adjudged to be paid as a fine, costs or compensation or of any sum adjudged to be paid under any law relating to the offence of which the offender has been convicted, shall be such term as in the opinion of the court will satisfy the justice of the case, but shall not exceed the maximum fixed by the following scale—

Where the amount of the sum of money adjudged to be paid	The period of imprisonment shall not exceed
(a) does not exceed \$200	14 days
(b) exceeds \$200 but does not exceed \$500	30 days
(c) exceeds \$500 but does not exceed \$1,000	2 months
(d) exceeds \$1,000 but does not exceed \$2,000	4 months
(e) exceeds \$2,000	6 months.

(2) Imprisonment imposed in default of the payment of any sum payable in respect of a fine, costs, compensation or other sum adjudged to be paid under any law relating to an offence shall terminate immediately that the fine, costs, compensation or other sum adjudged to be paid is paid or levied by process of law, and in a case where part of the amount payable is paid, the term of the imprisonment shall be reduced in proportion to the amount so paid.

Reduction of prescribed minimum penalties

41. A Judge of the High Court, when passing sentence upon any person convicted under any Act which prescribes for the offence of which the person has been convicted a minimum term of imprisonment or a minimum fine may, notwithstanding any enactment to the contrary, reduce the prescribed term of imprisonment, and, in the case of a fine, reduce the prescribed amount thereof, and

sentence such person to such lesser term of imprisonment, or to pay such lesser fine, as to the presiding Judge appears fit.

Forfeiture of proceeds of offences

42. (1) Where any person is convicted of an offence under sections 99, 100, 101 or 124, the court may, in addition to or *in lieu* of any other penalty which may be imposed, order the forfeiture to the Crown of any property which has passed in connection with the commission of the offence or, if such property cannot be forfeited or cannot be found, of such sum as the court shall assess as the value of the property, and any property or sum so forfeited shall be dealt with in such manner as the Governor may direct.

(2) The payment of any sum ordered to be forfeited under subsection (1) may be enforced in the same manner and subject to the same incidents as in the case of the payment of a fine.

Compensation

43. (1) Any person who is convicted of an offence may be ordered by the court to make compensation to a person injured, in person or property, by his offence and any such compensation may be in addition to any other punishment.

(2) Subsection (1) shall not preclude any person who or whose property has been injured by the act or omission of another from bringing an action in respect of such injury but, if he does so the court, in making an award, shall take into account any compensation that may have been paid by virtue of an order under subsection (1).

Costs

44. Subject to limitations imposed by any other law, a court may order any person convicted of an offence to pay costs of and incidental to the prosecution or any part thereof.

Suspended sentence of imprisonment

45. (1) Subject to subsection (2), where a court passes a sentence of imprisonment for a term of not more than 2 years for an offence, it may order that the sentence shall not take effect unless, during a period specified in the order, being not less than one year or more than 2 years from the date of the order, the offender commits in Anguilla another offence punishable with imprisonment.

(2) A court shall not deal with an offender by means of a suspended sentence unless it is of the opinion that—

- (a) the case is one in which a sentence of imprisonment would have been appropriate even without the power to suspend the sentence; and
- (b) the exercise of that power can be justified by the exceptional circumstances of the case.

(3) A court which passes a suspended sentence on any person for an offence shall—

- (a) consider whether the circumstances of the case are such as to warrant in addition the imposition of a fine or the making of a compensation order; and

- (b) not make a probation order in his case in respect of another offence of which he is convicted by or before the court or for which he is dealt with by the court.

(4) Where an offender is convicted of an offence punishable with imprisonment committed during the period of a suspended sentence, then, unless the sentence has already taken effect, the court shall consider his case and deal with him by one of the following methods—

- (a) the court may order that the suspended sentence shall take effect with the original term unaltered;
- (b) the court may order that the sentence shall take effect with the substitution of a lesser term for the original term;
- (c) the court may by order vary the original order under subsection (1) by substituting for the period specified therein a period expiring not later than 2 years from the date of the variation;
- (d) the court may make no order with respect to the suspended sentence.

(5) Where the court orders that a suspended sentence shall take effect, with or without any variation of the original term, it may order that that sentence shall take effect immediately or that the term thereof shall commence on the expiration of another term of imprisonment passed on the offender by that or another court.

(6) In proceedings for dealing with an offender in respect of a suspended sentence, any question whether the offender has been convicted of an offence punishable with imprisonment committed during the period of the suspended sentence is one of law to be determined by the court and not by the verdict of a jury.

Security for keeping the peace

46. (1) Subject to subsection (2), a person convicted of an offence not punishable with imprisonment for life may, instead of, or in addition to, any punishment to which he is liable, be ordered to enter into his own recognizance, with or without sureties, in such amount as the court thinks fit, that he shall keep the peace and be of good behaviour for a time to be fixed by the court, and may be ordered to be imprisoned until such recognizance with sureties if so directed, is entered into.

(2) An order of imprisonment under subsection (1) for not entering into the recognizance shall not—

- (a) extend for a period longer than one year; and
- (b) together with the fixed term of imprisonment, if any, extend for a term longer than the longest term to which he might be sentenced to be imprisoned for the offence of which he is convicted.

Security for coming up for judgment

47. When a person is convicted of an offence not punishable with imprisonment for life, the court may, instead of passing sentence, discharge the offender on entering into his own recognizance, with

or without sureties, in such sum as the court thinks fit, conditioned that he shall appear and receive judgment at some future sitting of the court or when called upon.

General punishment for offences

48. When in this Code or any other law no punishment is specially provided for an offence, it shall be punishable with imprisonment for 2 years or with a fine of \$2,000 or with both.

Sentences cumulative unless otherwise ordered

49. (1) Where a person after conviction for an offence is convicted of another offence, either before sentence is passed upon him under the first conviction or before the expiration of that sentence, any sentence which is passed upon him under the subsequent conviction, shall be executed after the expiration of the former sentence, unless the court, subject to subsection (2), directs that it shall be executed concurrently with the former sentence or any part thereof.

(2) No court shall direct that a sentence of imprisonment in default of payment of a fine shall be executed concurrently with a former sentence imposed under section 39(2)(b) of this Code or any part thereof.

Escaped convicts to serve unexpired sentences when recaptured

50. If a sentence is passed under this Code or any other law upon an escaped convict, the sentence shall run consecutively or concurrently, as the court may order, with the unexpired portion of the sentence which the convict was undergoing when he escaped.

Discharge of offender without punishment

51. (1) Where in any trial the court thinks that the charge is proved, but is of the opinion that, having regard to the character, antecedents, age, health or mental condition of the accused, or to the trivial nature of the offence or to the extenuating circumstances in which the offence was committed, it is inexpedient to inflict any punishment, the court may, without proceeding to conviction, make an order dismissing the charge.

(2) An order made under subsection (1) shall, for the purpose of revesting or restoring stolen property and of enabling a court to make any order in that behalf, have the like effect of a conviction.

(3) Where any charge is dismissed under subsection (1), the court may order the accused person to pay the whole or any part of the costs of and incidental to the prosecution.

PART 9

OFFENCES AGAINST GOVERNMENT AND PUBLIC ORDER

Treason

Definition of overt act

52. For the purposes of any offences referred to in this Part, when the manifestation by an overt act of an intention to effect any purpose is an element of the offence, in addition to any other act which may be held to constitute an overt act, every act of conspiring with any person to effect that purpose, and every act done in furtherance of the purpose by any of the persons conspiring, shall be deemed to be an overt act manifesting the intention.

Treason

53. A person commits the offence of treason and is liable on conviction to imprisonment for life if he—

- (a) expresses, utters, declares or publishes in any manner, or by any overt act manifests an intention so to publish, any matter, thing or intention whatsoever which, if done in England, would be treason by the law of England;
- (b) does, in Anguilla, any act which, if done in England, would be treason by the law of England; or
- (c) instigates any other person to invade Anguilla with armed force.

Concealment of treason

54. Any person who—

- (a) knowing that any person intends to commit treason, does not give information thereof with all reasonable despatch to the Governor, the Magistrate, a justice of the peace or a police officer, or use other reasonable endeavours to prevent the commission of the offence; or
- (b) knowing or believing that any person is guilty of the offence of treason, does any act with intent to impede that person's apprehension or prosecution for that offence;

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

Treason felony

55. Any person who, in Anguilla, does any act or publishes anything which by the law of England, if done in England, would constitute an offence under the Treason Felony Act, 1848, 11&12 Vict. c.12, commits an offence and is liable on conviction to imprisonment for life.

Limitation on prosecution for treason, etc.

56. (1) No person shall be tried for an offence committed within Anguilla under section 53, 54 or 55 unless the prosecution is commenced within 3 years after the date of the commission of the offence.

(2) A person charged with an offence to which this section refers shall not be convicted, otherwise than on his own plea of guilty, except on the evidence in open court of 2 witnesses at least to one overt act of the kind alleged or the evidence of one witness to one overt act and one other witness to another overt act relevant to the same kind of offence.

(3) This section shall not apply in any case in which the act of treason alleged is the killing of Her Majesty or a direct attempt to endanger the life or injure the person of Her Majesty.

Incitement to mutiny

57. (1) Any person who deliberately attempts—

- (a) to seduce any person serving in Her Majesty's naval, military or air forces, or any police officer or member of any security force, from his duty or allegiance to Her Majesty;
- (b) to incite any such persons to commit an act of mutiny or any traitorous or mutinous act; or
- (c) to incite any such persons to make or endeavour to make a mutinous assembly,

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

(2) For the purposes of this section and of sections 58 and 59, "security force" means any force for the protection of Anguilla established in Anguilla by virtue of an enactment.

Aiding, etc., acts of mutiny

58. Any person who—

- (a) aids, abets or is accessory to any act of mutiny by; or
- (b) incites to sedition or to disobedience to any lawful order given by a superior officer,

any member of Her Majesty's naval, military or air forces or any police officer or member of any security force commits an offence and is liable on conviction to imprisonment for 5 years.

Inducing police officer, etc., to desert

59. Any person who—

- (a) procures or persuades or attempts to procure or persuade to desert;
- (b) aids, abets or is accessory to the desertion of; or
- (c) having reason to believe that he is a deserter, harbours or aids in concealing,

any member of Her Majesty's naval, military or air forces or any police officer or member of any security force commits an offence and is liable on conviction to imprisonment for 6 months or to a fine of \$500.

Piracy

Piracy *iure gentium*

60. (1) Any person who is guilty of piracy *iure gentium* is liable on conviction to imprisonment for life.

(2) For the purposes of this section, "piracy *iure gentium*" means piracy as defined in the Schedule to the Tokyo Convention Act 1967, 1967 c.52, as applied to Anguilla by the Tokyo Convention Act 1967 (Overseas Territories) Order, 1968, S.I. 1968 No. 1864.

Piracy in other cases

61. Any person who is guilty of piracy, or of any crime connected with, relating to or akin to piracy, in circumstances not constituting an offence under section 60, is liable to be tried and punished according to the laws of England.

*Sedition***Definitions for the purposes of sections 63 to 68**

62. For the purpose of sections 63 to 68—

“import” includes—

- (a) to bring into Anguilla; and
- (b) to bring into the territorial waters of Anguilla whether or not the matter so brought is brought ashore or whether there is or is not an intention to bring the matter ashore;

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

“prohibited publication” means any publication, the importation of which has been prohibited by order under section 65;

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

“seditious publication” means a publication having a seditious intention within the meaning of section 63;

“seditious words” means words having a seditious intention within the meaning of section 63.

Seditious intention

63. (1) A “seditious intention” is an intention—

- (a) to bring into hatred or contempt or to excite disaffection against the person of the Sovereign, Her Heirs or Successors, the Governor or the Government of Anguilla by law;
- (b) to excite the inhabitants of Anguilla to attempt to procure the alteration, otherwise than by lawful means, of any matter in Anguilla as established by law;
- (c) to bring into hatred or contempt or to excite disaffection against the administration of justice in Anguilla;

- (d) to raise discontent or disaffection among the inhabitants of Anguilla; or
 - (e) to promote ill-will or hostility between different classes of the population of Anguilla.
- (2) An act or any speech or publication is not seditious by reason only that it intends—
- (a) to show that the Crown has been misled or mistaken in any of its measures;
 - (b) to point out errors or defects in the Government or Constitution of Anguilla;
 - (c) to persuade the inhabitants of Anguilla to attempt to procure by lawful means the alteration of any matter in Anguilla as by law established; or
 - (d) to point out, with a view to their removal, any matters which are producing or have a tendency to produce feelings of ill-will or enmity between different classes of the population.

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

Seditious offences

64. (1) Any person who—

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

commits an offence and is liable on conviction to imprisonment for 3 years or to a fine of \$3,000 or to both, and any seditious publication shall be forfeited to the Crown.

(2) Any person who, without lawful excuse, has in his possession any seditious publication commits an offence and is liable on conviction to imprisonment for 2 years or to a fine of \$2,000 or to both, and the publication shall be forfeited to the Crown.

(3) It shall be a defence to a charge under subsection (2) that, if the person charged did not know that the publication was seditious when it came into his possession, he did, as soon as the nature of the publication became known to him, deliver it to the nearest police station.

Power to prohibit importation of publications

65. (1) If the Governor in Council is of the opinion that any publication, or all publications published by any person or association of persons outside Anguilla, would be contrary to the public interest, he may by order prohibit the importation of such publication or publications and, in the case

of a periodical publication may, by the same or a subsequent order, prohibit the importation of any past or future issue of the publication.

(2) An order under subsection (1) shall, unless a contrary intention is expressed therein, apply to a translation into any language of the publication specified in the order.

(3) An order under subsection (1) is a regulation.

Offences in respect of prohibited publications

66. (1) Any person who imports, publishes, sells, offers for sale, distributes or reproduces any prohibited publication, or any extract therefrom, or who publicly displays any prohibited publication or any extract therefrom, commits an offence and is liable on conviction to imprisonment for 3 years or to a fine of \$3,000 or to both, and the publication shall be forfeited to the Crown.

(2) Any person who, without lawful excuse, has in his possession any prohibited publication, or any extract therefrom, commits an offence and is liable on conviction to imprisonment for 2 years or to a fine of \$2,000 or to both, and the publication shall be forfeited to the Crown.

Delivery of prohibited publication to police officer

67. (1) A person to whom any prohibited publication, or any extract therefrom, is sent without his knowledge or privity or in response to a request made before the prohibition of the importation of such publication came into effect shall forthwith if or as soon as the nature of its contents have become known to him, or in the case of a publication or extract therefrom coming into the possession of such person before an order prohibiting its importation has been made, forthwith upon the coming into effect of an order prohibiting the importation of such publication, deliver such publication or extract therefrom to the nearest police station.

(2) Any person who defaults in complying with subsection (1) commits an offence and is liable on conviction to imprisonment for 2 years or to a fine of \$2,000 or to both, and the publication shall be forfeited to the Crown.

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

Power to examine suspected package, etc.

68. (1) A person employed in the public service and authorised in that behalf by the Governor may detain, open and examine any package or article which he suspects to contain any prohibited publication or extract therefrom, and during such examination may detain any person importing, distributing or posting such package or article or in whose possession such package or article is found.

(2) If any such publication or extract therefrom is found in such package or article, the whole package or article may be impounded and retained and the person importing, distributing or posting it, or in whose possession it is found, may be arrested and proceeded against.

Legal proceedings

69. (1) No prosecution for an offence under section 64 or 66 shall be commenced except within 6 months after the offence is committed, save that where a person leaves Anguilla within 6 months of

committing the offence, the prosecution may be begun within 6 months from the date when such person returns to Anguilla.

(2) No person shall be prosecuted for an offence under section 64 or 66 without the written consent of the Attorney General.

Power to grant search warrants

70. If the Magistrate is satisfied by information on oath that there is reasonable cause to believe that any publication in respect of which any conviction under section 64 or 66 has been recorded, or any prohibited publication, is in any place, he may grant a warrant authorising any police officer to search such place and to seize and detain any such publication found therein.

Obstruction of person carrying out duties regarding prohibited publications

71. Any person who hinders or obstructs any other person acting in the execution of his duty under the provisions of section 68 or 70 is liable on conviction to imprisonment for a term of 2 years or to a fine of \$2,000 or to both.

Seditious and prohibited publications to be forfeited

72. Any seditious or prohibited publication seized or detained in pursuance of the provisions of section 68 or 70 or in respect of which any conviction has been recorded shall be forfeited to Her Majesty and shall be destroyed or otherwise disposed of in accordance with the directions of the Governor.

Evidence

73. No person shall be convicted of an offence under section 64 upon the uncorroborated testimony of one witness.

Unlawful oaths to commit serious offences

74. (1) A person commits an offence and is liable on conviction to imprisonment for life, if he—

(a) administers or is present at and consents to the administration of any oath, or engagement in the nature of an oath, purporting to bind the person who takes it to commit any offence punishable with imprisonment for life; or

(b) takes any such oath or engagement, not being compelled to do so.

(2) A person commits an offence and is liable on conviction to imprisonment for 10 years if he—

(a) administers or is present at and consents to the administration of, any oath or engagement in the nature of an oath, purporting to bind the person who takes it—

(i) to engage in any enterprise having a mutinous or seditious intention,

(ii) to commit any offence not punishable with imprisonment for life,

(iii) to disturb the public peace,

- (iv) to be a member of any association, society or confederacy, formed for the purpose of doing any act mentioned in subparagraph (i), (ii) or (iii),
 - (v) to obey the orders or commands of any committee or body of men not lawfully constituted, or any leader or commander or other person not having authority by law for that purpose,
 - (vi) not to inform or give evidence against an associate, confederate or other person, or
 - (vii) not to reveal or discover any unlawful association, society or confederacy, or any illegal act done or to be done or any illegal oath or engagement that may have been administered or tendered to or taken by himself or any other person, or the import of such oath or engagement; or
- (b) takes any such oath or engagement, not being compelled to do so.

Defence of compulsion

75. Any person who takes an oath or engagement as is mentioned in section 74 cannot set up a defence that he was compelled to do so unless, within 14 days after taking it or, if he is prevented by actual force or sickness, within 14 days after the termination of the prevention, he declares on oath before the Magistrate or justice of the peace the whole of what he knows concerning the matter, including the person or persons by whom and in whose presence, and the place where and the time when, the oath or engagement was administered or taken.

Unlawful drilling in the use of arms, etc.

76. (1) A person commits an offence and is liable on conviction to imprisonment for 7 years, if he—

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

(2) Any person who at any meeting or assembly held without the permission of the Governor is trained or drilled in the use of arms or the practice of military exercises, movements or evolutions, or who is present at any such meeting or assembly for the purpose of being so trained or drilled, commits an offence and is liable on conviction to imprisonment for 2 years or to a fine of \$2,000 or to both.

Publication of false news likely to cause fear and alarm the public

77. (1) Any person who publishes any false statement, rumour or report which is likely to cause fear or alarm or to disturb the public peace commits an offence and is liable on conviction to imprisonment for one year or to a fine of \$1,000 or to both.

(2) It shall be a defence to a charge under subsection (1) if the accused proves that, prior to the publication, he took such measures to verify the accuracy of the statements, rumour or report as to lead him reasonably to believe that it was true.

Riot

Unlawful assembly

78. (1) When 3 or more persons—

(a) assemble with intent to commit an offence; or

(b) being assembled with intent to carry out some common purpose—

(i) conduct themselves in such a manner as to cause persons in the neighbourhood reasonably to fear that the persons so assembled will commit a breach of the peace, or

(ii) will by such assembly needlessly and without any reasonable occasion provoke other persons to commit a breach of the peace;

the persons so assembled are guilty of an unlawful assembly.

(2) For purposes of subsection (1), it is immaterial that the original assembling was lawful if, being assembled, they conduct themselves in such manner as stated in subsection (1).

(3) Any person who takes part in an unlawful assembly commits an offence and is liable on conviction to imprisonment for one year or to a fine of \$1,000 or to both.

Riot and riotous or violent conduct

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

(2) Any person who takes part in a riot commits an offence and is liable on conviction to imprisonment for 5 years or to a fine of \$5,000 or to both.

(3) Any person who—

(a) in any public place is guilty of any riotous behaviour; or

(b) in any police station is guilty of any violent behaviour;

commits an offence and is liable on conviction to imprisonment for 2 years or to a fine of \$2,000 or to both.

Proclamation for dispersal of rioters and rioting thereafter

80. (1) The Magistrate or any justice of the peace, in whose view 12 or more persons are riotously assembled, or who apprehends that a riot is about to be committed by 12 or more persons assembled within his view, may make or cause to be made a proclamation in the Governor's name in such form as he thinks fit, commanding the rioters or persons so assembled to disperse peaceably.

(2) If upon the expiration of a reasonable time after such proclamation has been made or, if the making thereof having been prevented by force, 12 or more persons continue riotously assembled together, any person authorised to make such proclamation or any police officer, or any person acting in aid of such person or police officer, may do all things necessary for dispersing the persons so continuing assembled, or for apprehending them or any of them, and if any person makes resistance, may use all such force as is reasonably necessary for overcoming such resistance and shall not be liable in any criminal or civil proceeding for having, by the use of such force, caused harm or death to any person.

(3) If a proclamation is made, as provided in this section, any person who, after the expiration of a reasonable time after the making of the proclamation for the dispersal of the persons assembled, takes or continues to take part in the riot or assembly, commits an offence and is liable on conviction to imprisonment for 10 years.

Obstructing making of proclamation

81. (1) Any person who forcibly prevents or obstructs the making of a proclamation, as mentioned in section 80(1), commits an offence and is liable on conviction to imprisonment for 10 years.

(2) Any person who, knowing that the making of such proclamation has been so prevented, takes or continues to take part in the riot or assembly, commits an offence and is liable on conviction to imprisonment for 5 years.

Rioters destroying or damaging certain property

82. Any persons who, being riotously assembled together, unlawfully pull down, destroy, burn or unlawfully damage, or begin to pull down, destroy, burn or unlawfully damage, any building, machinery or structure, each commits an offence and is liable on conviction to imprisonment for 14 years.

Rioters interfering with aircraft, vehicle or vessel

83. Any persons who, being riotously assembled together, unlawfully and with force prevent, hinder or obstruct the loading or unloading of any aircraft, vehicle or vessel, or the starting or transit of any aircraft, vehicle or vessel or the sailing operations or navigation of any aircraft or vessel, or unlawfully and with force board any aircraft, vehicle or vessel with intent to do so, each commits an offence and is liable on conviction to imprisonment for 2 years or to a fine of \$2,000 or to both.

Participation in Criminal Group

Participation in organised criminal group

84. (1) Any person who participates, whether as a member or an associate or prospective member, in an organised criminal group, knowing that it is an organised criminal group and who—

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

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

commits an offence and is liable on conviction to imprisonment for 5 years.

(2) For the purposes of this section—

- (a) 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—
 - (i) obtaining material benefits from the commission of an offence that is punishable by imprisonment for a term of 2 years or more;
 - (ii) obtaining material benefits from conduct outside Anguilla that, if it occurred in Anguilla, would constitute the commission of an offence that is punishable by imprisonment for a term of 2 years or more;
 - (iii) the commission of a serious violent offence that is punishable by imprisonment for a term of 5 years or more; or
 - (iv) conduct outside Anguilla that, if it occurred in Anguilla, would constitute the commission of a serious violent offence that is punishable by imprisonment for a term of 5 years or more; and
- (b) a person obtains a material benefit, in relation to doing a thing, if he obtains, directly or indirectly, any property, pecuniary advantage or other valuable consideration of any kind for doing the thing or for taking an action that forms part of doing the thing.

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

- (a) some of them are subordinates or employees of others;
- (b) only some of the people involved in the group at a particular time are involved in the planning, arrangement, or execution at that time of any particular action, activity or transaction; or
- (c) the group's membership changes from time to time.

(4) For the purposes of this section, “serious violent offence” means any offence—

- (a) that is punishable by a period of imprisonment for a term of 5 years or more; and
- (b) if the conduct constituting the offence involves—
 - (i) loss of a person's life or serious risk of loss of a person's life;
 - (ii) serious injury to a person or serious risk of serious injury to a person;
 - (iii) serious damage to property in circumstances endangering the physical safety of any person; or
 - (iv) perverting the course of justice, where the purpose of the conduct is to prevent, seriously hinder, or seriously obstruct the detection, investigation, or prosecution of any offence—

(A) that is punishable by a period of imprisonment for a term of 5 years or more, and

(B) that involved, involves, or would involve conduct of the kind referred to in any of subparagraphs (i) to (iii).

(Act 14/2009, s. 2)

Explosives and Other Things Used to Commit Offences

Possession of explosives and other things with intent to commit an offence

85. Any person who knowingly has in his possession, or makes, or manufactures, any gunpowder or explosive substance or any dangerous or noxious thing, or any machine, engine, instrument, or thing, with intent, by means thereof, to commit, or for the purpose of enabling any other person to commit, an offence, commits an offence and is liable on conviction to imprisonment for 2 years or to a fine of \$2,000 or to both.

Magistrate may issue search warrants

86. (1) The Magistrate where such gunpowder or other explosive, dangerous or noxious substance or thing, or any such machine, engine, instrument or thing, is suspected to be made, kept or carried for the purpose of being used in committing an offence, upon reasonable cause assigned upon oath by any person, may issue a warrant, under his hand and seal, for searching any building, wharf or other place, or any vehicle or vessel, in which the same is suspected to be made, kept or carried for such purpose.

(2) Every person acting in the execution of a warrant issued under subsection (1) may seize any gunpowder or explosive substance, or any dangerous or noxious thing, or any machine, engine or instrument or thing, which he has good cause to suspect is intended to be used in committing, or enabling any other person to commit, an offence, and with all convenient speed after the seizure, shall remove the same to such proper place as he thinks fit, and detain the same until ordered by a Judge to restore it to the person who may claim the same.

Forfeiture

87. Any gunpowder, explosive substance, or dangerous or noxious thing, or any machine, engine, instrument or thing, intended to be used in committing, or to enable any other person to commit, an offence, and seized and taken possession of under the provisions hereof, shall, in the event of the person in whose possession the same is found, or of the owner thereof, being convicted of an offence under this Part, be forfeited, and the same shall be sold under the direction of the court before which any such person may be convicted, and the proceeds thereof shall be paid into the Consolidated Fund.

(Act 7/2010, s. 26)

Offensive Weapons Other Than Firearms

Offence of having article with blade or point in a public place

88. (1) Subject to subsections (4) and (5), any person who has an article to which this section applies with him in a public place is guilty of an offence and is liable on conviction to imprisonment for one year or to a fine of \$1,000 or to both.

(2) Subject to subsection (3), this section applies to any article which has a blade or is sharply pointed except a folding pocketknife.

(3) This section applies to a folding pocketknife if the cutting edge of its blade exceeds 3 inches.

(4) It shall be a good defence to a person charged with an offence under this section to prove that he had good reason or lawful authority for having the article with him in a public place.

(5) Without prejudice to the generality of subsection (4), it shall be a defence for a person charged with an offence under this section to prove that he had the article with him—

- (a) for use at work;
- (b) for religious reasons; or
- (c) as part of a national costume.

Offences in connection with knives and certain weapons other than firearms

89. (1) Any person who manufactures, sells or hires or offers for sale or hire, or exposes or has in his possession for the purpose of sale or hire, or lends or gives to any other person—

- (a) any knife which has a blade which opens automatically by hand pressure applied to a button, spring or other device, in or attached to the handle of the knife, sometimes known as a “flick knife” or “flick gun”;
- (b) any knife which has a blade which is released from the handle or sheath thereof by the force of gravity or the application of centrifugal force and which, when released, is locked in place by means of a button, spring, lever or other device, sometimes known as a “gravity knife”;
- (c) a knuckleduster, that is, a band of metal or other hard material worn on one or more fingers, and designed to cause injury, and any weapon incorporating a knuckleduster;
- (d) a swordstick, that is, a hollow walking-stick or cane containing a blade which may be used as a sword;
- (e) the weapon sometimes known as a “handclaw”, being a band of metal or other hard material from which a number of sharp spikes protrude, and worn around the hand;
- (f) the weapon sometimes known as a “belt buckle knife”, being a buckle which incorporates or conceals a knife;
- (g) the weapon sometimes known as a “push dagger”, being a knife the handle of which fits within a clenched fist and the blade of which protrudes from between two fingers;
- (h) the weapon sometimes known as a “hollow kubotan”, being a cylindrical container containing a number of sharp spikes;

- (i) the weapon sometimes known as a “footclaw”, being a bar of metal or other hard material from which a number of sharp spikes protrude, and worn strapped to the foot;
- (j) the weapon sometimes known as a “shuriken”, “shaken” or “death star”, being a hard non-flexible plate having 3 or more sharp radiating points and designed to be thrown;
- (k) the weapon sometimes known as a “balisong” or “butterfly knife”, being a blade enclosed by its handle, which is designed to split down the middle, without the operation of a spring or other mechanical means, to reveal the blade;
- (l) the weapon sometimes known as a “telescopic truncheon”, being a truncheon which extends automatically by hand pressure applied to a button, spring or other device in or attached to its handle;
- (m) the weapon sometimes known as a “blowpipe” or “blow gun” being a hollow tube out of which hard pellets or darts are shot by the use of breath;
- (n) the weapon sometimes known as a “kusari gama”, being a length of rope, cord, wire or chain fastened at one end to a sickle;
- (o) the weapon sometimes known as a “kyoketsu shoge”, being a length of rope, cord, wire or chain fastened at one end to a hooked knife;
- (p) the weapon sometimes known as a “manrikigusari” or “kusari”, being a length of rope, cord, wire or chain fastened at each end to a hard weight or hand grip; or
- (q) any weapon to which this section applies by virtue of subsection (2);

is guilty of an offence and is liable on conviction to imprisonment for 2 years or to a fine of \$2,000 or to both.

(2) The Governor in Council may, for the purposes of paragraph (1)(q), by regulation provide that this section applies to a weapon (other than any weapon subject to the Firearms Act) specified in the order.

(3) It is a defence to any person charged in respect of conduct of his relating to a weapon to which this section applies to prove—

- (a) that his conduct was solely for the purposes of functions carried on on behalf of the Crown; or
- (b) that the conduct in question was only for the purposes of making the weapon available at a museum or gallery.

(4) In paragraph (3)(b), “museum or gallery” includes any institution which has as its purpose, or one of its purposes, the preservation, display and interpretation of material of historical, artistic or scientific interest and gives the public access to it.

Power of search, arrest and forfeiture

90. (1) A police officer who on reasonable grounds suspects that any person has concealed about his person any article to which section 88 applies, any knife referred to in section 89(1)(a) or (b) or to any weapon referred to in any of sections 89(c) to (q) may request the person to accompany him to the nearest police station where the senior police officer on duty may cause the person to be searched.

(2) Any person who refuses to accompany a police officer when so required for the purpose of subsection (1) commits an offence and may be arrested without a warrant and is liable on conviction to a fine of \$500.

(3) Any article to which section 88 applies, any knife referred to in section 89(1)(a) or (b) or any weapon referred to in sections 89(1)(c) to (q), in respect of which any person has been convicted under section 88 or 89 shall be forfeited to the Crown.

*Miscellaneous Offences Against Public Order***Forcible entry**

91. (1) Any person who, in order to take possession thereof, enters into any building or onto any land in a violent manner, whether such violence consists in actual force applied to any person, or in threats or in breaking open any house, or in collecting an unusual number of persons, commits an offence and is liable on conviction to imprisonment for 2 years or to a fine of \$2,000 or to both.

(2) It is immaterial whether or not the person entering into a building or onto land contrary to subsection (1) is entitled to enter into the building or onto the land.

(3) A person does not commit an offence under this section if he—

- (a) acts in pursuance of a warrant or other lawful authority authorising the use of force to gain entry into the building or onto the land; or
- (b) enters into a building or onto land of his own, but which is in the custody of his servant, agent or bailiff.

Forcible detainer

92. Any person who, being in actual possession of any building or land without colour of right, holds possession of it in a manner likely to cause a breach of the peace against a person lawfully entitled to the possession thereof commits the offence of forcible detainer and is liable on conviction to imprisonment for 2 years or to a fine of \$2,000 or to both.

Criminal trespass

93. (1) Any person who—

- (a) enters into or upon any property in possession of another with intent to commit an offence or to intimidate, insult or annoy any person in lawful possession of such property;

- (b) having lawfully entered into or upon the property, remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit any offence; or
- (c) persists in coming or remaining on the property, after being warned not to come thereon or to depart therefrom;

commits an offence and is liable on conviction to imprisonment for one year or to a fine of \$1,000 or to both.

(2) If the property upon which the offence is committed under subsection (1) is—

- (a) a vessel;
- (b) a building or tent used as a human dwelling; or
- (c) a building used as a place of worship or as a place for the custody of property;

the offender is liable on conviction to imprisonment for 2 years or to a fine of \$2,000.

Trespass on security areas

94. (1) The Governor in Council may by regulation declare to be a security area any building, structure, plant, works, installation or lands owned or controlled by the Government of Anguilla or providing services essential to the life, health, security or well-being of the community.

(2) Any person who without lawful authority, the proof whereof shall lie upon him, shall enter upon any security area commits an offence and is liable to imprisonment for 2 years.

(3) A member of the Police Force or any local constable may arrest without a warrant any person found trespassing in or upon any security area, but a person so arrested shall as soon as possible thereafter be taken before the Magistrate to be dealt with according to law.

Challenging or offering to fight

95. Any person who does any act with intent to provoke any other person to fight, whether in a public place or not, with any deadly or dangerous instrument, and any person who agrees or offers so to fight, commits an offence and is liable on conviction to imprisonment for 2 years or to a fine of \$2,000 or to both.

Taking part in fight in public place

96. (1) Any person who takes part in a fight in a public place commits an offence and is liable on conviction to imprisonment for one year or to a fine of \$1,000 or to both.

(2) For greater certainty, section 20 applies to an offence under this section.

Threatening violence

97. (1) A person commits an offence and is liable on conviction to imprisonment for one year if he—

- (a) with intent to intimidate or annoy any person, threatens to break or damage a dwelling house; or

- (b) with intent to alarm any person in a dwelling house, discharges any firearm or commits any breach of the peace.

(2) If an offence under subsection (1) is committed in the night, the offender is liable to imprisonment for 2 years.

Assembling for purpose of smuggling

98. Any person in a group of persons who assemble together for the purposes of unshipping, carrying or concealing any goods subject to customs duty and liable to forfeiture under any law relating to customs commits an offence and is liable on conviction to imprisonment for 2 years or to a fine of \$2,000 or to both.

PART 10

CORRUPTION AND THE ABUSE OF OFFICE

Official corruption

99. A person commits an offence and is liable on conviction to imprisonment for 3 years, if he—

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

Extortion by public officers

100. Any person who, being employed in the public service, takes or accepts from any person for the performance of his duty as such officer, any reward beyond his proper pay and emoluments, or any promise of such reward, commits an offence and is liable on conviction to imprisonment for 3 years.

Public officers receiving property to show favour

101. Any person who, being employed in the public service, receives any property or benefit of any kind for himself, on the understanding, express or implied, that he shall favour or cause favour to be shown to the person giving the property or conferring the benefit, or anyone in whom that person is interested, in any transaction then pending or likely to take place, between the person giving the property or conferring the benefit, or anyone in whom he is interested, and any person employed in the public service, commits an offence and is liable on conviction to imprisonment for one year.

Public officers charged with special duties and having a conflict of interest

102. Any person who, being employed in the public service, and being charged by virtue of his employment with any judicial or administrative duties respecting property of a special character, or respecting the carrying on of any manufacture, trade or business of a special character, and having acquired or holding, directly or indirectly, a private interest in such property, manufacture, trade or business, discharges any such duties with respect to the property, manufacture, trade, or business in which he has such interest or with respect to the conduct of any person in relation thereto, commits an offence and is liable on conviction to imprisonment for one year.

False claims by officials

103. Any person who, being employed in the public service in such a capacity as to require him or enable him to furnish returns or statements touching any sum payable or claimed to be payable to himself or to any other person, or touching any other matter required to be certified for the purpose of any payment of money or delivery of goods to be made to any person, makes a return or statement touching any such matter which is, to his knowledge, false in any material particular commits an offence and is liable on conviction to imprisonment for 2 years.

Abuse of office

104. (1) Any person who, being employed in the public service, does or directs to be done, in abuse of the authority of his office, any arbitrary act prejudicial to the rights of another, commits an offence and is liable on conviction to imprisonment for 2 years.

(2) If the act referred to in subsection (1) is done or directed to be done for purposes of gain, the person commits an offence and is liable on conviction to imprisonment for 3 years.

False certificate by public officers

105. Any person employed in the public service, who, being authorised or required by law to give any certificate touching any matter by virtue of which the rights of any person may be prejudicially affected, gives a certificate which is, to his knowledge, false in any material particular commits an offence and is liable on conviction to imprisonment for 2 years.

False assumption of authority

106. A person commits an offence and is liable on conviction to imprisonment for 2 years, if he—

- (a) not being a judicial officer, assumes to act as such; or
- (b) falsely represents himself to be a person authorised by law to sign a document testifying to the contents of any register or record kept by a lawful authority or testifying to any fact or event, and signs such documents as being so authorised.

Personating public officers

107. A person commits an offence and is liable on conviction to imprisonment for 3 years, if he—

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

- (b) falsely represents himself to be a person employed in the public service and assumes to do an act or attend in any place for the purpose of doing any act by virtue of such employment.

Threat of injury to persons employed in the public service

108. Any person who holds out any threat of injury to any person employed in the public service, or to any person in whom he believes that person employed in the public service to be interested, for the purpose of inducing that person employed in the public service to do any act or to forbear or delay to do any act connected with the exercise of the public functions of such person employed in the public service commits an offence and is liable on conviction to imprisonment for 3 years.

Frauds and breaches of trust by public officers

109. Any person who, being employed in the public service, in the discharge of his duties, commits any fraud or breach of trust affecting the public, whether such fraud or breach of trust would have been criminal or not if committed against a private person, commits an offence and is liable on conviction to imprisonment for 3 years.

False information to person employed in public service

110. Any person who gives to any person employed in the public service any information in the truth of which he does not believe, intending thereby to cause, or knowing it to be likely that he will thereby cause, such person employed in the public service—

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

commits an offence and is liable on conviction to imprisonment for 3 years or to a fine of \$3,000 or to both.

PART 11

OFFENCES RELATING TO THE ADMINISTRATION OF JUSTICE

Deceiving witness

111. Any person who practises any fraud or deceit, or knowingly makes or exhibits any false statement or representation to any person called, or to be called, as a witness in any judicial proceeding, with intent to affect the testimony of such person as a witness, commits an offence and is liable on conviction to imprisonment for 2 years.

Destroying evidence

112. Any person who, knowing that any book, document or thing, of any kind whatsoever, is or may be required in evidence in any judicial proceeding, wilfully removes or destroys it or renders it illegible or indecipherable or incapable of identification, with intent thereby to prevent it from being used in evidence, commits an offence and is liable on conviction to imprisonment for 2 years.

False swearing

113. Any person who swears falsely before any person authorised to administer an oath upon a matter of public concern or private legal rights under such circumstances that the false swearing, if committed in a judicial proceeding would have amounted to perjury, commits an offence and is liable on conviction to imprisonment for 2 years.

Conspiracy to defeat justice and interference with witness

114. A person commits an offence and is liable on conviction to imprisonment for 5 years, if he—

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

Offences relating to judicial proceedings

115. (1) A person commits an offence and is liable on conviction to imprisonment for 2 years, if he—

- (a) within the premises in which any judicial proceeding is being held, or within the precincts of the same, shows disrespect, in speech or manner, to or with reference to such proceedings, or any person before whom such proceeding is being held;
- (b) having been summoned to give evidence in a judicial proceeding, fails to attend;
- (c) being present at a judicial proceeding and being called upon to give evidence, refuses to be sworn;
- (d) having been sworn, refuses without lawful excuse to answer a question or to produce a document which it is within his power to produce;
- (e) having attended a judicial proceeding to give evidence, remains in the room in which the proceeding is being held after the witnesses have been ordered to leave the room;
- (f) causes an obstruction or disturbance in the course of a judicial proceeding;
- (g) while a judicial proceeding is pending, makes use of any speech or writing misrepresenting such proceeding or capable of prejudicing any person in favour of or against any parties to such proceeding, or calculated to lower the authority of any person before whom the proceeding is to be held;
- (h) publishes a report of the evidence taken in any judicial proceeding which has been directed to be held in private;

- (i) attempts wrongfully to interfere with or influence a witness in any judicial proceeding, either before or after he has given evidence;
- (j) dismisses any employee because he has given evidence on behalf of a certain party to a judicial proceeding;
- (k) wrongfully retakes possession of any land from any person to whom possession has been awarded by writ or order of a court; or
- (l) commits any other act or intentional disrespect to any court or any judicial proceeding or to any person before whom the proceeding is being held.

(2) When any offence against paragraph (1)(a), (c), (d), (e), (f), (g) or (l) is committed in view of the court, the court may cause the offender to be detained in custody, and at any time before the rising of the court on the same day may take cognizance of the offence and summarily sentence the offender to a fine of \$200 or to imprisonment for 1 month.

(3) The provisions of this section shall be deemed to be in addition to and not in derogation of the powers conferred by the Contempt of Court Act, the Magistrate's Code of Procedure Act, and any other powers of the High Court or the Court of Appeal to punish for contempt of court.

Perjury

116. (1) Any person lawfully sworn as a witness, or as an interpreter, in a judicial proceeding who wilfully makes a statement, material in that proceeding, which he knows to be false or does not believe to be true, commits an offence and is liable on conviction to imprisonment for 7 years.

(2) Where a statement made for the purpose of a judicial proceeding is not made before the court or a statutory body or tribunal itself but is made on oath before a person authorised by law to administer an oath to the person who makes the statement and to record or authenticate the statement it shall, for the purpose of this section, be treated as having been made in a judicial proceeding.

(3) For the purpose of this section, it is immaterial whether—

- (a) the person making the statement is or is not competent to be a witness and whether or not his evidence is admissible; and
- (b) the false testimony is given orally or in writing.

(4) The question whether a statement, in respect of which a charge of perjury is made, was material is a question of law to be determined by the court of trial.

(5) A person shall not be liable to be convicted of an offence under this section, or of any offence declared by any law to be perjury or subornation of perjury, solely upon the evidence of one witness as to the falsity of any statement alleged to be false.

(6) For the purpose of this section, proceedings before any statutory body or tribunal which is empowered to take evidence on oath shall be deemed to be judicial proceedings.

Subornation, etc., of offence under this Part

117. Any person who aids, abets, counsels, procures or suborns another person to commit an offence under this Part commits an offence and is liable on conviction to imprisonment for 7 years.

Fabrication of evidence

118. (1) Any person who, with intent to mislead any court, fabricates evidence or knowingly makes use of fabricated evidence to defeat, obstruct or pervert the course of justice in any judicial proceeding commits an offence and is liable on conviction to imprisonment for 7 years.

(2) A person fabricates evidence if he—

- (a) causes any circumstances to exist;
- (b) makes any false entry in any book, account or record false;
- (c) makes any document containing a false statement;
- (d) makes up a false story in any form whatsoever; or
- (e) forges any document;

with intent to mislead any judicial proceedings.

(3) In this section, “court” includes a statutory body or tribunal and any person authorised to take evidence on oath.

Contradictory statements by witnesses

119. (1) Subject to subsection (2), where 2 or more inconsistent or contradictory statements of fact or alleged fact, material to the issue or matter in question, have been wilfully made on oath by the same witness in any judicial proceedings, whether or not before the same court, that witness commits an offence and is liable on conviction to imprisonment for one year.

(2) A person shall not be convicted of an offence under this section unless the court is satisfied that the statements, or either of them, were or was made with the intent to deceive the court before which the statements or either of them were or was made.

(3) Upon the trial of any person for an offence under this section, it shall not be necessary to prove the falsity of either of the inconsistent or contradictory statements, but upon proof that both the statements were made by the accused, and being satisfied that the accused had the intent referred to in subsection (2), the court may convict the accused.

(4) At the trial of any person for an offence under this section, the record of any court containing any statement made on oath by the person charged shall be *prima facie* evidence of such statement.

(5) In this section, “court” includes a statutory body or tribunal and any person authorised to take evidence on oath.

False affidavit made out of Anguilla

120. Any person who wilfully makes any false affidavit, affirmation, or declaration, out of Anguilla, before any functionary authorised to take it for the purpose of being used in Anguilla shall be deemed guilty of perjury in like manner as if such false affidavit, affirmation, or declaration had been made in Anguilla, before competent authority.

False affidavit or declaration in respect of insurance

121. Any person who wilfully makes any affidavit, affirmation or declaration required by any insurance company authorised by law to do business in Anguilla, claiming to be entitled to any insurance money in respect of any loss insured or assured therein, or on behalf of any person making such claim, containing any false statement of fact, matter or thing in regard to such loss is guilty of perjury.

Evidence in trial for perjury

122. (1) On the trial of any person—

- (a) for perjury; or
- (b) for procuring or suborning the commission of perjury;

the fact of a former trial before the court shall be sufficiently proved by the production of a certificate containing the substance and effect (omitting the formal parts) of the proceedings at the former trial purporting to be signed by the Registrar or other person having custody of the records of the court without proof of the signature or official status of the person appearing to have signed the certificate.

(2) In this section, “court” includes a statutory body or tribunal and any person authorised to take evidence on oath.

Form of oath, etc., not material

123. For the purposes of this Part, the form and ceremonies used in administering an oath are immaterial if the court or person before whom the oath is taken has power to administer an oath for the purpose of verifying the statement in question and if the oath has been administered in a form and with the ceremonies which the person taking the oath has accepted without objection or has declared to be binding on him.

Compounding of offences

124. Any person who asks, receives or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person upon any agreement or understanding that he will compound or conceal an offence, or will abstain from, discontinue or delay, a prosecution for an offence, or will withhold any evidence thereof, commits an offence and is liable on conviction to imprisonment for 2 years.

Rescue from lawful custody

125. (1) Subject to subsection (2), any person who, by force, rescues or attempts to rescue from lawful custody any person—

- (a) who is under sentence of imprisonment for life, or charged with an offence punishable with imprisonment for life, commits an offence and is liable on conviction to imprisonment for life;
- (b) who is imprisoned on a charge or under sentence for an offence, other than those specified in paragraph (a), commits an offence and is liable on conviction to imprisonment for 7 years; or
- (c) in any other case, commits an offence and is liable on conviction to imprisonment for 2 years.

(2) If the person rescued is in the custody of a private person, the offender must be aware of the fact that the person rescued was in lawful custody.

Escape from lawful custody

126. Any person who, being in lawful custody, escapes from such custody, commits an offence and is liable on conviction to imprisonment for 2 years.

Permitting prisoner to escape

127. Any person who, having another person in his custody, intentionally or negligently permits him to escape commits an offence and is liable on conviction to imprisonment for 2 years.

Aiding prisoner to escape and harbouring a prisoner

128. (1) A person commits an offence and is liable on conviction to imprisonment for 7 years, if he—

- (a) aids a prisoner in escaping or attempting to escape from lawful custody; or
- (b) conveys anything or causes anything to be conveyed into a prison with intent to facilitate the escape of a prisoner.

(2) Any person who harbours or assists in any manner another person in harbouring a prisoner who has escaped from lawful custody commits an offence and is liable on conviction to imprisonment for 14 years.

Removal of property under lawful seizure

129. Any person who, when any property has been attached or taken under the process or authority of a court, knowingly and with intent to hinder or defeat the attachment process, receives, removes, retains, conceals or disposes of such property commits an offence and is liable on conviction to imprisonment for 3 years.

Obstructing court officers

130. Any person who wilfully obstructs or resists any person lawfully charged with the execution of an order or warrant of a court commits an offence and is liable on conviction to imprisonment for 2 years.

Wasteful employment of police by giving false reports, etc.

131. Any person who causes any wasteful employment of the police by knowingly making to any person a false report tending to show that an offence has been committed, or tending to give rise to apprehension for the safety of any person or property, or tending to show that he has information material to any police inquiry, commits an offence and is liable on conviction to imprisonment for 6 months or to a fine of \$500 or to both.

PART 12

OFFENCES RELATING TO RELIGION

Insulting religion

132. Any person who destroys, damages or defiles any place of worship or any object which is held sacred by any group or class of persons with the intention thereby of insulting the religion of those persons or with the knowledge that any group or class of persons is likely to consider such destruction, damage or defilement as an insult to their religion commits an offence and is liable on conviction to imprisonment for 2 years or to a fine of \$2,000 or to both.

Disturbing religious assembly

133. Any person who voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or ceremony commits an offence and is liable on conviction to imprisonment for 2 years or to a fine of \$2,000 or to both.

Hindering burial, etc.

134. Any person who unlawfully hinders the burial of the dead body of any person, or, without lawful authority in that behalf, disinters, dissects or harms the dead body of any person, or being under a duty to cause the dead body of any person to be buried, fails to perform such duty, commits an offence and is liable on conviction to imprisonment for 2 years or to a fine of \$2,000 or to both.

Wounding religious feelings, trespassing on burial place, etc.

135. (1) Any person who, with the intention of wounding the feelings of any person or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded or that any person is likely to consider that his religion has been insulted thereby, trespasses in any place of worship, or in any place which is set apart for the teaching of scripture or the performance of funeral rites or for the burial or depository of the remains of the dead, or who offers any indignity to any human corpse or disturbs any persons assembled for any funeral ceremony commits an offence and is liable on conviction to imprisonment for 2 years or to a fine of \$2,000 or to both.

(2) Any person who wilfully removes, damages or interferes with in any way any flowers, candles, wreaths, tombstones or any other thing whatsoever placed on or near a grave in memory or respect of or as a tribute to the dead commits an offence and is liable on conviction to imprisonment for 2 years or to a fine of \$2,000 or to both.

(3) For the purposes of this section, any flowers, candles, wreaths, tombstones or other thing placed on or near a grave shall, until the contrary is proved, be deemed to have been so placed in memory or respect of or as a tribute to the dead.

PART 13

OFFENCES RELATING TO MARRIAGE

Bigamy

136. (1) Subject to subsection (2), any person who, being married, marries any other person during the life of the former husband or wife, commits an offence and is liable on conviction to imprisonment for 7 years.

(2) A person shall not be convicted of an offence under subsection (1) by reason of marrying a second time in the following cases—

- (a) where the husband or wife, as the case may be, of the person marrying a second time has been continually absent from such person for the space of 7 years immediately preceding the date of the second marriage, and the person marrying the second time in good faith and on reasonable grounds believed at the time of the second marriage that the other party to his first marriage was dead; or
- (b) where, prior to the date of the second marriage, the first marriage has been dissolved or declared to be void or a decree of nullity has been made by a court of competent jurisdiction.

(3) The husband or wife of a person charged with bigamy may be called as a witness for the prosecution or the defence without the consent of the person charged.

Fraudulent pretence of marriage

137. (1) Any man who wilfully and by fraud causes any woman who is not lawfully married to him—

- (a) to believe that she is married to him; and
- (b) to cohabit or have sexual intercourse with him in that belief;

commits an offence and is liable on conviction to imprisonment for 7 years.

(2) Section 139 applies to the trial of an offence under paragraph (1)(b) that involves sexual intercourse.

(3) Subsection (1) applies to a woman as if each reference to “man” in that subsection were a reference to “woman” and each reference to “woman” were a reference to “man”.

Fraudulently taking part in sham marriage ceremony

138. Any person who dishonestly, or with fraudulent intention, goes through a ceremony of marriage, knowing that he is not thereby lawfully married, commits an offence and is liable on conviction to imprisonment for 5 years.

Personation in marriage ceremony

139. Any person who impersonates another person in a marriage ceremony, or who marries under a false name or description, with intent to deceive the other party to the marriage, commits an offence and is liable on conviction to imprisonment for 7 years.

PART 14

SEXUAL OFFENCES

*Interpretation for purposes of this Part***Definitions for purposes of this Part**

140. In this Part—

“adult” means a person 18 years of age or more;

“brothel” means a house, room or any other place resorted to by more than one prostitute for the purposes of prostitution, and the fact that one of the prostitutes is the owner or tenant and the occupier of the premises is immaterial;

“mental disorder” means mental illness, arrested or incomplete development of mind, psychopathic disorder, or any other disorder or disability of mind;

“minor” means a person under 18 years of age;

“sexual offence” means an offence committed against a minor under section 143 (Sexual intercourse with person under 14 years of age), 144 (Sexual intercourse with person between 14 and 16 years of age), 145 (Sexual intercourse with minor suffering from mental disorder), 146 (Sexual intercourse with dependent child), 147 (Indecent assault on minor), 148 (Procurement of minor), 149 (Living on earnings of prostitution of minor) or 164 (Incest “unlawful sexual intercourse” means sexual intercourse outside of the bond of marriage;

“woman” means a female person 18 years of age or more.

Proof of sexual intercourse

141. (1) Where upon the trial of an offence under this Part it is necessary to prove sexual intercourse (whether natural or unnatural), it shall not be necessary to prove the completion of the intercourse by the emission of seed, but the intercourse shall be deemed to be complete upon proof of any degree of penetration.

(2) For the purposes of this Part (other than section 163), sexual intercourse includes—

(a) sexual connection occasioned by any degree of penetration of the vagina or anus of any person, or by the stimulation of the vulva or the penis or anus of any person, by or with—

(i) any part of the body of another person, or

(ii) any object used by another person,

except where the penetration, or stimulation is carried out for proper medical purposes; and

(b) sexual connection occasioned by the introduction of any part of the penis of any person into the mouth of another person;

and any reference in this Part to the act of having sexual intercourse includes a reference to any stage or continuation of that act.

Definition of “abduction of a minor”

142. (1) A person is guilty of abduction of a minor who, with intent to deprive any person entitled to the lawful custody, care or charge of that minor, of such lawful custody, care or charge, or with intent to cause that minor to cohabit or have sexual intercourse with any person—

- (a) unlawfully takes that minor from the lawful custody, care or charge of any person; or
- (b) detains that minor from returning to the lawful custody, care or charge of any person.

(2) The custody, care or charge of a minor by a parent, guardian or other person shall be held to continue, notwithstanding that that minor is absent from the actual custody, care or charge of the parent, guardian or other person if the absence is for a special purpose only, and is not intended by the parent, guardian or other person to exclude or determine such custody, care or charge for the time being but a person is not guilty of abduction by taking or detaining a minor unless he knew, or had grounds for believing that the minor so taken or detained was in the custody, care or charge of some other person.

Sexual Offences Against Minors

Sexual intercourse with person under 14 years of age

143. (1) Any person who has unlawful sexual intercourse with any minor under 14 years of age, whether with or without the consent of that minor, is guilty of an offence and is liable to imprisonment for life.

(2) Any person who attempts to have unlawful sexual intercourse with any minor under 14 years of age, whether with or without the consent of that minor, is guilty of an offence and is liable to imprisonment for 7 years.

Sexual intercourse with person between 14 and 16 years of age

144. (1) Any person who has unlawful sexual intercourse with a minor 14 years of age, or with a minor above 14 years of age but under 16 years of age, whether with or without the consent of that minor, is guilty of an offence and is liable to imprisonment for 20 years.

(2) Any person who attempts to have unlawful sexual intercourse with a minor 14 years of age, or with a minor above 14 years of age but under 16 years of age, whether with or without the consent of that minor, is guilty of an offence and is liable to imprisonment for 7 years.

(3) Where a marriage is void under the Marriage Act because the wife is under the age of 16 years, the invalidity of the marriage does not make the husband guilty of an offence under this section because he had sexual intercourse with her, if at the time he believed her to be his wife and had reasonable cause for that belief.

(4) A man shall not be convicted of an offence under this section because he has unlawful sexual intercourse with a girl under the age of 16 years if he is under the age of 21 years, and has not

previously been charged with a like offence, and he believes her to be of the age of 16 years or over and has reasonable cause for the belief.

Sexual intercourse with minor suffering from mental disorder

145. (1) Any person who has unlawful sexual intercourse with any minor who is suffering from any mental disorder, whether with or without the consent of that minor, under circumstances which prove that the accused person knew at the time of the commission of the offence that that minor was suffering from a mental disorder is guilty of an offence and is liable to imprisonment for life.

(2) Any person who attempts to have unlawful sexual intercourse with any minor who is suffering from any mental disorder, whether with or without the consent of that minor, under circumstances which prove that the accused person knew at the time of the commission of the offence that that minor was suffering from a mental disorder is guilty of an offence and is liable to imprisonment for 7 years.

Sexual intercourse with dependent child

146. (1) Any adult who has unlawful sexual intercourse with a dependent child of the adult, whether with or without the consent of the child, is guilty of an offence and is liable to imprisonment for life.

(2) Any adult who attempts to have unlawful sexual intercourse with a dependent child of the adult, whether with or without the consent of the child, is guilty of an offence and is liable to imprisonment for 7 years.

(3) In this section, “dependent child”, in relation to an adult, means a minor who is not related by blood to the adult but—

- (a) is the adopted child, stepchild, foster child or ward of the adult;
- (b) has been treated by the adult as a child of the family of the adult;
- (c) is being maintained, either wholly or partly, by the adult;
- (d) is in the actual possession, custody, care or charge of the adult; or
- (e) in relation to whom the adult holds a position of trust.

Indecent assault on minor

147. (1) Any person who—

- (a) indecently assaults any minor; or
- (b) does anything to any minor with the consent of that minor which, but for such consent, would be an indecent assault, such consent being obtained by false and fraudulent representation as to the nature and quality of the act;

is guilty of an offence and is liable to imprisonment for 8 years.

(2) It is no defence to a charge of an indecent assault committed on a minor under 16 years of age to prove that that minor consented to the act of indecency.

(3) Where a marriage is invalid under the Marriage Act, because the wife is under the age of 16 years, the invalidity of the marriage does not make the husband guilty of an offence under this section by reason of her incapacity to consent while under that age, if he believes her to be his wife and has reasonable cause for the belief.

Procuration of minor

148. Any person who—

- (a) procures or attempts to procure any minor to have unlawful sexual intercourse, either in or outside of Anguilla, with any other person;
- (b) procures or attempts to procure any minor to become, either in or outside of Anguilla, a prostitute;
- (c) persuades, aids, encourages or causes any minor to solicit or importune for immoral purposes;
- (d) procures or attempts to procure any minor to leave Anguilla with intent that he may become an inmate of or frequent a brothel elsewhere;
- (e) procures or attempts to procure any minor to leave his usual place of abode in Anguilla with intent that he may, for the purposes of prostitution, become an inmate of or frequent a brothel either in or outside of Anguilla;
- (f) by threats or intimidation, procures or attempts to procure any minor to have unlawful sexual intercourse either in or outside of Anguilla;
- (g) by false pretences or false representations, procures any minor to have any unlawful sexual intercourse either in or outside of Anguilla; or
- (h) applies, administers or causes to be taken by any minor any drug, matter or thing with intent to stupefy or overpower, so as thereby to enable any other person to have unlawful sexual intercourse with such minor;

is guilty of an offence and is liable to imprisonment for 8 years.

Living on earnings of prostitution of minor

149. Any person who knowingly lives wholly or in part on the earnings of prostitution of a minor is guilty of an offence and is liable to imprisonment for 5 years.

Failure to disclose HIV infection prior to sexual intercourse with person between 16 and 18 years of age

150. (1) Any person who knows that he is infected with an HIV virus and who has sexual intercourse with any minor 16 years of age or over, with the consent of that minor but without disclosing the fact of the infection to that minor, is guilty of an offence and is liable to imprisonment for 5 years.

(2) It shall be a sufficient defence to any charge under subsection (1), if it is made to appear to the court before which the charge shall be brought that the minor with whom the person so charged

had sexual intercourse knew, or had reasonable cause to believe, before sexual connection was occasioned, that the person so charged was so infected.

Causing or encouraging prostitution of minor

151. (1) Any adult who causes or encourages the prostitution of, or the commission of sexual intercourse with, or an indecent assault on, a dependent child of the adult commits an offence and is liable on conviction to imprisonment for 5 years.

(2) Where the dependent child has become a prostitute, or has had sexual intercourse or has been indecently assaulted, a person shall be deemed for the purposes of this section to have caused or encouraged it if he knowingly allows that dependent child to consort with, or to enter or continue in the employment of, any prostitute or person of known immoral character.

(3) In this section, “dependent child”, in relation to an adult, means any minor who is related by blood to the adult, and includes any minor who is not related by blood to the adult but who—

- (a) is the adopted child, stepchild, foster child or ward of the adult;
- (b) has been treated by the adult as a child of the family of the adult;
- (c) is being maintained, either wholly or partly, by the adult;
- (d) is in the actual possession, custody, care or charge of the adult; or
- (e) in relation to whom the adult holds a position of trust.

(4) If on a charge for an offence under this section, the minor appears to the jury to have been under the age of 18 years at the time of the offence charged, the minor shall be presumed for the purposes of this section to have been so unless the contrary is proved.

Householder, etc., permitting defilement of minor on his premises

152. Any person who, being the owner or occupier of any premises, or having or acting or assisting in the management or control thereof, induces or knowingly suffers any minor to resort to, or be in or upon the premises for the purpose of cohabiting, or having unlawful sexual intercourse, with any person, whether with any particular person or generally, is guilty of an offence and is liable to imprisonment for 10 years.

Forcible taking or detention of minor with intent to have sexual intercourse

153. Any person who by force takes away or detains any minor against his will, with intent to cohabit or have unlawful sexual intercourse with him or to cause him to cohabit or have unlawful sexual intercourse with another person, is guilty of an offence and is liable to imprisonment for 14 years.

Unlawful detention of minor with intent to have sexual intercourse

154. (1) Any person who detains any minor against his will—

- (a) in or upon premises with intent that that minor may cohabit or have unlawful sexual intercourse with another person, whether any particular person or generally; or

(b) in a brothel;

is guilty of an offence and is liable to imprisonment for 5 years.

(2) Where any minor is in or upon premises for the purpose of cohabiting or having any unlawful sexual intercourse, or is in any brothel, another person shall be deemed to detain him in or upon the premises or in the brothel, if with intent to compel or induce him to remain therein that other person withholds from him any wearing apparel or other property belonging to him, or, where wearing apparel has been lent or otherwise supplied to him by or by the direction of that other person, that other person threatens him with legal proceedings if he takes away with him the wearing apparel so lent or supplied.

(3) No legal proceedings whether civil or criminal shall be taken against a minor who was in or upon any premises or brothel as mentioned in subsection (2) for taking away or being found in possession of any such wearing apparel as was necessary to enable him to leave the premises or brothel.

Abduction of unmarried person under 16 years of age

155. Any person who is guilty of an abduction of any unmarried person under 16 years of age is guilty of an offence and is liable to imprisonment for 5 years.

Abduction of unmarried person between 16 and 18 years of age

156. Any person who is guilty of an abduction of any unmarried person being 16 years of age or more and under 18 years of age is guilty of an offence and is liable to imprisonment for 5 years.

Special provisions as to aiding or abetting in cases of abduction of minor

157. Any person who, knowing that any of the offences mentioned in sections 152 to 156 has been committed in the case of any minor, aids or abets the unlawful detention of that minor, or otherwise aids or abets the execution of the intent with which that offence was committed, is deemed guilty of that offence.

Special provisions as to abduction of minor

158. For the purposes of the sections of this Part relating to abduction—

- (a) it is not necessary that the taking or detaining should be without the consent of the minor taken or detained, and it suffices if the minor is persuaded, aided or encouraged to depart or not to return;
- (b) it is not necessary that there should be an intent permanently to deprive any person of the custody, care or charge of the minor taken or detained;
- (c) a taking or detention is unlawful unless some person entitled to give consent to the taking or detention of the minor taken or detained, for the purposes for which he is taken or detained, gives consent to the taking or detention for those purposes;
- (d) a person having the temporary custody, care or charge of a minor for a special purpose, as his attendant, employer or schoolteacher or in any other capacity, can be guilty of abduction of that minor by acts which he is not authorised to do for such

special purpose, and he cannot give consent to any act by another person which would be inconsistent with such special purpose; and

- (e) a person is not guilty of abduction of a minor by anything which he does in the belief that he is entitled by law as a parent or guardian, or by virtue of any other legal right, to take or detain that minor for the purposes for which he takes or detains him, but this rule shall not be construed to exempt a person from liability to punishment on the plea that he did not know or believe, or had not the means of knowing, that that minor was under 14, 16 or 18 years of age, as the case may be, nor to exempt a person from liability to punishment for abduction if he took or detained that minor for any immoral purpose.

Sexual harassment of minor

159. (1) Any person who—

- (a) being a prospective employer importunes or solicits sexual favours from a minor—
 - (i) in the terms or conditions on which he offers, to that minor or any other person, employment or admission into any institution, or
 - (ii) under a threat of rejection (whether implied or otherwise) of any application made by that minor or any other person for employment or for admission into any institution, or of causing such rejection;
- (b) being in a position of authority over, or being a co-worker of, a minor in any place of employment or any institution, importunes or solicits sexual favours from that minor under any holding out, promise or threat of the grant or imposition of any favour, benefit, advantage or disadvantage, as the case may be, at the place of employment or institution; or
- (c) being a person of or above 16 years of age and under 18 years of age, importunes or solicits from a person in a position of authority in any place of employment or any institution, any favour, benefit or advantage, or the forbearance from the exercise of any right, power or duty, relating to that authority under any holding out or promise of sexual favours;

is guilty of the offence of sexual harassment.

(2) Any person who is guilty of the offence of sexual harassment is liable to a fine of \$10,000 or to imprisonment for 5 years or to both.

(3) In this section, “prospective employer” means any person who—

- (a) is in a position of authority in any place of employment or any institution; or
- (b) is authorised to act on behalf of a person mentioned in paragraph (a) for the purpose of employing personnel for a place of employment or admitting persons into an institution.

Powers of court where sexual offence committed against minor

160. (1) Where, on the trial of any sexual offence committed against a minor under 16 years of age, it is proved to the satisfaction of the court that the offence has been perpetrated, caused, encouraged or favoured by his father, mother or guardian, or by any other person having custody, care or charge of him, it shall be in the power of the court to divest such father, mother, guardian or other person having such custody, care or charge of all authority over that minor, and to appoint any person or persons willing to take custody, care or charge of that minor to be his guardian until he has attained 18 years of age, or any age below this as the court may direct, and the court shall have the power from time to time to rescind or vary the order by the appointment of any other person or persons as guardian or guardians, or in any other respect.

(2) Where a person is convicted of a sexual offence, the court before which he is convicted may *in lieu* of, or in addition to, any penalty which may be imposed, make an order (in this section referred to as a “psychiatric assistance order”) requiring the person so convicted to attend a psychiatrist, for psychiatric assistance during such period specified in the order as the court may determine.

(3) Any person who fails to comply with any of the provisions of a psychiatric assistance order is guilty of an offence and is liable on conviction to a fine of \$5,000 or to imprisonment for 6 months or to both.

Mandatory reporting of suspected abuse of minors

161. (1) Any person who—

- (a) is the parent or guardian of a minor;
- (b) has the actual custody, care or charge of a minor;
- (c) has the temporary custody, care or charge of a minor for a special purpose, as his attendant, employer or teacher, or in any other capacity; or
- (d) is a medical practitioner and has performed a medical examination in respect of a minor;

and who has reasonable grounds for believing that a sexual offence has been committed in respect of that minor shall report the grounds for his belief to a police officer as soon as reasonably practicable.

(2) Any person who without reasonable excuse fails to comply with the requirements of subsection (1) is guilty of an offence and is liable on conviction to a fine of \$5,000 or to imprisonment for 2 years or to both.

(3) No report made to a police officer under the provisions of subsection (1) shall, if such report was made in good faith for the purpose of complying with those provisions, subject the person who made the report to any action, liability, claim or demand whatsoever.

*Other Sexual Offences***Rape**

162. (1) A man who rapes a woman commits an offence and is liable on conviction to imprisonment for life.

(2) A man commits rape if—

- (a) he has unlawful sexual intercourse with a woman who at the time of intercourse did not consent to it; and
- (b) at that time he knows that she does not consent to the intercourse or he is reckless as to whether she consents to it.

(3) If at a trial for a rape offence the jury has to consider whether a man believed that a woman was consenting to sexual intercourse, the presence or absence of reasonable grounds for such belief is a matter to which the jury is to have regard, in conjunction with any other relevant matters in considering whether he so believed.

(4) In subsection (3), a “rape offence” means rape or attempted rape, or aiding, abetting, counselling or procuring rape or attempted rape, or incitement to rape.

(5) For the purposes of this section, a woman is deemed not to have consented to sexual intercourse if her acquiescence is obtained by threat of force or use of force, or by means of threats or intimidation of any kind, or by fear of bodily harm, or by means of false representations as to the nature of the act or, in the case of a married woman, by personating her husband.

(6) A person may be charged for attempting to commit rape, or aiding, abetting, counselling or procuring rape or attempted rape, or incitement to rape, and is liable on conviction to imprisonment for 7 years.

Sodomy and bestiality

163. Any person who commits buggery with another person or with any animal is guilty of an offence and is liable to imprisonment for 10 years.

Incest

164. (1) Any person who, knowing that another person is by blood relationship his or her parent, child, brother, sister, grandparent, grandchild, uncle, niece, aunt or nephew, as the case may be, has unlawful sexual intercourse with that other person, whether with or without the consent of that other person, is guilty of the offence of incest and is liable to imprisonment—

- (a) if he is an adult who commits the offence with a minor, for life;
- (b) if he is an adult who commits the offence with another adult, for a term of 10 years; and
- (c) if he is a minor who commits the offence with another minor, for a term of 7 years.

(2) Any person who, knowing that another person is by blood relationship his or her parent, child, brother, sister, grandparent, grandchild, uncle, niece, aunt or nephew, as the case may be, attempts to have unlawful sexual intercourse with that other person, whether with or without the consent of that other person, is guilty of an offence and is liable to imprisonment—

- (a) if he is an adult who commits the offence with a minor, for 10 years;
- (b) if he is an adult who commits the offence with another adult, for a term of 7 years; and
- (c) if he is a minor who commits the offence with another minor, for a term of 5 years.

(3) Notwithstanding the commission by any person of an act which amounts to an offence under subsection (1) or (2), that person is not guilty of the offence if—

- (a) he committed the act under restraint, duress or fear;
- (b) he did not consent to the commission of the act; or
- (c) at the time of the commission of the act, he was the spouse of the person with whom the act was committed.

(4) In this section, any expression importing a relationship between 2 persons shall be taken to apply notwithstanding that the relationship is not traced through lawful wedlock, and brother includes half-brother and sister includes half-sister.

Unlawful sexual intercourse with woman suffering from mental disorder

165. (1) Subject to the provisions of this section, a man who has unlawful sexual intercourse with a woman who is suffering from a mental disorder commits an offence and is liable on conviction to imprisonment for 10 years.

(2) A man shall not be convicted of an offence under this section if he did not know and had no reason to suspect that the woman was suffering from a mental disorder.

(3) For the purposes of this section, it is immaterial that the unlawful sexual intercourse was had with consent.

Sexual assault by husband

166. A husband commits the offence of sexual assault if he has sexual intercourse with his wife without her consent by force or fear where there is in existence in relation to them—

- (a) a *decree nisi* of divorce;
- (b) a decree of judicial separation;
- (c) a separation agreement; or
- (d) any other order of a court that orders him not to molest his wife or have sexual intercourse with her;

and is liable on conviction to imprisonment for 7 years.

Attempted buggery, and indecent assault, on a man

167. Any person who—

- (a) attempts to commit buggery;
- (b) commits an assault with intent to commit buggery; or
- (c) commits an indecent assault;

upon a man is guilty of an offence and is liable on conviction to imprisonment for 5 years.

Indecent assault on a woman

168. (1) Any person who is convicted of an indecent assault upon any woman is liable to be imprisoned for 5 years.

(2) A woman who is suffering from a mental disorder cannot in law give any consent which would prevent an act being an assault for the purposes of this section, but a person is only to be treated as guilty of an indecent assault under this section by reason of such incapacity to consent, if that person knew or had reason to know that such woman was suffering from a mental disorder.

Abduction or kidnapping woman with intent to marry, etc.

169. Any person who abducts or kidnaps a woman with intent to marry or have sexual intercourse with her, or to cause her to be married or to have sexual intercourse with any other person, commits an offence and is liable on conviction to imprisonment for 14 years.

*Prostitution of Adults***Causing prostitution of woman**

170. Any person who, within Anguilla, procures or attempts to procure, a woman—

- (a) to become a common prostitute, whether within Anguilla or elsewhere;
- (b) to leave Anguilla, intending her to become an inmate of or to frequent a brothel elsewhere; or
- (c) to leave her usual place of abode in Anguilla, intending her to become an inmate of or to frequent a brothel in any part of the world for the purposes of prostitution;

commits an offence and is liable on conviction to imprisonment for 3 years.

Procuring woman by threats or false pretences

171. Any person who procures or attempts to procure a woman—

- (a) by threats or intimidation; or
- (b) by false pretences or false representation;

to have unlawful sexual intercourse, whether within Anguilla or elsewhere, commits an offence and is liable on conviction to imprisonment for 3 years.

Administering drugs to facilitate sexual intercourse

172. Any person who applies or administers to, or causes to be taken by, a woman any drug, matter or thing with intent to stupefy or overpower her so as thereby to enable any man to have unlawful sexual intercourse with her commits an offence and is liable on conviction to imprisonment for 3 years.

Detention of woman in brothel, etc.

173. (1) Any person who detains a woman against her will on any premises with the intention that she shall have unlawful sexual intercourse with men or with a particular man, or who detains a woman against her will in a brothel, commits an offence and is liable on conviction to imprisonment for 4 years.

(2) Where a woman is on any premises for the purpose of having unlawful sexual intercourse, or is in a brothel, a person shall be deemed, for the purposes of this section, to detain her there if, with the intention of compelling or inducing her to remain there, he either withholds from her clothes or any other property belonging to her or threatens her with legal proceedings in the event of her taking away clothes provided for her by him or on his directions.

(3) A woman shall not be liable to any legal proceedings, whether civil or criminal, for taking away or being found in possession of any clothes she needed to enable her to leave premises on which she was for the purposes of having unlawful sexual intercourse or to leave a brothel.

Man living on earnings of prostitution

174. (1) A man who knowingly lives wholly or partly on the earnings of prostitution commits an offence and is liable on conviction to imprisonment for 4 years or to a fine of \$10,000 or to both.

(2) For the purposes of this section, a man who lives with or is habitually in the company of a prostitute, or who exercises control over a prostitute's movements in a way which shows he is aiding, abetting or compelling her prostitution with others, shall be presumed to be knowingly living on the earnings of prostitution, unless he proves the contrary.

Person exercising control over prostitute

175. A person who for purposes of gain, exercises control, direction or influence over a prostitute's movements in a way which shows that he is aiding, abetting or compelling that prostitution commits an offence and is liable on conviction to imprisonment for 4 years or to a fine of \$10,000 or to both.

Living on earnings of male prostitution

176. Any person who knowingly lives wholly or partly on the earnings of prostitution of a man commits an offence and is liable on conviction to imprisonment for 3 years or to a fine of \$3,000 or to both.

Keeping a brothel

177. Any person who keeps a brothel or manages or assists in managing a brothel commits an offence and is liable on conviction to imprisonment for 2 years or to a fine of \$2,000 or to both.

Letting premises for use as brothel

178. (1) Any person who is the owner or lessor, or who is the occupier or in control, of any premises, or his agent, who lets or arranges for the letting of the premises as a brothel commits an offence and is liable on conviction to imprisonment for 2 years or to a fine of \$2,000 or to both.

(2) Upon the conviction of a person for an offence under subsection (1), after having been previously convicted of an offence under that subsection, he is liable to imprisonment for 3 years or to a fine of \$3,000 or to both.

Prostitution: solicitation

179. (1) Any person loitering or being in any public place for the purpose of prostitution or solicitation to the annoyance of the public commits an offence and is liable on conviction to imprisonment for 2 years or to a fine of \$2,000 or to both.

(2) Any person who in any public place persistently solicits or importunes for immoral purposes commits an offence and is liable on conviction to imprisonment for 2 years or to a fine of \$2,000 or to both.

Prostitution: riotous or indecent behaviour

180. Any prostitute wandering in the public streets or public highways, or in any place of public resort and behaving in a riotous or indecent manner, commits an offence and is liable on conviction to imprisonment for 2 years or to a fine of \$2,000 or to both.

*Power of Search***Power of search**

181. (1) If it appears to the Magistrate, on information made before him on oath—

(a) by any parent, relative or guardian of any woman or minor; or

(b) by any other person who, in the opinion of the Magistrate, is *bona fide* acting in the interest of any woman or minor;

that there is reasonable cause to suspect that the woman or minor is unlawfully detained for immoral purposes by any person in any place in Anguilla, the Magistrate may issue a warrant authorising any person named therein to search for, and, when found, to take to and detain in a place of safety the woman or minor (in this section referred to as the “detainee”) until the detainee can be brought before the Magistrate, and the Magistrate before whom the detainee is brought may cause the detainee to be delivered up to the detainee’s parents or guardians, or otherwise dealt with as circumstances may permit and require.

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

(3) A detainee shall be deemed to be unlawfully detained for immoral purposes if—

- (a) the detainee is so detained for the purpose of having sexual intercourse with any other person, whether any particular person or generally; and
 - (b) the detainee—
 - (i) is under the age of 16 years,
 - (ii) being of the age of 16 years or more and under the age of 18 years, is so detained against his will, or against the will of his father or mother or of any other person having the lawful care or charge of him, or
 - (iii) being a woman of the age of 18 years or more, is so detained against her will.
- (4) Any person authorised by warrant under this section to search for any detainee may enter (if need be, by force) any house, building or other place specified in the warrant and may remove the detainee therefrom.
- (5) A warrant issued under this section shall be addressed to and executed by a police officer who shall be accompanied by the parent, relative, guardian or other person making the information, if such person so desires, unless the Magistrate shall otherwise direct.

Trial of Sexual Offences

Hearings *in camera*

182. (1) Notwithstanding anything in any enactment or rule of practice, a Judge or Magistrate shall, in the interest of public morality, exclude from proceedings in relation to the offences mentioned in subsection (2), persons, other than the parties thereto and the legal practitioners representing them, but such Judge or Magistrate may, at the request of the complainant, permit the presence of any other person.

- (2) The offences referred to in subsection (1) are—
- (a) rape;
 - (b) indecent assault;
 - (c) sodomy;
 - (d) bestiality;
 - (e) incest;
 - (f) any sexual offence; or
 - (g) an attempt to commit any of the offences mentioned in paragraphs (a) to (f).

Anonymity of complainant

183. (1) After a person is charged with an offence mentioned in section 182(2), no matter which is likely to lead members of the public to identify a person as the complainant or as the accused in

relation to that offence shall either be published in a written publication or be broadcast in Anguilla except—

- (a) where, on the application of the complainant, or the accused, the court directs that the effect of the restriction is to impose a substantial and unreasonable restriction on the reporting of proceedings and that it is in the public interest to remove the restriction in respect of the applicant; or
- (b) in the case of an accused, after he has been tried and convicted of the offence.

(2) A person mentioned in subsection (3) who publishes or broadcasts any matter contrary to subsection (1) is guilty of an offence and is liable on conviction to imprisonment for 2 years or to a fine of \$2,000.

(3) The person referred to in subsection (2) is—

- (a) in the case of a publication in a newspaper or periodical, any proprietor, editor or publisher of the periodical;
- (b) in the case of any other publication, the person who publishes it; and
- (c) in the case of a broadcast, a body corporate which transacts or provides the programme in which the broadcast is made and any person having functions in relation to the programme corresponding to those of an editor of a newspaper.

(4) In this section—

“accused” means—

- (a) a person named in an information laid alleging that the person has committed the offence; or
- (b) a person who appears before a court charged with the offence;

“complainant” includes, in relation to a person accused of an offence under this Code, the person against whom the offence is alleged to have been committed.

PART 15

ABORTION

Use of poison, etc., or instruments to cause miscarriage

184. (1) Subject to the provisions of this section, any person who—

- (a) being with child, with intent to procure her own miscarriage, unlawfully administers to herself any poison or other noxious thing, or unlawfully uses any instrument or other means whatsoever with the like intent; or

- (b) with intent to procure the miscarriage of any female, whether or not she is with child, unlawfully administers to her, or causes her to take, any poison or other noxious thing, or unlawfully uses any instrument or other means whatsoever with the like intent;

commits an offence and is liable on conviction to imprisonment for 14 years.

(2) A person shall not be convicted of an offence under subsection (1) when a pregnancy is terminated in a hospital by a medical practitioner if 2 medical practitioners are of the opinion, formed in good faith—

- (a) that the continuance of the pregnancy would involve risk to the life of the pregnant woman, or injury to the physical health of the pregnant woman greater than if the pregnancy were terminated or grave injury of prolonged duration to the mental health of the pregnant woman; or
- (b) that there is a substantial risk that, if the child were born, it would suffer from such physical or mental abnormality as to be seriously handicapped.

(3) The reference to the opinion of 2 medical practitioners and to an approved hospital shall not apply to the termination of pregnancy by a registered medical practitioner in a case in which he is of the opinion, formed in good faith, that the termination is immediately necessary to save the life or to prevent grave permanent injury to the physical or mental health of the pregnant woman.

Supplying poison, etc., with intent to procure miscarriage

185. Any person who unlawfully supplies or procures any poison or other noxious thing, or any instrument or thing whatsoever, knowing that it is intended to be unlawfully used or employed with intent to procure the miscarriage of any female, whether or not she is with child, commits an offence and is liable on conviction to imprisonment for 5 years.

Child destruction

186. (1) Any person who, with intent to destroy the life of a child capable of being born alive, by any wilful act or omission causes a child to die before it has an existence independent of its mother, commits the offence of child destruction and is liable on conviction to imprisonment for life.

(2) A person shall not be convicted of an offence under subsection (1) if it is proved that the act which caused the death of the child was done in good faith for the purpose only of preserving the life of the mother.

(3) For the purposes of this section, evidence that a female had at any material time been pregnant for a period of 28 weeks or more shall be *prima facie* proof that she was at that time pregnant with a child capable of being born alive.

PART 16

HOMICIDE AND OTHER OFFENCES AGAINST THE PERSON

*Homicide, Suicide, etc.***Definition of murder**

187. (1) Subject to subsection (2) and to the provisions of sections 189, 191 and 195, any person who, with malice aforethought express or implied, causes the death of another person by an unlawful act or omission commits murder.

(2) Where on the facts found the offence would under the law of England be reduced to one of manslaughter, then the offence shall be so reduced.

(3) For the purpose of this section, malice aforethought shall be deemed to be established by evidence proving—

- (a) an intention to cause the death of or to do grievous bodily harm to any person, whether such person is the person actually killed or not; or
- (b) knowledge that the act or omission causing death will probably cause the death of or grievous bodily harm to some person, whether or not such person is the person actually killed, although such knowledge is accompanied by indifference whether or not death or grievous bodily harm is caused, or by a wish that it may not be caused.

(4) No punishment shall be incurred by any person who kills another by misfortune or in his own defence.

Persons suffering from diminished responsibility

188. (1) Where a person kills or is party to the killing of another, he shall not be convicted of murder if he was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or other inherent cause or induced by disease or injury) as substantially impaired his mental responsibility for his acts in doing or being a party to the killing.

(2) On a charge of murder, it shall be for the defence to prove that the person charged is by virtue of this section not liable to be convicted of murder.

(3) A person who but for this section would be liable, whether as principal or otherwise, to be convicted of murder shall be liable instead to be convicted of manslaughter.

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

Penalty for murder

189. Any person who is convicted of murder is liable to imprisonment for life.

Provocation

190. (1) Where on a charge of murder there is evidence on which a jury can find that the person charged was provoked (whether by things done or things said or both) to lose his self-control, the

question whether the provocation was enough to make a reasonable man do as he did shall be left to be determined by the jury, and the jury shall take into account everything done and said according to the effect which, in their opinion, it would have on a reasonable man.

(2) Where on a charge of murder, the jury finds that all the other elements of the offence have been proved, but there is evidence of provocation, such as is referred to in subsection (1), the jury shall not return a verdict of guilty of murder but shall return a verdict of guilty of manslaughter.

(3) For the purposes of this section, “provocation” is any wrongful act or insult which is of such a nature as to be likely, when done to an ordinary person, or in the presence of any ordinary person to another person who is under his immediate care, or to whom he stands in a conjugal, parental, filial or fraternal relation, to deprive him of the power of self-control and to induce him to assault the person by whom the act or insult is done or offered.

Attempted murder

191. Any person who, by any means, attempts to commit murder is liable on conviction to imprisonment for life.

Manslaughter

192. (1) Any person who, by any unlawful act or omission, causes the death of another person commits the offence of manslaughter.

(2) Any person who is convicted of manslaughter is liable to imprisonment for life.

(3) For the purposes of this section, an unlawful omission is an omission amounting to culpable negligence to discharge a duty tending to the preservation of life or health, whether such omission is or is not accompanied by an intention to cause death or bodily harm.

Provision for trial of murder and manslaughter in certain cases

193. Where any person—

- (a) being unlawfully stricken, poisoned or otherwise hurt upon the sea, or at any place out of Anguilla, dies of such stroke, poisoning or hurt in Anguilla; or
- (b) being unlawfully stricken, poisoned or otherwise hurt at any place in Anguilla, dies of such stroke, poisoning or hurt upon the sea, or at any place out of Anguilla;

every offence committed in respect of any such case, whether the same amounts to murder or manslaughter, or of being accessory to murder or manslaughter, may be dealt with, inquired of, tried and determined, and punished in Anguilla in the same manner in all respects as if such offence had been wholly committed in Anguilla.

Infanticide

194. (1) Where a woman by any wilful act or omission causes the death of her child, being a child under the age of 12 months, but at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child, then notwithstanding that the circumstances were such that but for this section the offence would have amounted to murder, she

commits the offence of infanticide, and may for such offence be dealt with and punished as if she had committed the offence of manslaughter.

(2) Where upon the trial of a woman for the murder of her child, being a child under the age of 12 months, the jury are of the opinion that by any wilful act or omission she caused its death, but that at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child, then the jury, notwithstanding that the circumstances were such that but for this section they might have returned a verdict of murder, may return *in lieu* thereof a verdict of manslaughter.

(3) Nothing in this section shall affect the power of the jury upon an indictment for murder of a child to return a verdict of manslaughter, or a verdict of guilty but insane, or a verdict of concealment of birth in pursuance of section 201.

Threats to murder

195. (1) Any person who maliciously sends, delivers or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter, writing or other document threatening to kill or murder any person commits an offence and is liable on conviction to imprisonment for 10 years.

(2) For the purposes of subsection (1), “document” shall be deemed to include any disc, tape, sound track or other device in which sounds or other data are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom.

Conspiracy to murder

196. Any person who conspires with any other person or solicits, encourages, persuades, endeavours to persuade, or proposes to any other person, to murder any person, whether such person is within Anguilla or elsewhere, commits an offence and is liable on conviction to imprisonment for 14 years.

Aiding, abetting, etc., suicide

197. (1) Any person who aids, abets, counsels or procures the suicide of another, or the attempt by another to commit suicide, commits an offence and is liable on conviction to imprisonment for 14 years.

(2) If on the trial of an indictment for murder or manslaughter it is proved that the accused aided, abetted, counselled or procured the suicide of the person in question, the jury may find him guilty of the offence of aiding, abetting, counselling or procuring the commission of suicide.

Suicide pacts

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

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

(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 own life, but nothing done by a person entering into a suicide pact shall be treated as done by him in pursuance of the pact unless it is done while he has a settled intention of dying in pursuance of that pact.

Meaning of “causing death”

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

- (a) if he inflicts bodily injury on another person in consequence of which that other person undergoes surgical or medical treatment which causes his death, and in such a case it is immaterial whether the treatment was proper or mistaken, if it was employed in good faith and with common knowledge and skill; but the person inflicting the injury shall not be deemed to have caused the death if the treatment which was the immediate cause of the death was not employed in good faith or was so employed without common knowledge and skill;
- (b) if he inflicts a bodily injury on another which would not have caused death if the injured person had submitted to proper surgical or medical treatment or had observed proper precautions as to his mode of living;
- (c) if by actual or threatened violence he causes such other person to perform an act which causes the death of that person, such act being a means of avoiding such violence which in the circumstances would appear natural to the person whose death is so caused;
- (d) if by any act or omission he hastens the death of a person suffering under any disease or injury which, apart from such act or omission, would have caused death;
- (e) if his act or omission would not have caused death unless accompanied by an act or omission of the person killed or another person.

Persons capable of being killed

200. A child becomes a person capable of being killed when it has completely proceeded in a living state from the body of its mother, whether or not it has breathed, whether or not it has independent circulation and whether or not the umbilical cord is severed.

Concealing birth of a child

201. Any person who, when a woman is delivered of a child, endeavours by any secret disposition of the dead body of the child, to conceal the birth, whether the child died before, at or after its birth, commits the offence of concealment of birth and is liable on conviction to imprisonment for 2 years.

Abolition of the year and a day rule and proceedings for fatal offence

202. (1) In this section, “year and a day rule” means the rule that, for the purpose of offences involving death and of suicide, an act or omission is conclusively presumed not to have caused a person’s death if more than a year and a day has elapsed before he died.

- (2) The year and a day rule is abolished for all purposes.

Proceedings for fatal offence

203. (1) Proceedings to which this section applies may only be instituted by or with the consent of the Attorney General.

(2) This section applies to proceedings against a person for a fatal offence if—

- (a) the injury alleged to have caused the death was sustained more than 3 years before the death occurred; and
- (b) the person has previously been convicted of an offence committed in circumstances alleged to be connected with the death.

(3) In subsection (2), “fatal offence” means—

- (a) murder, manslaughter, infanticide or any offence of which one of the elements is causing a person’s death; or
- (b) the offence of aiding, abetting, counseling or procuring a person’s suicide.

*Wounding***Wounding or causing grievous bodily harm with intent**

204. Any person who unlawfully and maliciously, by any means whatsoever, wounds or causes any grievous bodily harm to any person with intent to do so or with intent to resist or prevent the lawful apprehension or detainer of any person, commits an offence and is liable on conviction to imprisonment for life.

Wounding or inflicting grievous bodily harm

205. Any person who unlawfully and maliciously wounds or inflicts any grievous bodily harm upon any other person, either with or without any weapon or instrument, commits an offence and is liable on conviction to imprisonment for 5 years.

Wounding

206. Any person who unlawfully wounds another person commits an offence and is liable on conviction to imprisonment for 2 years.

*Unlawful Use of Poisons and Explosives, etc.***Attempting to choke in order to commit an offence**

207. Any person who, by any means whatsoever, attempts to choke, suffocate or strangle any other person, or who by any means calculated to choke, suffocate or strangle, attempts to render any other person insensible, unconscious or incapable of resistance with intent in any such cases thereby to enable himself or any other person to commit, or with intent in any of such cases thereby to assist any other person in committing, any criminal offence, commits an offence and is liable on conviction to imprisonment for life.

Using anaesthetic to commit an offence

208. Any person who unlawfully applies or administers to, or causes to be taken by, or who attempts to administer to or attempts to cause to be taken by, any other person any chloroform, laudanum or other anaesthetic or any stupefying or overpowering drug, matter or thing, with intent in any of such cases thereby to enable himself or any other person to commit or with the intent in any of such cases thereby to assist any other person in committing, any criminal offence commits an offence and is liable on conviction to imprisonment for life.

Administering poison so as to endanger life or inflict grievous bodily harm

209. Any person who unlawfully and maliciously administers to, or causes to be administered to or taken by, any other person any poison or other destructive or noxious thing so as thereby to endanger the life of such other person, or so as thereby to inflict upon such other person any grievous bodily harm, commits an offence and is liable on conviction to imprisonment for 10 years.

Administering poison with intent to injure, etc.

210. Any person who unlawfully and maliciously administers to, or causes to be administered to or taken by, any other person any poison or other destructive or noxious thing with intent to injure, aggrieve or annoy such person, commits an offence and is liable on conviction to imprisonment for 5 years.

Causing grievous bodily harm by corrosive or explosive substance

211. Any person who unlawfully and maliciously, by the use of any corrosive substance or the explosion of any explosive substance, burns, maims, disfigures, disables or causes any grievous bodily harm to any person commits an offence and is liable on conviction to imprisonment for life.

Using explosive or corrosive substance with intent to do grievous bodily harm

212. Any person who unlawfully or maliciously—

- (a) causes any explosive substance to explode;
- (b) sends or delivers to, or causes to be taken or received by, any person any explosive substance or any other dangerous or noxious thing;
- (c) puts or lays at any place any corrosive fluid or any destructive or explosive substance;
or
- (d) casts or throws at or upon or otherwise applies to any person any corrosive fluid or any destructive or explosive substance;

with intent in any such case to burn, maim, disfigure or disable any person, or to do some grievous bodily harm to any person, commits an offence and is liable on conviction to imprisonment for life.

Placing explosive near building, etc., with intent to cause bodily harm

213. Any person who unlawfully and maliciously places or throws in, into, upon, against or near any building, aircraft, ship or vessel any explosive substance with intent to do any bodily injury to any person, whether or not any explosion takes place and whether or not any bodily injury is effected, commits an offence and is liable on conviction to imprisonment for life.

Causing explosion likely to endanger life or property

214. Any person who unlawfully and maliciously causes by any explosive substance an explosion of a nature likely to endanger life or to cause serious injury to property, whether any injury to person or property has been actually caused or not, commits an offence and is liable on conviction to imprisonment for 14 years.

Setting traps, etc., with intent to inflict grievous bodily harm

215. (1) Any person who sets or places or causes to be set or placed any spring gun, mantrap or other engine or other device (including any electrical device or wiring) calculated to destroy human life or inflict grievous bodily harm, with the intent that the same or whereby the same may kill or inflict grievous bodily harm upon a trespasser or other person coming into contact therewith, commits an offence and is liable on conviction to imprisonment for 5 years.

(2) Any person who knowingly and wilfully permits any such contrivance, engine or device as is referred to in subsection (1), which may have been set or placed in any place, then being in or afterwards coming into his possession, to continue so set or placed shall be deemed to have set or placed the same with such intent as is referred to in subsection (1).

(3) Nothing in this section contained shall extend to make it illegal to set or place any trap or other device such as may have been or may be usually set with the intent of destroying vermin.

Unlawful use of firearms

216. Any person who unlawfully discharges or attempts to discharge any firearm at any person or, being armed with a firearm, unlawfully threatens to discharge such firearm at any person, commits an offence and is liable on conviction, in addition to any other penalty for any offence he may thereby commit, to imprisonment for 5 years.

Excessive use of force

217. Any person who is authorised by law, or by the consent of a person injured by him, to use force shall be criminally responsible for the consequences of the force he may use, if it exceeds what is reasonable, having regard to all the circumstances of the case.

Reckless and negligent acts

218. Any person who, in any manner so rash or negligent as to endanger human life or safety—

- (a) drives or rides in any public place;
- (b) navigates or takes part in the navigation or working of any vessel or aircraft;
- (c) does any act with fire or any combustible matter or omits to take precautions against any probable danger from any fire or any combustible matter in his possession or control;
- (d) omits to take precautions against any probable danger from any animal in his control or possession;
- (e) dispenses, supplies, sells, administers or gives away any medicine or poisonous or dangerous matter;

- (f) does any act with respect to, or omits to take proper precautions against, any probable danger from any machinery of which he is solely or partly in charge; or
- (g) does any act with respect to, or omits to take proper precautions against, any probable danger from any explosive or firearm in his possession or control;

commits an offence and is liable on conviction to imprisonment for 2 years.

Other negligent acts or omissions causing harm

219. Any person who unlawfully does any act, or omits to do any act which it is his duty to do, not being an act or omission specified in section 218, by which act or omission harm is caused to any person, commits an offence and is liable on conviction to imprisonment for 6 months or to a fine of \$500.

Dealing with poisonous substances in a negligent manner

220. Any person who does with any poisonous substance any act in a manner so rash or negligent as to endanger human life or be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such care with any poisonous substance in his possession or control as is sufficient to guard against probable danger to human life from such poisonous substance, commits an offence and is liable on conviction to imprisonment for 6 months or to a fine of \$500.

Conveying person for hire in unsafe conveyance

221. Any person who knowingly or negligently conveys, or causes any person to be conveyed, for hire by water or air in any vessel or aircraft when the vessel or aircraft is in such a state or so loaded as to be unsafe commits an offence and is liable to imprisonment for one year.

Assault

Common assault

222. Any person who unlawfully assaults another commits an offence and, if the assault is not committed in circumstances for which a greater punishment is provided by this or any other law, is liable on conviction to imprisonment for one year or to a fine of \$1,000 or to both.

Assault causing actual bodily harm

223. Any person who commits an assault occasioning actual bodily harm commits an offence and is liable on conviction to imprisonment for 5 years.

Assault on person protecting wreck

224. Any person who assaults and strikes or wounds a judicial or police officer or other person lawfully authorised in or on account of the execution of his duty in or concerning the preservation of any vessel or aircraft in distress, or of any vessel or aircraft or goods or effects wrecked, stranded or cast on any land or shore, or lying under water, commits an offence and is liable on conviction to imprisonment for 7 years.

Assaults specially punishable

225. A person commits an offence and is liable on conviction to imprisonment for 4 years, if he—

- (a) assaults any person with intent to commit an offence or to resist or prevent the lawful apprehension or detainer of himself or another for any offence;
- (b) assaults, resists or obstructs any person engaged in the lawful execution of process, or in making lawful distress, with intent to rescue any property lawfully taken under such process or distress; or
- (c) assaults any person on account of any act done by him in the execution of any duty imposed on him by law.

Assault on female or male under 14 years of age

226. Any person who is guilty of an aggravated assault on—

- (a) a female; or
- (b) any male whose age appears to the court not to exceed 14 years;

if the assault is not committed in circumstances for which a greater punishment is provided under this Code or any other law, is liable on conviction to imprisonment for 2 years or to a fine of \$2,000.

Assault on police officer, etc.

227. Any person who assaults, resists or wilfully obstructs any police officer acting in the due execution of his duty, or any person acting in aid of such officer, or who assaults any person with intent to resist or prevent the lawful apprehension or detainer of himself or any other person for any offence, commits an offence and is liable on conviction to imprisonment for 2 years or to a fine of \$2,000 or to both.

Limitation on Magistrate's jurisdiction

228. None of the provisions in this Part shall be construed as authorising the Magistrate to hear and determine any case of assault in which any question arises as to the title to any lands, tenements or hereditaments, or any interest therein or accruing thereon, or as to any bankruptcy or insolvency, or any execution under the process of the High Court.

*Miscellaneous***Impeding escape from shipwreck**

229. Any person who unlawfully and maliciously prevents or impedes any person, being on board of or having quitted any ship or vessel which is in distress or wrecked, stranded or cast on shore, in his endeavour to save his life, or unlawfully and maliciously prevents or impedes any other person in his endeavour to save the life of any such person, commits an offence and is liable on conviction to imprisonment for life.

PART 17

NEGLECT ENDANGERING LIFE OR HEALTH

Neglecting apprentice or servant

230. Any person who, either as master or as mistress of any apprentice or servant—

- (a) being legally liable to provide for the apprentice or servant necessary food, lodging or clothing, without lawful excuse, refuses or neglects to provide it; or
- (b) unlawfully or maliciously does, or causes to be done, any bodily harm to the apprentice or servant;

so that the life of the apprentice or servant is endangered or the health of the apprentice or servant is, or is likely to be, thereby seriously or permanently injured, commits an offence and is liable on conviction to imprisonment for 5 years.

Failure to supply necessities

231. Any person who, being charged with the duty of providing for another the necessities of life, without lawful excuse fails to do so, whereby the life of that other person is, or is likely to be, endangered, or his health is, or is likely to be, seriously or permanently injured, commits an offence and is liable on conviction to imprisonment for 5 years.

Abandoning or exposing child under 2 years of age

232. Any person who unlawfully abandons or exposes any child, being under the age of 2 years, whereby the life of the child is endangered or the health of the child is, or is likely to be, seriously or permanently injured, commits an offence and is liable on conviction to imprisonment for 7 years.

Cruelty to children

233. (1) If any person, who has attained the age of 16 years and has the custody, care or charge of any child or young person under that age, wilfully assaults, ill-treats, neglects, abandons or exposes him or causes or procures him to be assaulted, ill-treated, neglected, abandoned or exposed in any manner likely to cause him unnecessary suffering or injury to health (including injury to or loss of sight or hearing or organ of the body and any mental derangement), that person commits an offence and is liable on conviction to imprisonment for 5 years or to a fine of \$5,000 or to both.

(2) For the purposes of this section—

- (a) a parent or other person legally liable to maintain a child or young person shall be deemed to have neglected the child or young person in a manner likely to cause injury to his health if he has failed to provide adequate food, clothing, medical aid or lodging for him;
- (b) where it is proved that the death of an infant under the age of 3 years was caused by suffocation (not being suffocation caused by disease or the presence of any foreign body in the throat or air passages of the infant) while the infant was in bed with some other person who has attained the age of 16 years, that other person shall, if he was when he went to bed under the influence of drink, be deemed to have neglected the infant in a manner likely to cause injury to its health;

- (c) any person, having attained the age of 16 years, who gives, or causes to be given, or sells or causes to be sold, to any child under the age of 10 years any intoxicating liquor, except upon the order of a duly qualified medical practitioner, or in case of sickness, apprehended sickness, or other urgent cause, shall be deemed to have ill-treated that child in a manner likely to cause injury to the child's health; and
- (d) any person having attained the age of 16 years, and having the custody, care or charge of any child under the age of 7 years, who allows that child to be in any room or yard containing a stove, coal stove or open fireplace, not sufficiently protected to guard against the risk of that child being burnt or scalded, without taking reasonable precautions against the risk, and by reason thereof that child is killed or suffers serious injury, shall be deemed to have neglected that child in a manner likely to cause injury to the child's health.

(3) A person may be convicted under this section—

- (a) notwithstanding that actual suffering or injury to health, or the likelihood of actual suffering or injury to health, was obviated by the action of another person; and
- (b) notwithstanding the death of the child or young person in question.

(4) If it is proved that a person convicted under this section was directly or indirectly interested in any sum of money accruing or payable in the event of the death of the child or young person and had knowledge that such sum of money was accruing or becoming payable, then—

- (a) in the case of a conviction on indictment, the amount of the fine which may be imposed under this section shall be \$7,000 and the court *in lieu* of any other penalty under this section may sentence the person convicted to imprisonment for 7 years; and
- (b) in the case of a summary conviction, the court in determining the sentence shall take into consideration the fact that the person convicted was so interested and had such knowledge.

(5) For the purposes of subsection (4)—

- (a) a person shall be deemed to be directly or indirectly interested in a sum of money if he has any share in or any benefit from the payment of that money, notwithstanding that he may not be a person to whom it is legally payable; and
- (b) a copy of a policy of insurance, certified to be a true copy by an officer or agent of the insurance company granting or issuing the policy, shall be evidence that the child or young person therein stated to be insured has in fact been so insured and that the person in whose favour the policy has been granted is the person to whom the money thereby insured is legally payable.

(6) Nothing in this section shall be construed as affecting the right of any parent, teacher or other person who has lawful custody, care or charge of a child or young person to administer reasonable punishment to him.

Other unlawful acts or omissions to do duty that cause harm

234. Any person who unlawfully does an act or omits to do an act which it is his duty to do, by which act or omission harm is caused to any other person, in circumstances which do not constitute an offence under any other provision of this Code or any other law, commits an offence and is liable on conviction to imprisonment for one year or to a fine of \$1,000 or to both.

PART 18**ABDUCTION, KIDNAPPING AND SIMILAR OFFENCES****Definitions of “abduction” and “kidnapping”**

235. For the purposes of this Part—

- (a) any person who, without lawful authority, by force or threat or by any deceitful means compels or induces any person to go from any place is said to abduct that person; and
- (b) any person who, without lawful authority—
 - (i) conveys any person beyond the limits of Anguilla without the consent of that person or of some person legally authorised to consent on behalf of that person, or
 - (ii) imprisons any person within Anguilla in such manner as to prevent him from applying to a court for his release or from disclosing to any other person the place where he is imprisoned or in such manner as to prevent any person entitled to have access to him from discovering the place where he is so imprisoned,

is said to kidnap that person.

Punishment for kidnapping

236. Any person who kidnaps another person commits an offence and is liable on conviction to imprisonment for 10 years.

Hostage-taking

237. Any person who, whether in or outside Anguilla, seizes or detains any person (in this section called the “hostage”) without his consent, or with his consent obtained by fraud or duress, and threatens to kill, injure or continue to detain the hostage in order to compel a State, international intergovernmental organisation or any other person to do or abstain from doing any act as a condition, whether express or implied, for the release of the hostage is guilty of an offence and is liable on conviction to imprisonment for a term not exceeding 14 years.

(Act 14/2009, s. 3)

Abduction with intent to convey person out of Anguilla

238. Any person who abducts another person with intent to cause that other person to be taken beyond the limits of Anguilla, or to be secretly and unlawfully confined within Anguilla, commits an offence and is liable on conviction to imprisonment for 14 years.

Unlawfully taking girl under age of 16 years away from parent

239. Any person who unlawfully takes, or causes to be taken, any unmarried girl under the age of 16 years, out of the possession and against the will of her father or mother or other person having the lawful custody, care or charge of her commits an offence and is liable on conviction to imprisonment for 2 years.

Child stealing

240. (1) Any person who—

- (a) unlawfully either by force or fraud leads or takes away, or decoys or entices away, or detains any child under the age of 14 years with intent to deprive any parent, guardian or other person having the lawful custody, care or charge of such child, of the possession of the child;
- (b) with intent to steal any article upon or about the person of such child, whether or not the article belongs to that child, by force or fraud, leads or takes away, or detains the child; or
- (c) with any such intent receives such child, knowing the same to have been by force or fraud led, taken, decoyed, enticed away or detained as mentioned in this section;

commits an offence and is liable on conviction to imprisonment for 7 years.

(2) It is a defence to a charge under subsection (1) if the accused claims in good faith and establishes a right to the possession of the child or is the mother or father of the child.

Wrongful confinement

241. Any person who, without lawful authority, confines another person, in circumstances not constituting an offence under any of the other provisions of this Part, commits an offence and is liable on conviction to imprisonment for 5 years.

Unlawful compulsory labour

242. Any person who unlawfully compels another person to labour against the will of that other person commits an offence and is liable on conviction to imprisonment for 5 years.

PART 19**EXPLOITATION OF PERSONS****Dealing in slaves**

243. (1) Any person who, whether in or outside Anguilla—

- (a) sells, purchases, transfers, barter, lets, hires, or in any way whatsoever deals with any person as a slave;
- (b) employs or uses any person as a slave, or permits any person to be so employed or used;

- (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;
- (d) induces any person to sell, let, or give himself, or any other person dependent on him or in his charge, as a slave;
- (e) in any case not covered by paragraph (d), induces any person to sell, let, or give any other person into debt-bondage or serfdom;
- (f) builds, fits out, sells, purchases, transfers, lets, hires, uses, provides with personnel, navigates, or serves on board any ship or aircraft for any of the purposes in paragraphs (a) to (e);
- (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;
- (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 labour shall be exploited; or
- (j) agrees or offers to do any of the acts mentioned in this subsection;

commits an offence and is liable on conviction to imprisonment for 14 years.

(2) For the purposes of this section—

“debt-bondage” means the status or condition arising from a pledge by a debtor of his personal services, or of the personal services of any person under his 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;

“slave” includes, without limitation, a person subject to debt-bondage or serfdom.

(Act 14/2009, s. 4)

Dealing in people under 18 for sexual exploitation, removal of body parts, or engagement in forced labour

244. (1) Any person who, whether in or outside Anguilla—

- (a) sells, buys, transfers, barter, rents, hires, or in any other way enters into a dealing involving a person under the age of 18 years for the purpose of—
 - (i) the sexual exploitation of the person,
 - (ii) the removal of body parts from the person, or

- (iii) the engagement of the person in forced labour;
- (b) engages a person under the age of 18 years in forced labour;
- (c) permits a person under the age of 18 years to be engaged in forced labour;
- (d) detains, confines, imprisons, or carries away a person under the age of 18 years for the purpose of—
 - (i) the sexual exploitation of the person,
 - (ii) the removal of body parts from the person, or
 - (iii) the engagement of the person in forced labour;
- (e) removes, receives, transports, imports, or brings into any place a person under the age of 18 years for the purpose of—
 - (i) the sexual exploitation of the person,
 - (ii) the removal of body parts from the person for a material benefit, or
 - (iii) the engagement of the person in forced labour;
- (f) induces a person under the age of 18 years to sell, rent, or give himself or herself for the purpose of—
 - (i) the sexual exploitation of the person,
 - (ii) the removal of body parts from the person for a material benefit, or
 - (iii) the engagement of the person in forced labour;
- (g) induces a person to sell, rent, or give another person (being a person who is under the age of 18 years and who is dependent on him or her or in his or her charge) for the purpose of—
 - (i) the sexual exploitation of the other person,
 - (ii) the removal of body parts from the other person, or
 - (iii) the engagement of the other person in forced labour;
- (h) builds, fits out, sells, buys, transfers, rents, hires, uses, provides with personnel, navigates, or serves on board a ship, aircraft or other vehicle for the purpose of doing an act stated in any of paragraphs (a) to (g); or
- (i) agrees or offers to do an act stated in any of paragraphs (a) to (h);

commits an offence and is liable on conviction to imprisonment for 20 years.

(2) It is a defence to a charge under this section if the person charged proves that he or she believed on reasonable grounds that the person under the age of 18 years concerned was of or over the age of 18 years.

(3) For the purposes of subsection (1), sexual exploitation, in relation to a person, includes the following acts—

- (a) the taking by any means, or transmission by any means, of still or moving images of the person engaged in explicit sexual activities (whether real or simulated);
- (b) the taking by any means or transmission by any means, for a material benefit, of still or moving images of the person's genitalia, anus or breasts (not being an act described in subsection (4), (5) or (6));
- (c) the person's participation in a performance or display (not being an act described in subsection (4)) that—
 - (i) is undertaken for a material benefit, and
 - (ii) involves the exposure of the person's genitalia, anus or breasts;
- (d) the person's undertaking of an activity (for example, employment in a restaurant) that—
 - (i) is undertaken for a material benefit, and
 - (ii) involves the exposure of the person's genitalia, anus or breasts.

(4) For the purposes of paragraphs (3)(b) and (c), sexual exploitation, in relation to a person, does not include the recording or transmission of an artistic or cultural performance or display honestly undertaken primarily for purposes other than the exposure of body parts for the sexual gratification of viewers.

(5) For the purposes of paragraph (3)(b), sexual exploitation, in relation to a person, does not include the taking or transmission of images of the person's genitalia, anus or breasts for the purpose of depicting a medical condition or a surgical or medical technique for the instruction or information of health professionals.

(6) For the purposes of paragraph (3)(b), sexual exploitation, in relation to a person, does not include the taking or transmission of images of the person's genitalia, anus or breasts if the images are honestly intended—

- (a) to provide medical or health education;
- (b) to provide information relating to medical or health matters; or
- (c) to advertise a product, instrument, or service intended to be used for medical or health purposes.

(7) The person under the age of 18 years in respect of whom an offence against this section was committed cannot be charged as a party to the offence.

- (8) This section does not limit or affect the generality of section 243.
(Act 14/2009, s. 4)

Smuggling and trafficking in people

Interpretation for sections 245 to 248

245. In this section and sections 246 to 248—

“act of coercion against the person” includes—

- (a) abducting the person;
- (b) using force in respect of the person;
- (c) causing harm of any kind to the person and, in particular, includes—
 - (i) causing physical, psychological or financial harm to the person,
 - (ii) sexually mistreating the person, or
 - (iii) causing harm to the person’s reputation, status or prospects; and
- (d) threatening the person (expressly or by implication) with the use of force in respect of, or the causing of harm of any kind to, the person or some other person;

“act of deception” includes a fraudulent action;

“arranges for an unauthorised migrant to be brought to a state” includes—

- (a) organises or procures the bringing to a state;
- (b) recruits for bringing to a state;
- (c) carries to a state;

“arranges for an unauthorised migrant to enter a state” includes—

- (a) organises or procures the entry into a state;
- (b) recruits for entry into a state;
- (c) carries into a state;

“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;

“unauthorised migrant”, in relation to a state, means a person who is neither a citizen or believer of the state, howsoever called, nor in possession of all the documents required by or under the law of the state for the person’s lawful entry into the state.

(Act 14/2009, s. 4)

Smuggling migrants

246. (1) Any person who arranges for an unauthorised migrant to enter Anguilla or any other state commits an offence, if he or she—

- (a) does so for a material benefit; and
- (b) either knows that the person is, or is reckless as to whether the person is, an unauthorised migrant.

(2) Any person who arranges for an unauthorised migrant to be brought to Anguilla or any other state commits an offence, if he or she—

- (a) does so for a material benefit;
- (b) either knows that the person is, or is reckless as to whether the person is, an unauthorised migrant; and
- (c) either—
 - (i) knows that the person intends to try to enter the state, or
 - (ii) is reckless as to whether the person intends to try to enter the state.

(3) Any person who commits an offence under this section is liable on indictment to imprisonment for 20 years, a fine of \$500,000 or both.

(Act 14/2009, s. 4)

Trafficking in people by means of coercion or deception

247. (1) Any person who—

- (a) arranges the entry of a person into Anguilla or any other state by one or more acts of coercion against the person, one or more acts of deception of the person or both; or
- (b) arranges, organises or procures the reception, concealment or harbouring in Anguilla or any other state of a person, knowing that the person’s entry into Anguilla or that state was arranged by one or more acts of coercion against the person, one or more acts of deception of the person or both;

commits an offence and is liable on conviction to imprisonment for 20 years, a fine of \$500,000 or both.

(2) Proceedings may be brought under this section even if the person coerced or deceived—

- (a) did not in fact enter the state concerned; or (as the case may be)

(b) was not in fact received, concealed, or harboured in the state concerned.

(3) Proceedings may be brought under this section even if parts of the process by which the person coerced or deceived was brought or came to or towards the state concerned were accomplished without an act of coercion or deception.

(Act 14/2009, s. 4)

Aggravating factors

248. (1) When determining the sentence to be imposed on, or other way of dealing with, a person convicted of an offence against section 246 or 247, a court shall take the following 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 84;
- (c) whether a person in respect of whom the offence was committed was subjected to inhuman or degrading treatment as a result of the commission of the offence; and
- (d) if, during the proceedings concerned the person was convicted of the same offence in respect of 2 or more people, the number of people in respect of whom the offence was committed.

(2) In addition to the factors referred to in subsection (1), when determining the sentence to be imposed on, or other way of dealing with, a person convicted of an offence against section 246, a court shall take the following into account—

- (a) whether a person in respect of whom the offence was committed was subjected to exploitation (for example, sexual exploitation, a requirement to undertake forced labour or the removal of body parts) as a result of the commission of the offence;
- (b) the age of the person in respect of whom the offence was committed and, in particular, whether the person was under the age of 18 years;
- (c) whether the person convicted committed the offence, or took actions that were part of it, for a material benefit.

(3) For greater certainty—

- (a) the examples referred to in paragraph (2)(a) do not limit the generality of that paragraph;
- (b) this section does not limit the matters that a 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 section 246 or 247.

(Act 14/2009, s. 4)

Attorney General's consent to prosecutions required

249. (1) Proceedings for an offence against section 246 or 247 cannot be brought in an Anguilla court without the Attorney General's consent.

(2) A person alleged to have committed an offence against section 246 or 247 may be arrested, or a warrant for the person's arrest may be issued and executed, and the person 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.

(Act 14/2009, s. 4)

PART 20**OFFENCES RELATING TO PROPERTY****Interpretation for the purposes of this Part**

250. For the purposes of this Part—

- (a) "gain" and "loss" are to be construed as extending not 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; and
- (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.

Definition of "theft", "thief" and "steal"

251. (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 or not the appropriation is made with a view to gain, or is made for the thief's own benefit.

(3) Sections 252 to 256 shall have effect as regards the interpretation and operation of this section and (except as otherwise provided by this Part) shall apply only for the purposes of this section.

Acts which are not dishonest

252. (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 a 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.

Definition of "appropriates"

253. (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 dealing with it as its 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.

Definition of "property"

254. (1) For the purposes of this Part, the term "property" includes money, whether in the form of cash, cheque, credit card, bank draft, money order or otherwise, and all other property, real or personal, including things in action and other intangible property.

(2) In the case of a credit card, the interest or number comprised in the card shall constitute property.

(3) 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—

- (a) when he is a trustee or personal representative, or is authorised by power of attorney, or as a 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;
- (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.

(4) For the purposes of this section, "land" does not include incorporeal hereditaments and "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 the tenancy remains in possession as statutory tenant or otherwise is to be treated as having possession under the tenancy, and "let" shall be construed accordingly.

(5) 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 purposes, and for the purposes of this subsection “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 carcass of any such creature unless it has been reduced into possession by or on behalf of another and possession of it has not since been lost or abandoned, or another person is in the course of reducing it into possession.

Property belonging to another

255. (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.

Intention of permanently depriving the owner of property

256. (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 the 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 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 (whether 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.

Theft

257. Any person who commits theft is guilty of an offence and is liable on conviction to imprisonment—

- (a) on summary conviction, for 2 years; or
- (b) on conviction on indictment, for 10 years.

Robbery

258. (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 who commits robbery is guilty of an offence and is liable on conviction to imprisonment for life.

Burglary

259. (1) A person commits the offence of burglary if—

- (a) he enters a building or part of a building as a trespasser and with intent to commit any offence mentioned in subsection (2); or
- (b) having entered a building or part of a building as a trespasser, he steals or attempts to steal any thing 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 paragraph (1)(a) are offences of stealing anything in the building or part thereof 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 this section to a building shall apply also to any 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) Any person who is convicted of burglary is liable on conviction to imprisonment for 14 years.

Aggravated burglary

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

(2) Any person who is convicted of aggravated burglary is liable to imprisonment for life.

(3) For the purposes of this section—

“explosive” means any article or substance manufactured for the purpose of producing a practical effect by explosion, or intended by the person having it with him for that purpose;

“firearm” includes an air gun or air pistol, and “imitation firearm” means anything which has the appearance of being a firearm, whether capable of being discharged or not;

“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.

Removal of articles from place open to the public

261. (1) Subject to subsections (2) and (3), where the public has 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 any part of any article displayed, or kept for display, to the public in the building or that part of it or in its grounds, commits an offence and is liable on conviction to imprisonment for 5 years.

(2) For the purposes of this section, “collection” includes any collection got together for a temporary purpose, but does not include 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 occasion, but where anything removed from the 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 that authority if the person entitled to give it knew of the removal and the circumstances of it.

Abstraction of electricity

262. Any person who dishonestly uses without due authority, or dishonestly causes to be wasted or diverted, any electricity, commits an offence and is liable on conviction to imprisonment for 2 years or to a fine of \$2,000 or to both.

Fraudulent use of telephone, fax or telex system

263. Any person who dishonestly uses a telephone, fax or telex system with intent to avoid payment, commits an offence and is liable on conviction to imprisonment for 2 years or to a fine of \$2,000 or to both.

Taking conveyance without authority

264. (1) Any person who, for his own use or that of another person, takes any conveyance constructed or adapted for the carriage of a person, whether by land, water or air, without having the consent thereto of the owner or hirer thereof (including a hirer under a self-drive or hire purchase contract) or not having other lawful authority or, knowing that such conveyance has been taken without such consent or authority, drives it or allows himself to be carried in or on it, commits an offence and is liable on conviction to imprisonment for 2 years or to a fine of \$2,000 or to both, and in addition the court may order the offender to pay to the owner of the conveyance compensation for the use thereof and for any damage caused to the conveyance.

(2) It is a defence to a charge under subsection (1) to show that the person charged has an honest belief that he acted under lawful authority or that in the circumstances the owner or hirer would have given his consent had he been aware of the taking.

(3) If on a trial for the theft of a conveyance it is found that the accused was not guilty of the theft of the conveyance, but then it is proved that the accused committed an offence under this section, he may be found guilty of the offence, and convicted, under this section.

Obtaining property by deception

265. (1) Any person who, by any deception, dishonestly obtains property belonging to another, with the intention of permanently depriving the other of it, commits an offence and is liable on conviction to imprisonment for 10 years.

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

(3) Section 256 shall apply for the purposes of this section, with the necessary adaptation of the reference to appropriating, as it applies for the purposes of section 251.

(4) For the purposes of this section, “deception” means any deception (whether deliberate or reckless) by words or conduct as to fact or as to law, including a deception as to the present intentions of the person using the deception or any other person.

Evasion of liability by deception

266. (1) Subject to subsection (2), any person who, by any deception—

- (a) dishonestly secures the remission of the whole or any part of any existing liability to make a payment, whether his own or another’s liability;
- (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;

commits an offence and is liable to imprisonment for 5 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 (1)(b), 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 as not being paid but as induced to wait for payment.

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

(5) For the purposes of this section, “deception” has the same meaning as in section 265(4).

Obtaining pecuniary advantage or services by deception

267. (1) Any person who, by any deception dishonestly obtains for himself or any other person any pecuniary advantage, or any services from another, commits an offence and is liable to imprisonment for 5 years.

(2) The cases in which a pecuniary advantage within the meaning of this section is to be regarded as obtained for a person are where—

- (a) any debt or charge for which he makes himself liable or is or may become liable (including one not legally enforceable) is reduced in whole or in part or evaded or deferred;
- (b) he is allowed to borrow on overdraft, or to take out a policy of insurance or annuity contract, or obtains an improvement of the terms on which he is allowed to do so; or
- (c) he is given the opportunity to earn a remuneration or greater remuneration in any office or employment, or to win money by betting.

(3) For the purposes of subsection (1), the obtaining of services by any person involves circumstances where the other person 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.

(4) For the purposes of this section, “deception” has the same meaning as in section 265(4).

Making off without payment

268. (1) Subject to subsection (3), a person who, knowing the payment on the spot for any goods supplied or services done is required or expected of him, dishonestly makes off without having paid as required or expected and with intent to avoid payment of the amount commits an offence and is liable on conviction to imprisonment for 6 months or to a fine of \$500.

(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 is such that payment is not legally enforceable.

False accounting

269. (1) Any person who 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 an 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;

commits an offence and is liable on conviction to imprisonment for 7 years.

(2) For the purposes of this section, a person who makes or concurs in making in any 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.

False statement by company directors

270. (1) Where a director or officer (by whatever name called) of a body corporate or unincorporated association (or person purporting to act as such), with intent to deceive the members or creditors of the body corporate or association about its affairs, publishes or concurs in publishing a written statement, account or other document which to his knowledge is or may be misleading, false or deceptive in a material particular, he commits an offence and is liable on conviction to imprisonment for 7 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 shall be deemed to be 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, account or other document which a member publishes or concurs in publishing in connection with his functions of management as if he were an officer of that body corporate or association.

Suppression of documents

271. (1) Any 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 commits an offence and is liable on conviction to imprisonment for 7 years.

(2) Any 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 commits an offence and is liable on conviction to imprisonment for 7 years.

(3) Subsection (2) shall apply in relation to the making, acceptance, endorsement, 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.

(4) For the purposes of this section, “deception” has the same meaning as in section 265(4) and “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 the delivery of any property, or the satisfaction of any obligation.

Blackmail

272. (1) A person commits the offence of 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.

(2) For the purpose of subsection (1), 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 menaces is a proper means of reinforcing the demand.

(3) 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.

(4) Any person convicted of blackmail is liable to imprisonment for 14 years.

Handling stolen goods

273. (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, removal, disposal or realization by or for the benefit of another person or if he arranges to do so.

(2) Any person who handles stolen goods commits an offence and is liable on conviction to imprisonment for 10 years.

Possession of thing reasonably suspected of being stolen

274. Any person who is charged with having in his possession in any place, or conveying in any manner, anything which is reasonably suspected of being stolen or unlawfully obtained and who does not give an account to the satisfaction of the court as to how he came by that thing, commits an offence and is liable on conviction to imprisonment for 6 months or to a fine of \$500.

Going equipped to steal, etc.

275. (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, and is liable on conviction to imprisonment for 3 years.

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

(3) Where a person is charged with an offence under this section, 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) For the purposes of this section, an offence under section 264 shall be treated as theft.

Advertisements for stolen property

276. Any person who—

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

commits an offence and is liable on conviction to imprisonment for 1 year or to a fine of \$1,000 or to both.

Corruptly taking a reward

277. A person who corruptly takes any money or reward, directly or indirectly, under pretence or upon account of helping any person to recover any property which has been stolen or handled or obtained in circumstances which amount to an offence, is (unless he has used all due diligence to cause the offender to be brought to trial for such offence) guilty of an offence and is liable on conviction to imprisonment for 5 years.

Liability of company officers for certain offences committed by company

278. (1) Where an offence under this Part is committed by a body corporate and 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 commit that offence and are 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 or defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Liability of spouses

279. (1) A wife shall have the same remedies and redress under this Part for the protection and security of her own property as if she were a *feme sole*.

(2) No proceedings under this Part shall be taken by any wife against her husband while they are living together as to or concerning any property claimed by her, nor while they are living apart as to or concerning any act done by the husband while they were living together concerning property claimed by the wife, unless such property has been wrongfully taken by the husband when leaving or deserting or about to leave or desert his wife.

(3) A wife doing an act with respect to any property of her husband, which, if done by the husband in respect to property of the wife, would make the husband liable to criminal proceedings by the wife under this Part, shall be in like manner liable to criminal proceedings by her husband.

Provisions relating to stolen goods

280. (1) The provisions of this Part relating to goods which have been stolen shall apply, whether the stealing occurred in Anguilla or elsewhere (and whether it occurred before or after 13 October, 2000), if the stealing, when not an offence under this Part, amounted to an offence where and at the time when the goods were stolen, and references to stolen goods shall be construed accordingly.

(2) For the purposes of those provisions, 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 realization 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 in the hands of a handler of the stolen goods, or any part of them, as

being the proceeds of any disposal or realization of the whole or part of the stolen goods handled by him or of goods so representing them.

(3) Notwithstanding subsections (1) and (2), 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 those goods, to have any right to restitution in respect of the theft.

(4) For the purposes of the provisions of this Part relating to goods which have been stolen (including the provisions of this section), goods obtained in Anguilla or elsewhere by blackmail, or in the circumstances referred to in section 265(1) shall be regarded as stolen, and “steal”, “theft” and “thief” shall be construed accordingly.

Procedure and evidence in trial for handling stolen goods

281. (1) Any number of persons may be charged in one complaint or 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 2 or more persons charged for jointly handling any stolen goods, the court or the jury, as the case may be, may find any of the accused guilty if satisfied that he handled 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 charged with handling stolen goods (but not with 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 that 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 realization, 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 realization of, stolen goods from any theft taking place not earlier than 12 months before the offence charged; and
- (b) evidence that he has within the 5 years preceding the date of the offence charged been convicted of theft or of handling stolen goods, if 7 days’ notice in writing has been given to him of the intention to prove the conviction.

(4) This section shall be construed in accordance with section 280, and in paragraph (3)(b) the references to theft and handling stolen goods shall be construed to include any corresponding offence committed before 13 October, 2000.

General deficiency in account

282. In any complaint or indictment against a person for theft, the accused person may be charged and proceeded against for the amount of a general deficiency in account, notwithstanding that such general deficiency is made up of any number of specific sums of money the taking of which extended over any space of time, and without showing any particular sums received and not accounted for.

Evidence by statutory declaration in certain cases

283. (1) 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 7 days before the trial of the charge, a copy of it has been given to the accused person and he has not, at least 3 days before the trial or within such other time as the court may in any particular case allow, given the prosecutor written notice requiring the attendance at the trial of the person making the declaration.

(2) This section shall be construed in accordance with section 280.

Compulsory disclosure in civil action or bankruptcy

284. (1) No person shall be liable to be convicted of any offence under this Part upon any evidence in respect of any act done by him, if at any time previously to his being charged with such offence he has first disclosed such act on oath, in consequence of any compulsory process of any court in any action, suit or proceeding which has been *bona fide* instituted by any person aggrieved.

(2) In any proceedings in respect of an offence under this Part, a statement or admission made by any person in any compulsory examination or deposition before any court on the hearing of any matter in bankruptcy shall not be admissible in evidence against that person.

Forfeiture of article used in committing offence

285. When any person is convicted of an offence under this Part, the court may order that any article referred to in section 275(1) carried or used in connection with any such offence, or found in possession of or under the control of such person at the time of his arrest, shall be forfeited to the Crown, or returned to the owner if the article was removed from his possession for such purpose and without his knowledge or consent.

Restitution

286. (1) Where goods have been stolen, and either a person is convicted of an offence under this Part with reference to the theft (whether or not the stealing is the gist of the offence) or a person is convicted of any other offence but such an offence is taken into consideration in determining his sentence, 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 realization 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, whether or not an application is made in that behalf, 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 in 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 the conviction of a person to make an order against that person both under paragraph (b) and (c) thereof with reference to the stealing of the same goods, the court may make orders under both paragraphs if 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) thereof 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 the 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 powers conferred by subsection (3) may be exercised whether or not an application in that behalf is made to the court by or on behalf of any person claiming to be interested in the property concerned.

(5) The court shall not exercise the powers conferred by this section unless in the opinion of the court the relevant facts appear from the 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.

(6) Where a person is committed to the High Court for sentence under the provisions of the Criminal Procedure (Committal for Sentence) Act or the Magistrate's Code of Procedure Act, the powers conferred by this section shall be exercisable by the High Court and not by the Magistrate's Court, and the High Court is deemed to be the court before which the person is convicted.

(7) Where an order is made under this section and the person convicted successfully appeals against the conviction of the offence on the basis of which the order was made, the order shall cease to have effect, and a person against whom such an order is made may appeal against the order as if it was part of the sentence imposed on the conviction for the offence.

PART 21

FORGERY AND COUNTERFEITING

*Forgery***Interpretation for the purposes of this Part**

287. For the purposes of this Part—

- (a) it is immaterial in what language an instrument is expressed or in what place, whether within or without Anguilla, it is expressed to take effect;
- (b) forgery of an instrument may be complete even if the instrument when forged is incomplete, or is not or does not purport to be such an instrument as would be binding in law;
- (c) the crossing on any cheque, draft on a banker, post office money order, postal order, coupon or other instrument the crossing of which is authorised or recognised by law, shall be a material part of such cheque, draft, order, coupon or instrument;
- (d) “currency note” includes any notes (by whatever name called) which are legal tender in the country in which they are issued;
- (e) “current coin” means any coin which is customarily used as money in any country.

Meaning of “instrument”

288. (1) Subject to subsection (2), in this Part the expression “instrument” means—

- (a) any document, whether of a formal or informal character (including a copy of the *Gazette* but not including a trade mark or other sign used in connection with articles of commerce, although written or printed);
- (b) any stamp issued or sold by the post office;
- (c) any disc, tape, sound track or other device on or in which information is recorded or stored by mechanical, electronic or other means.

(2) A currency note is not an instrument for the purposes of this Part.

(3) A mark denoting payment of postage authorised by law to be used instead of an adhesive stamp, is to be treated for the purposes of this Part as if it were a stamp issued by the post office.

Meaning of “false” and “making”

289. (1) An instrument is false for the purposes of this Part—

- (a) if it purports to have been made in the form in which it is made by a person who did not in fact make it in that form;
- (b) if it purports to have been made in the form in which it is made on the authority of a person who did not in fact authorise its making in that form;

- (c) if it purports to have been made in the terms in which it is made by a person who did not in fact make it in those terms;
- (d) if it purports to have been made in the terms in which it is made on the authority of a person who did not in fact authorise its making in those terms;
- (e) if it purports to have been altered in any respect by a person who did not in fact alter it in that respect;
- (f) if it purports to have been altered in any respect on the authority of a person who did not in fact authorise the alteration in that respect;
- (g) if it purports to have been made or altered on a date on which, or at a place at which, or otherwise in circumstances in which, it was not in fact made or altered; or
- (h) if it purports to have been made or altered by an existing person but he did not in fact exist.

(2) A person is to be treated for the purposes of this Part as making a false instrument if he alters an instrument so as to make it false in any respect (whether or not it is false in some other respect apart from that alteration).

Meaning of “prejudice” and “induce”

290. (1) Subject to subsections (2) and (4), for the purposes of this Part, an act or omission intended to be induced is to a person’s prejudice if it is one which, if it occurs—

- (a) will result—
 - (i) in his temporary or permanent loss of property,
 - (ii) in his being deprived of an opportunity to earn remuneration or greater remuneration, or
 - (iii) in his being deprived of an opportunity to gain a financial advantage otherwise than by way of remuneration;
- (b) will result in somebody being given an opportunity—
 - (i) to earn remuneration or greater remuneration from him, or
 - (ii) to gain a financial advantage from him otherwise than by way of remuneration; or
- (c) will be the result of his having accepted a false instrument as genuine, or a copy of a false instrument as a copy of a genuine one, in connection with his performance of any duty.

(2) An act which a person has an enforceable duty to do and an omission to do an act which a person is not entitled to do shall be disregarded for the purposes of this Part.

(3) In this Part, references to inducing somebody to accept a false instrument as genuine, or a copy of a false instrument as a copy of a genuine one, include references to inducing a machine to

respond to the instrument or copy as if it were a genuine instrument or, as the case may be, a copy of a genuine one.

(4) Where subsection (3) applies, the act or omission intended to be induced by the machine responding to the instrument or copy shall be treated as an act or omission to a person's prejudice.

(5) In this section, "loss" includes not getting what one might get as well as parting with what one has.

Forgery

291. A person commits the offence of forgery and is liable on conviction to imprisonment for 14 years if he makes a false instrument, with the intention that he or another shall use it to induce somebody to accept it as genuine, and by reason of so accepting it to do or not to do some act to his own or any other person's prejudice.

Copying a false instrument

292. A person commits an offence and is liable on conviction to imprisonment for 14 years if he makes a copy of an instrument which is, and which he knows or believes to be, a false instrument, with the intention that he or another shall use it to induce somebody to accept it as a copy of a genuine instrument, and by reason of so accepting it to do or not to do some act to his own or any other person's prejudice.

Using a false instrument

293. A person commits an offence and is liable on conviction to imprisonment for 14 years if he uses an instrument which is, and which he knows or believes to be, false, with the intention of inducing somebody to accept it as genuine, and by reason of so accepting it to do or not to do some act to his own or any other person's prejudice.

Using a copy of a false instrument

294. A person commits an offence and is liable on conviction to imprisonment for 14 years if he uses a copy of an instrument which is, and which he knows or believes to be, a false instrument, with the intention of inducing somebody to accept it as a copy of a genuine instrument, and by reason of so accepting it to do or not to do some act to his own or any other person's prejudice.

Offences relating to money orders, share certificates, passports, etc.

295. (1) A person commits an offence and is liable on conviction to imprisonment for 7 years if he has in his possession or under his control an instrument to which this section applies which is, and which he knows or believes to be, false, with the intention that he or another shall use it to induce somebody to accept it as genuine, and by reason of so accepting it to do or not to do some act to his own or any other person's prejudice.

(2) A person commits an offence and is liable on conviction to imprisonment for 4 years if he has in his custody or under his control, without lawful authority or excuse, an instrument to which this section applies which is, and which he knows or believes to be, false.

(3) A person commits an offence and is liable on conviction to imprisonment for 7 years if he makes or has in his custody or under his control a machine or implement, or paper or any other material, which to his knowledge is or has been specially designed or adapted for the making of an

instrument to which this section applies, with the intention that he or another shall make an instrument to which this section applies which is false and that he or another shall use the instrument to induce somebody to accept it as genuine, and by reason of so accepting it to do or not to do some act to his own or any other person's prejudice.

(4) A person commits an offence and is liable on conviction to imprisonment for 4 years if he makes or has in his custody or under his control any such machine, implement, paper or material, without lawful authority or excuse.

(5) The instruments to which this section applies are—

- (a) money orders;
- (b) postal orders;
- (c) postage stamps;
- (d) share certificates;
- (e) passports and documents which can be used instead of passports;
- (f) cheques;
- (g) travellers' cheques;
- (h) cheque cards;
- (i) credit cards;
- (j) certified copies relating to an entry in a register of births, adoptions, marriages or deaths and issued by the Registrar General, a registration officer or a person lawfully authorised to register marriages; and
- (k) certificates relating to entries in such registers.

(6) In paragraph (5)(d), "share certificate" means an instrument entitling or evidencing the title of a person to a share or interest—

- (a) in any public stock, annuity, fund or debt of any government or state, including a state which forms part of another state; or
- (b) in any stock, fund or debt of a body (whether incorporated or unincorporated) established in Anguilla or elsewhere.

Counterfeiting and Kindred Offences

Meaning of "counterfeit"

296. (1) For the purposes of this Part, a thing is a counterfeit of a currency note or of a current coin—

- (a) if it is not a currency note or a current coin but resembles a currency note or current coin (whether on one side only or on both) to such an extent that it is reasonably capable of passing for a currency note or current coin of that description; or
- (b) if it is a currency note or current coin which has been so altered that it is reasonably capable of passing for a currency note or current coin of some other description.

(2) For the purposes of this Part—

- (a) a thing consisting of one side only of a currency note, with or without the addition of other material, is a counterfeit of such a note; and
- (b) a thing consisting—
 - (i) of parts of 2 or more currency notes, or
 - (ii) of parts of a currency note, or of parts of 2 or more currency notes, with the addition of other material,

is capable of being a counterfeit of a currency note.

(3) References in this Part to passing or tendering a counterfeit of a currency note or a current coin are not to be construed as confined to passing or tendering it as legal tender.

Interpretation of terms relating to coining offences

297. For the purposes of this Part—

- (a) a coin apparently intended to resemble or pass as a current coin shall be deemed to resemble that coin;
- (b) a thing shall be deemed to be in the possession of a person if—
 - (i) he has it in his personal custody or possession, or
 - (ii) knowingly and wilfully, he has it in the actual custody or possession of any other person or in any place, whether open or enclosed or any building or structure, whether belonging to or occupied by himself or not,

and it is immaterial whether the thing is had in such custody, possession or place for the use of himself or another.

Counterfeiting notes and coins

298. (1) A person commits an offence and is liable on conviction to imprisonment for 10 years if he makes a counterfeit of a currency note or of a current coin, intending that he or another shall pass or tender it as genuine.

(2) A person commits an offence and is liable on conviction to imprisonment for 4 years if he makes a counterfeit of a currency note or of a current coin without lawful authority or excuse.

Passing counterfeit notes and coins

299. (1) A person commits an offence and is liable on conviction to imprisonment for 4 years if he—

- (a) passes or tenders as genuine anything which is, and which he knows or believes to be, a counterfeit of a currency note or of a current coin; or
- (b) delivers to another anything which is, and which he knows or believes to be, such a counterfeit, intending that the person to whom it is delivered or another shall pass or tender it as genuine.

(2) A person commits an offence and is liable on conviction to imprisonment for 3 years if he delivers to another, without lawful authority or excuse, anything which is, and which he knows or believes to be, a counterfeit of a currency note or of a current coin.

Custody of counterfeit notes and coins

300. (1) A person commits an offence and is liable on conviction to imprisonment for 7 years if he has in his custody or under his control anything which is, and which he knows or believes to be, a counterfeit of a currency note or of a current coin, intending either to pass or tender it as genuine or to deliver it to another with the intention that he or another shall pass or tender it as genuine.

(2) A person commits an offence and is liable on conviction to imprisonment for 4 years if he has in his custody or under his control, without lawful authority or excuse, anything which is, and which he knows or believes to be, a counterfeit of a currency note or of a current coin.

Custody or control of counterfeiting materials and implements

301. (1) A person commits an offence and is liable on conviction to imprisonment for 7 years if he makes, or has in his custody or under his control, anything which he intends to use, or permit any other person to use, for the purpose of making a counterfeit of a currency note or of a current coin with the intention that it be passed or tendered as genuine.

(2) A person commits an offence and is liable on conviction to imprisonment for 4 years if, without lawful authority or excuse—

- (a) he makes; or
- (b) he has in his or under his control;

anything which, to his knowledge, is or has been specially designed or adapted for the making of a counterfeit of a currency note.

(3) Subject to subsection (4), a person commits an offence and is liable on conviction to imprisonment for 4 years if he makes, or has in his custody or under his control, any implement which, to his knowledge, is capable of imparting to anything a resemblance—

- (a) to the whole or part of either side of a current coin; or
- (b) to the whole or part of the reverse of the image on either side of a current coin.

(4) It shall be a defence for a person charged with an offence under subsection (3) to show that he had lawful authority or excuse for making the implement or, as the case may be, having it in his custody or under his control.

Dealing in counterfeit notes and coins

302. Any person who, without lawful authority or excuse, the proof of which lies on him, buys, sells, receives, pays or puts off, or offers to buy, sell, receive, pay or put off, a counterfeit of a currency note or of a current coin at or for a lower rate of value than the counterfeit note or coin imports or apparently is intended to import, commits an offence and is liable on conviction to imprisonment for 7 years.

Importing and exporting counterfeit notes or coins

303. (1) Any person who, without lawful authority or excuse, the proof of which lies on him—

- (a) imports or receives into Anguilla any counterfeit currency note or current coin knowing it to be counterfeit; or
- (b) exports from Anguilla, or puts on board any aircraft or vessel for the purpose of being so exported, any counterfeit currency note or current coin, knowing it to be counterfeit;

commits an offence and is liable on conviction to imprisonment for 7 years.

(2) The provisions of this section shall be without prejudice to any provisions of any law relating to customs under which there is a prohibition of importation or exportation of counterfeit currency notes or current coin, or metal tokens resembling coin, or coin which is not of the established standard in weight or fineness.

When note or coin need not be in a fit state to be passed

304. For the purposes of sections 300, 302 and 303, it is immaterial that a currency note or current coin is not in a fit state to be passed or tendered or that the making or counterfeiting of the currency note or current coin has not been finished or perfected.

Powers of search, forfeiture, etc.

305. (1) If it appears to the Magistrate, from information given him on oath, that there is reasonable cause to believe that a person has in his custody or under his control—

- (a) anything which he or another has used, whether before or after 13 October, 2000, or intends to use, for the making of any false instrument or copy of a false instrument in contravention of section 291 or 292;
- (b) any false instrument or copy of a false instrument which he or another has used, whether before or after 13 October, 2000, or intends to use, in contravention of section 293 or 294;
- (c) anything, custody and control of which without lawful authority or excuse is an offence under section 295;

- (d) anything which is a counterfeit of a currency note or of a current coin in contravention of section 298, 299, 300, 302 or 303; or
- (e) anything which he or another has used, or intends to use, for the making of a counterfeit note or current coin in contravention of section 301,

the Magistrate may issue a warrant authorising a police officer to search for and seize the object in question, and for that purpose to enter any premises specified in the warrant.

(2) A police officer may at any time after the seizure of any object suspected of falling within any paragraph of subsection (1) (whether the seizure was effected by virtue of a warrant under that subsection or otherwise) apply to the Magistrate for an order under this subsection with respect to the object; and the Magistrate, if he is satisfied both that the object in fact falls within one or other of those paragraphs and that it is conducive to the public interest to do so, may make such order as he thinks fit for the forfeiture of the object and its subsequent destruction or disposal.

(3) Subject to subsection (4), the court by or before which a person is convicted of an offence under this Part may order anything shown to the satisfaction of the court to relate to the offence to be forfeited and either destroyed or dealt with in such other manner as the court may order.

(4) The court shall not order anything to be forfeited under subsection (2) or (3) where a person claiming to be the owner of or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made.

PART 22

PERSONATION

Personation in general

306. (1) Any person who, with intent to defraud any person, falsely represents himself to be some other person, living or dead and whether fictitious or not, commits an offence and is liable on conviction to imprisonment for one year or to a fine of \$1,000 or to both.

(2) If the representation under subsection (1) is that the person making the representation is a person entitled, by will or operation of law, to any specific property and is made in order to obtain such property or possession thereof, such person is liable on conviction to imprisonment for 7 years.

Lending, or personating person named in, certificate, etc.

307. (1) Any person who utters any document which has been issued by any lawful authority to another person, and whereby that other person is certified to be a person possessed of any qualification recognised by law for any purpose, or to be the holder of any office or to be entitled to exercise any profession, trade or business, or to be entitled to any right or privilege or to enjoy any rank or status, and falsely represents himself to be the person named in the document, commits an offence of the same kind and is liable on conviction to the same punishment as if he had forged the document.

(2) Any person who, being a person to whom any document has been issued by lawful authority whereby he is certified to be a person possessed of any qualification recognised by law for

any purpose, or to be the holder of any office, or to be entitled to exercise any profession, trade or business, or to be entitled to any right or privilege, or to enjoy any rank or status, sells, gives or lends the document to another person with intent that that other person may represent himself to be the person named therein, commits an offence and is liable on conviction to imprisonment for 7 years.

Personation in respect of a testimonial

308. (1) Any person who, for the purpose of obtaining any employment for himself, utters any document of a testimonial character given to another person, falsely pretending that he is the person named in the document, commits an offence and is liable on conviction to imprisonment for one year or to a fine of \$1,000 or to both.

(2) Any person who, being a person to whom any document of a testimonial character has been given, gives, sells or lends such document to another person with the intent that that other person may utter the document for the purpose of obtaining employment for himself or for another, commits an offence and is liable on conviction to imprisonment for one year or to a fine of \$1,000 or to both.

Falsely acknowledging recognizances, etc.

309. Any person who, without lawful authority or excuse, the proof of which lies upon him, makes in the name of any other person, before any court or person authorised by law to take such acknowledgement, an acknowledgement of liability of any kind, or an acknowledgement of any deed or other instrument, commits an offence and is liable on conviction to imprisonment for 7 years.

PART 23

CRIMINAL DAMAGE AND SIMILAR OFFENCES

Definition of “property”

310. (1) For the purposes of this Part—

- (a) “property” means property of a tangible nature, whether real or personal, including money, growing crops, trees and other vegetable products and wild creatures which have been tamed or are ordinarily kept in captivity and any other wild creatures or their carcasses if they have been reduced into possession which has not been lost or abandoned, or are in the course of being reduced into possession;
- (b) property shall, subject to paragraph (c), be treated as belonging to any person—
 - (i) having the custody of it,
 - (ii) having in it any proprietary right or interest (not being an equitable interest arising only from an agreement to transfer or grant an interest), or
 - (iii) having a charge on it;
- (c) a tenant, under whatever form of tenure, may be convicted of an offence under this Part in respect of the property of his landlord notwithstanding that at the time of the offence the tenant had the custody of such property; and

- (d) placing in or allowing any noxious substance to enter any pond, river, well or watercourse shall be deemed to cause damage to the property of the owner or of any other person who has a right to use that pond, river, well or watercourse for any purpose.

(2) Where property is subject to a trust, the person to whom it belongs shall be deemed to include any person having a right to enforce the trust.

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

Destroying or damaging property

311. (1) Any person who, without lawful excuse, destroys or damages any property belonging to another intending to destroy or damage any such property, or being reckless as to whether any such property would be destroyed or damaged, commits an offence.

(2) A person commits an offence if he, without lawful excuse, destroys or damages any property, whether belonging to himself or another—

- (a) intending to destroy or damage any property, or being reckless as to whether any property would be destroyed or damaged; and
- (b) intending by the destruction or damage to endanger the life of another, or being reckless as to whether the life of another would thereby be endangered.

(3) An offence committed under this section by destroying or damaging property by fire shall be charged as arson.

(4) A person convicted of arson under this section is liable to imprisonment for life.

Award of compensation in case of a conviction of an offender under section 311

312. On conviction of any person of an offence of destroying or damaging the property of another under section 311, the court may make a compensation order requiring him to pay compensation in respect of any injury, loss or damage arising from the offence.

Threats to destroy or damage property

313. Any person who, without lawful excuse, makes to another a threat, intending that that other would fear that it would be carried out—

- (a) to destroy or damage any property belonging to that other or a third person; or
- (b) to destroy or damage his own property in a way which he knows is likely to endanger the life of that other or a third person;

commits an offence and is liable on conviction to imprisonment for 10 years.

Possessing anything with intent to destroy or damage property

314. Any person who makes or manufactures anything, or has anything in his custody or under his control, intending without lawful excuse to use it or cause or permit another to use it—

- (a) to destroy or damage any property belonging to some other person; or
- (b) to destroy or damage any property, whether belonging to himself or another, in a way which he knows is likely to endanger the life of some other person;

commits an offence and is liable on conviction to imprisonment for 10 years.

Lawful excuse for destruction of property

315. (1) This section applies to an offence under section 311 and any offence under section 313 or 314 other than one involving a threat by the person charged to destroy or damage property in a way which he knows is likely to endanger the life of another or involving an intent by the person charged to use or permit the use of something in his custody or under his control so to destroy or damage property.

(2) A person charged with an offence to which this section applies shall, whether or not he would be treated for the purposes of this Part as having a lawful excuse apart from this subsection, be treated for those purposes as having a lawful excuse—

- (a) if at the time of the act alleged to constitute the offence he believed that the person whom he believed to be entitled to consent to the destruction of or damage to the property in question had so consented, or would have so consented to it if he had known of the destruction or damage and its circumstances; or
- (b) if he destroyed or damaged or threatened to destroy or damage the property in question or, in the case of a charge of an offence under section 314, intended to use or cause or permit the use of something to destroy or damage it, in order to protect property belonging to himself or another or a right or interest in property which was, or which he believed to be, vested in himself or another, and at the time of the acts alleged to constitute the offence he believed—
 - (i) that the property, right or interest was in immediate need of protection, and
 - (ii) that the means of protection adopted or proposed to be adopted were or would be reasonable having regard to all the circumstances.

(3) For the purposes of this section, it is immaterial whether a belief is justified or not if it is honestly held.

(4) For the purposes of subsection (2), a right or interest in property includes any right or privilege in or over land, whether created by grant, licence or otherwise.

(5) This section shall not be construed as casting doubt on any defence recognised by law as a defence to a criminal charge.

Trespass

316. Any person who unlawfully persists in coming or remaining on any premises, after being warned not to come on those premises or after being warned to depart from those premises, commits an offence and is liable on conviction to imprisonment for one year.

Acts tending to the destruction of aircraft and ships

317. (1) Any person who unlawfully masks, alters, destroys or removes any beacon, light or signal, or unlawfully exhibits any false light or signal with intent to bring any aircraft or vessel into danger, or who unlawfully and maliciously does anything tending to the immediate loss or destruction of any aircraft or vessel, commits an offence and is liable on conviction to imprisonment for life.

(2) Any person who unlawfully and maliciously cuts away, casts adrift, alters, defaces, sinks, conceals or destroys any beacon, buoy, rope, perch or mark used or intended for the guidance of seamen or airmen for the purposes of navigation commits an offence and is liable on conviction to imprisonment for 7 years.

(3) For the purposes of this section, “beacon” includes any radio beacon and “signal” includes any radio or similar signal.

Casting away ships, etc.

318. (1) A person commits an offence and is liable on conviction to imprisonment for life, if he wilfully and unlawfully—

- (a) casts away or destroys any aircraft, vehicle or vessel, whether or not it is in a complete state; or
- (b) does any act which tends to the immediate loss or destruction of any aircraft, vehicle or vessel, whether or not it is in a complete state.

(2) Any person who is convicted of an attempt to commit an offence under subsection (1) is liable to imprisonment for 14 years.

Powers of search

319. (1) Without prejudice to the power to issue a search warrant under any law, 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 under his control or on his premises anything which there is reasonable cause to believe is intended for use without lawful excuse—

- (a) to destroy or damage property belonging to another; or
- (b) to destroy or damage any property in a way likely to endanger the life of another;

the Magistrate or the justice of the peace, as the case may be, may grant a warrant authorising any police officer to search for and seize that thing.

(2) A police officer who is authorised to search any premises under a warrant issued under this section may enter, if necessary by force, and search the premises accordingly and may seize anything which he believes to be intended to be used as mentioned in subsection (1).

PART 24
CRIMINAL LIBEL

Libel

320. (1) Subject to the other provisions of this Part, any person who, by printing, writing, painting, effigy or by any other means in a permanent form and otherwise than solely by gestures, spoken words or sounds, unlawfully publishes any defamatory matter concerning another person with intent to defame that other person, commits the offence of libel and is liable on conviction to imprisonment for one year or to a fine of \$1,000 or to both.

(2) Notwithstanding subsection (1), for the purposes of this Part the broadcasting of words by means of wireless telegraphy shall be treated as publication in a permanent form.

(3) A prosecution for an offence under this section shall not be instituted except by or with the consent of the Attorney General.

Definition of “defamatory matter”

321. (1) Defamatory matter is matter likely to injure the reputation of any person by exposing him to hatred, contempt or ridicule, or likely to damage any person in his profession or trade by an injury to his reputation or to disturb the peace of the community.

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

Definition of “publication”

322. A person publishes a libel if he causes the medium by which the defamatory matter is conveyed to be so dealt with or used that the defamatory meaning thereof becomes known or is likely to become known either to the person defamed or to any other person.

Definition of “unlawful publication”

323. Any publication of defamatory matter concerning a person is unlawful within the meaning of this Part, unless—

- (a) the matter is true and it was for the public benefit that it should be published; or
- (b) it is privileged on one of the grounds hereafter in this Part mentioned.

Absolute privilege

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

- (a) if the matter is published by the Governor or by the House of Assembly in any official document or proceeding;

- (b) if the matter is published in the House of Assembly by the Governor or by any member of the House of Assembly;
- (c) if the matter is published by order of the Governor;
- (d) if the matter is published concerning a person subject for the time being to naval, military, airforce or police discipline, and relates to his conduct as a person subject to such discipline and is published by some person having authority over him in respect of such conduct, and to some person also having authority over him in respect of such conduct;
- (e) if the matter is published in the course of any judicial proceeding by a person taking part therein as a judge, magistrate, justice of the peace, commissioner, attorney-at-law, juror, assessor, arbitrator, referee, witness or party thereto;
- (f) if the matter published is in fact a fair report of anything said, done or published in the House of Assembly; or
- (g) if the person publishing the matter does so in pursuance of a duty imposed by law.

(2) For the purposes of this section, references to the House of Assembly shall be deemed to include any committee of the House of Assembly.

(3) Where a publication is absolutely privileged, it is immaterial for the purposes of this Part, whether the matter be true or false, and whether it be or be not known or believed to be false, and whether it be or be not published in good faith.

Conditional privilege

325. A publication of defamatory matter is privileged if it was published in good faith, if the relation between the parties by and to whom the publication is made is such that the person publishing the matter is under some legal, moral or social duty to publish it to the person to whom the publication is made or has a legitimate personal interest in so publishing it, and if the publication does not exceed either in extent or matter what is reasonably sufficient for the occasion, in any of the following cases—

- (a) if the matter published is in fact a fair report of anything said, done or shown in a civil or criminal inquiry or proceeding done before any court, except that, if the court prohibits the publication of anything said or shown before it on the grounds that it is seditious, immoral or blasphemous, the publication thereof shall not be privileged;
- (b) if the matter published is a copy by reproduction, or in fact a fair abstract or summary, of any matter which has been previously published, and the previous publication of which was or would have been privileged under section 324;
- (c) if the matter is an expression of opinion in good faith as to the conduct of a person in a judicial, official or other public capacity, or as to his personal character so far as it appears in such conduct;

- (d) if the matter is an expression of opinion in good faith as to the conduct of a person in relation to any public question or matter or as to his personal character so far as it appears in such conduct;
- (e) if the matter is an expression of opinion in good faith as to the conduct of any person as disclosed by evidence given in a legal proceeding held in public, whether civil or criminal, or as to the conduct of any person as a party, witness or otherwise in any such proceeding, or as to the character of any person so far as it appears in any such conduct;
- (f) if the matter is an expression of opinion in good faith as to the merits of any book, writing, painting, speech or other work, performance or act published or publicly done or made or submitted by a person to the judgement of the public or as to the character of a person so far as it appears therein;
- (g) if the matter is a censure passed by a person in good faith on the conduct of another person in any matter in respect of which he has authority, by contract or otherwise, over the other person, or on the character of the other person so far as it appears in such conduct;
- (h) if the matter is a complaint or accusation made by a person in good faith against another person in respect of his conduct in any matter, or in respect of his character so far as it appears in such conduct, to any person having authority by law to inquire into or receive complaints respecting such conduct or matter; or
- (i) if the matter is published in good faith for the protection of the rights or interests of the person who publishes it, or of the person to whom it is published or of some person in whom the person to whom it is published is interested.

Explanation as to good faith

326. A publication by any person of defamatory matter shall be deemed not to have been made in good faith, within the meaning of section 325, if it is made to appear—

- (a) that the matter was untrue and that he did not believe it to be true;
- (b) that the matter was untrue and that he published it without taking reasonable care to ascertain whether it was true or false; or
- (c) that in publishing the matter, he acted with intent to injure the person defamed in a substantially greater degree or substantially otherwise than was reasonably necessary for the interest of the public or the protection of the private right or interest in respect of which he claims to be privileged.

Presumption as to good faith

327. If it is proved, on behalf of an accused person, that any defamatory matter was published under such circumstances that the publication would have been justified if made in good faith, the publication shall be presumed to have been made in good faith until the contrary is made to appear, either from the libel itself or from the evidence given on behalf of the accused person or from evidence on behalf of the prosecution.

PART 25

NUISANCES AND OTHER OFFENCES AGAINST THE PUBLIC IN GENERAL

*Nuisance***Common nuisance**

328. Any person who does an act not authorised by law or who omits to discharge a legal duty and thereby causes a common injury or danger or annoyance, or who obstructs or causes inconvenience to the public in the exercise of common rights, commits the offence of being a common nuisance and is liable on conviction to imprisonment for 6 months or to a fine of \$500.

Watching and besetting

329. (1) A person commits an offence and is liable on conviction to imprisonment for 6 months or to a fine of \$500, if he watches and besets—

- (a) any premises or the approaches to any premises with a view to preventing any person from doing any act which such person has a legal right to do thereat; or
- (b) the house or other place where any person resides, works or carries on business, or happens to be, or the approaches to any such house or place, with a view to preventing such person from doing or compelling him to do any act which such person has a legal right to do or abstain from doing.

(2) No proceedings shall be brought in respect of an offence under this section without the consent of the Attorney General.

Chain letters

330. (1) Any person who sends or causes to be sent any chain letter, or who sends or receives any money or money's worth in connection with any chain letter, commits an offence and is liable on conviction to imprisonment for 6 months or to a fine of \$500.

(2) For the purposes of this section, "chain letter" means a document addressed by one person to another suggesting to the person to whom it is addressed or requiring—

- (a) that he should send a document having the same purport to one or more other persons; and
- (b) that he should remit to a person or to an address specified in the first-mentioned document money or money's worth.

Annoyance in public place

331. Any person who in any public place persists, after being warned not to do so by any other person or a police officer, in accompanying or following such other person about for the purpose of—

- (a) soliciting alms or employment;
- (b) satisfying idle curiosity; or
- (c) annoying such other person;

is liable on conviction to imprisonment for 3 months or to a fine of \$250.

Dancing and other amusements

332. (1) Any person who receives in any house or place for the purpose of dancing or other amusement for money or other payment or reward, any persons, without having obtained a licence for such purpose from the Magistrate under his hand and seal (which licence it shall be discretionary in the Magistrate to grant or withhold) is guilty of an offence and is liable on conviction to imprisonment for 3 months or to a fine of \$250.

(2) Any police officer may enter any house or place where dancing or other amusement is going on for money or other payment or reward, or where any persons are assembled for such purpose, without a licence as provided for in subsection (1), and warn all persons received therein to leave and disperse, and any person remaining in such house or place after such warning, or not dispersing when required so to do by any police officer, shall be deemed to be an idle and disorderly person within the meaning of this Part, and is liable on conviction to imprisonment for 3 months or to a fine of \$250.

Indecency

Indecency in public place

333. (1) Any person who publicly does an indecent act or behaves in an indecent manner in a public place commits an offence and is liable on conviction to imprisonment for 3 months or to a fine of \$250.

(2) Any person who writes or draws any indecent word, figure or representation in any public place commits an offence and is liable on conviction to a fine of \$250.

(3) Any person who wilfully—

(a) exposes or causes to be exposed to view in any public place, or in the window or other part of any shop or other building situated in any public place, or in any premises (whether open or covered) accessible to the public, any indecent print, picture, photograph, indecent exhibition or indecent show or performance, whether the exhibition, show or performance is live or in an electronic or other medium; or

(b) exposes his person in any public place or in the view thereof;

commits an offence and is liable on conviction to imprisonment for 6 months or to a fine of \$500.

(4) Any person who—

(a) is concerned in the publishing or circulating, in a newspaper or otherwise, of any indecent matter; or

(b) who allows any such matter to be so published or circulated;

commits an offence and is liable on conviction to imprisonment for 6 months or to a fine of \$500.

(5) Subsections (2), (3) and (4) do not apply to a representation, print, picture, photograph or exhibition displayed—

- (a) in a place to which the public—
 - (i) are permitted to have access only on payment which is or includes payment for that display, or
 - (ii) can gain access only by passing beyond a warning notice that is prominently displayed at the point of access and which has words to the effect that persons passing beyond this notice will find material which they may find indecent;
- (b) in an art gallery or museum and visible only from within the building; or
- (c) by or with the authority of the Government of Anguilla and visible only from within a building occupied by the Government of Anguilla.

(6) Any person who, in the vicinity of, or within view of, any public beach or any public place, bathes or exposes himself nude or so near to nude as to offend against decency, commits an offence and is liable on conviction to imprisonment for 6 months or to a fine of \$500.

Obscene publications

334. (1) A person commits an offence and is liable on conviction to imprisonment for 6 months or to a fine of \$500, if he—

- (a) for the purposes of or by way of trade, or for the purpose of distribution or public exhibition, makes, produces or has in his possession any obscene writing, drawing, print, painting, printed matter, picture, poster, emblem, photograph, film, disc or any other obscene object;
- (b) for any of the purposes mentioned in paragraph (a), imports, conveys or exports, or causes to be imported, conveyed or exported, any such matter or thing, or in any manner puts any of the same into circulation;
- (c) carries on or takes part in any business, whether public or private, concerned with any such matters or things as mentioned in paragraph (a), or deals in the same in any manner, or distributes them publicly or makes a business of lending them;
- (d) advertises or makes known by any means with a view to assisting the circulation of or traffic in, any such matter or thing as mentioned in paragraph (a), that a person is engaged in any of the acts referred to in this section, or advertises or makes known how, or from whom, any such matter or thing can be procured either directly or indirectly; or
- (e) publicly exhibits any obscene show or performance.

(2) For the purposes of this section, any obscene writing, drawing, print, painting, printed matter, picture, poster, emblem, photograph, film, disc or any other object is deemed to be obscene if its effect (or where it comprises 2 or more distinct items the effect of any one of its items) is, if taken

as a whole, such as to tend to deprave and corrupt persons who are likely, having regard to all the relevant circumstances, to read, see or hear the matter contained in it.

(3) A person shall not be convicted of an offence under this section, and an order for destruction shall not be made under subsection (5), if it is proved that the publication of the article in question is justified as being for the public good on the ground that it is in the interest of science, literature, art or learning, or of other objects of general concern.

(4) It is hereby declared that the opinion of experts as to the scientific, literary, artistic or other merits of an article may be admitted in any proceedings under this section either to establish or negative that ground.

(5) On the application of the Commissioner of Police, the Magistrate may order the destruction of any obscene matter or thing to which this section relates and which has been seized by, or otherwise come into the possession of, the police, whether or not any person has been convicted under the provisions of this section in respect of such obscene matter or thing.

Indecent statements

335. (1) Any person who uses any indecent, abusive, blasphemous, insulting, profane or threatening language—

- (a) in any place to the annoyance of the public; or
- (b) in any circumstances likely to cause a breach of the peace;

commits an offence and is liable on conviction to imprisonment for 3 months or to a fine of \$250.

(2) Any person who in any public place or at any meeting open to members of the public, whether on payment or otherwise, makes any statement about any person which he knows to be false, or makes any such statement recklessly without regard to its truth or otherwise, which statement is calculated or likely to bring such person into ridicule, odium or contempt, or to undermine confidence in such person or in the conduct of public affairs by any person in an official position, commits an offence and is liable on conviction to imprisonment for one year or to a fine of \$1,000 or to both.

(3) For the purposes of subsection (2), “person in an official position” includes the Governor, the Speaker of the House of Assembly, any member of the Executive Council or House of Assembly, and any judge, magistrate, justice of the peace or member of any Commission of Inquiry issued under the Commissions of Inquiry Act.

(4) Any person who—

- (a) in any public place or at any meeting open to members of the public, whether on payment or otherwise, makes any statement which he knows to be false, or makes such statement recklessly without regard to its truth or otherwise; or
- (b) prints or distributes such a statement, which is of such a nature as to be likely to cause fear or alarm or to disturb the public peace or undermine public confidence in the conduct of public affairs;

commits an offence and is liable on conviction to imprisonment for 6 months or to a fine of \$500.

(5) A prosecution for an offence under this section shall not be brought except by, or with the consent of, the Attorney General.

Idle and Disorderly Conduct

Idle and disorderly persons

336. (1) Any person who—

- (a) wanders in any public place, or places himself in any public place, for the purpose of begging, or causes or procures any child so to do;
- (b) having the custody, care or charge of a child, allows the child to be in any premises or public place for the purpose of begging or receiving alms, or of inducing the giving of alms (whether or not there is any pretence of singing, playing, performing, offering anything for sale or otherwise);
- (c) being a common prostitute behaves in a disorderly or indecent manner in a public place;
- (d) in any public place, accosts a passer-by and offers to take him to the house or residence of a prostitute;
- (e) solicits for immoral purposes in any public place;
- (f) in any public place, including a beach, without lawful authority or excuse (the proof whereof shall lie on the person accused), accosts, molests, threatens or harasses any person or follows him about;
- (g) in any public place, conducts himself in a manner likely to cause a breach of the peace;
- (h) in any public place, plays any game or pretended game of chance for money or money's worth; or
- (i) endeavours to obtain, or actually obtains, contributions for a charitable purpose under any false or fraudulent pretence;

commits an offence and is liable on conviction to imprisonment for 3 months or to a fine of \$250.

(2) For the purposes of subsection (1)(f), “harass” means to—

- (a) use words, gestures and actions that annoy, alarm or abuse a person;
- (b) insult, taunt or challenge a person in a manner likely to offend;
- (c) use obscene or profane language to intimidate a person; or
- (d) disturb or irritate especially by continued and repeated acts.

Offensive behaviour

337. (1) Any person who—

- (a) has in his custody or possession, without lawful excuse (the proof of which lies on him), any pick-lock, key, jemmy or crowjack, bit or other implement, with intent to break into any house or other building;
- (b) is armed with any firearm, cutlass, bludgeon or other offensive weapon or instrument, with intent to commit an arrestable offence;
- (c) having previously been convicted of an offence under Part 20 (or of any similar offence involving dishonesty or larceny under any law in force before 13 October, 2000) frequents any wharf, warehouse or place adjoining thereto, or any public place leading or adjacent thereto, with intent to commit an offence; or
- (d) upon being apprehended, violently resists any police officer arresting him;

commits an offence and is liable on conviction—

- (e) for a first offence under this section, to imprisonment for one year; and
- (f) for every subsequent offence under this section, or for an offence under this section after having been previously convicted under any law replaced by this section in force immediately before 13 October, 2000, to imprisonment for 2 years;

and every weapon or instrument of housebreaking in the possession of the offender at the time of the offence shall, upon the conviction, be forfeited to the Crown.

(2) A police officer may arrest any person found carrying abroad any gun, pistol, knife, cutlass, bludgeon or other offensive weapon, who is unable to give a satisfactory reason for the possession of it, and take such person before the Magistrate.

Loitering

338. Any person who loiters in or about any highway, yard or other place, with intent to commit an arrestable offence either in that place or at some other place, commits an offence and is liable on conviction to imprisonment for 2 years or to a fine of \$2,000 or to both.

Arrest of person found committing offence under section 336, 337 or 338

339. A police officer may arrest without a warrant, any person who is found committing an offence under section 336, 337 or 338 and shall take such person, as soon as reasonably may be, before the Magistrate to be dealt with in the manner prescribed by law.

Warrant for arrest of person committing offence under section 336, 337 or 338

340. Where upon oath being made before the Magistrate that a person has committed or is suspected of having committed an offence under section 336, 337 or 338, the Magistrate may issue a warrant to apprehend that person and bring that person before him and the person so charged shall be dealt with in the manner prescribed by law.

Search warrants

341. Where upon information on oath before the Magistrate that a person who has been convicted of an offence under section 336, 337 or 338 is reasonably suspected to be harboured or concealed in any house or place, the Magistrate may issue a warrant authorising any police officer to enter at any time into that house or place and arrest and bring before him any person so convicted as is found there and that person shall be dealt with in the manner prescribed by law.

Disorderly conduct

342. (1) Any person who, in any public place, conducts himself in a disorderly manner, or conducts himself in such a noisy manner as to disturb the neighbourhood, commits an offence and is liable on conviction to imprisonment for 3 months or to a fine of \$250.

(2) If any person, on any private premises, conducts himself, or allows any other person so to conduct himself thereon, as to repeatedly annoy or disturb the neighbourhood, any person annoyed or disturbed thereby may complain to the Magistrate who, if satisfied by evidence on oath that there are good grounds for such complaint, may cause the person so offending to be warned, and if, after such warning, such person, within 3 months, so conducts himself, or allows any other person so to conduct himself, on the same premises as to annoy or disturb the neighbourhood, he commits an offence and is liable on conviction to imprisonment for 3 months or to a fine of \$250.

(3) Any person who behaves profanely, indecently or in a disorderly manner during the performance of any religious worship or ceremony, or who smokes in any building appropriated for religious worship while any service or ceremony is taking place therein, commits an offence and is liable on conviction to imprisonment for 6 months or to a fine of \$500.

(4) Any person who wilfully disturbs, interrupts or disquiets any body of persons assembled for any lawful purpose, by profane discourse, rude or indecent behaviour or by making a noise, either within the place of such assembly or so near thereto as to disturb it, commits an offence and is liable on conviction to imprisonment for 3 months or to a fine of \$250.

(5) Any person who at a lawful public meeting acts in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called or who incites any other person so to act commits an offence and is liable on conviction to imprisonment for 3 months or to a fine of \$250.

Drunkenness in public place

343. (1) Any person found drunk in any public place, or upon any premises licensed for the sale of alcohol, commits an offence and is liable on conviction—

- (a) upon a first conviction for such an offence, to a fine of \$50;
- (b) upon a second or subsequent conviction for such an offence, to a fine of \$500; and
- (c) upon any subsequent conviction within a period of 12 months from the date of a second or subsequent conviction for such an offence, to imprisonment for 3 months or to a fine of \$250 or to both.

(2) Any person found drunk in any public place when—

(a) in charge of any vehicle or animal; or

(b) in possession of any firearm;

commits an offence and is liable on conviction to imprisonment for 6 months or to a fine of \$500.

(3) For the purposes of this section, “drunk” shall be deemed to include a state produced by narcotics or drugs.

Firearms in public place

344. (1) Subject to subsection (2), any person who, in any public place or within 100 yards thereof, discharges any firearm commits an offence and is liable on conviction to imprisonment for 3 months or to a fine of \$250.

(2) A person shall not be convicted of an offence under subsection (1) by reason only that he fires a starting pistol or similar weapon in the ordinary course of the conduct of a sporting or athletic event.

Neglecting to maintain family

345. (1) Any person who, being wholly or in part able, by work or other lawful means, to maintain his or her children, and if a male, his wife (if any), refuses or neglects to do so, commits an offence and is liable on conviction to imprisonment for 3 months or to a fine of \$250.

(2) Proceedings in respect of an offence under subsection (1) shall be without prejudice to any other legal remedy available to any person to enforce the payment of maintenance for, or to recover the cost of any necessities supplied to, the wife (if any) and family of the offender.

Gambling

Gambling

346. (1) Any person who knowingly permits, or is concerned in, the use of any building or place for the purpose of gambling, betting or the holding of a lottery or sweepstake commits an offence and is liable on conviction to imprisonment for one year or to a fine of \$1,000 or to both.

(2) The Magistrate or justice of the peace, on being satisfied by evidence on oath that there is good reason to believe that any house or place is kept or used for a purpose contrary to subsection (1), may, by warrant, authorise any police officer, with such assistance and by such force as may be necessary, by day or night to enter such house or place and to search the same and any persons found therein, and to seize all instruments and appliances of gambling, betting, or required for the holding of a lottery or sweepstake, and all money, securities for money and other articles reasonably supposed to have been used or intended to be used for any such purpose, and also to detain any persons there found until the completion of the search of such house or place.

(3) Where any instruments or appliances are found in the house or place searched, every person found therein at the time may be detained in custody until he can be brought before the court, or is granted bail for his appearance before the court, by the police officer in charge of such search, .

(4) If, owing to the lateness of the hour or other sufficient cause, a search warrant cannot be obtained with sufficient speed, a police officer in uniform, not below the rank of sergeant, may, with good reason, exercise the powers referred to in subsection (3) without a search warrant.

(5) If any instruments or appliances for gambling, betting or the holding of a lottery or sweepstake are found in any house or place or on any person searched in pursuance of the powers conferred by this section, the fact of such finding shall be deemed to be evidence, until the contrary is made to appear, that such house or place was being used for gambling, betting or the holding of a lottery or sweepstake and that the persons found therein or escaping therefrom were gambling, betting or taking part in a lottery or sweepstake therein, although no such activity was actually seen by any police officer or other person assisting him at the time of entering or searching such house or place.

(6) Any person who is found in the house or place as is mentioned in subsection (5) commits an offence and shall, unless he satisfies the court to the contrary, be deemed to have been taking part in gambling or betting or in a lottery or sweepstake and is liable on conviction to imprisonment for 6 months or to a fine of \$500.

(7) Any person playing or betting in any public place at or with any table or instrument of gambling at any game, or pretended game of chance, commits an offence and is liable on conviction to imprisonment for 3 months or to a fine of \$250.

(8) This section does not apply to any lottery, sweepstake, pari mutual or pool betting—

- (a) that is a Government lottery as defined in the Lotteries Act;
- (b) for the organisation, promotion and holding of which the Governor has given his written permission under section 2 of the Public Lotteries Tax Act; or
- (c) that is exempt from section 2 of the Public Lotteries Tax Act by virtue of section 8 of that Act.

Regulation of Employment

Preventing work or trading

347. Any person who, unlawfully and with force, hinders or prevents any person from working at or exercising his lawful trade, business or occupation, or who uses any threat of violence to any such person with intent to hinder him from working at or exercising such trade, business or occupation, commits an offence and is liable on conviction to imprisonment for 3 months or to a fine of \$250.

Prevention of Spread of Disease

Negligent act likely to spread disease

348. Any person who unlawfully or negligently does any act which he knows or has reason to believe to be likely to cause the spread of any infectious or contagious disease commits an offence and is liable on conviction to imprisonment for 6 months or to a fine of \$500.

Pollution, noises, smells, etc.

349. A person commits an offence and is liable on conviction to imprisonment for 6 months or to a fine of \$500 or to both, if he—

- (a) intentionally or negligently corrupts or fouls the water of any spring, stream, well or reservoir so as to render it less fit for the use of mankind or any livestock;
- (b) intentionally or negligently vitiates the atmosphere in any place so as to render it noxious to the health or comfort of persons in the neighbourhood;
- (c) for any purpose makes loud noises or offensive smells in such place and circumstances as to interfere with the comfort of persons in the exercise of their common rights; or
- (d) deposits offal or refuse in the sea within 500 yards of the shore.

Adulteration of food, etc.

350. A person commits an offence and is liable on conviction to imprisonment for 6 months or to a fine of \$500 or to both, if he—

- (a) adulterates any article of food or drink so as to make such article noxious as food or drink, intending to sell or offer for sale the same as food or drink, or knowing that it is likely that it will be offered for sale as such;
- (b) sells or offers or displays for sale as food or drink any article which has been rendered or has become noxious or in a state unfit for use as food or drink, knowing or having reason to believe that the same is unfit for such use;
- (c) adulterates any drug or medicinal preparation in such manner as to lessen the efficacy or to change the operation of such drug or preparation, or to make it noxious, intending that it shall be or is likely to be sold or offered for sale for any medicinal purpose as if it had not been so adulterated or rendered noxious; or
- (d) knowing that any drug or medicinal preparation has been adulterated or rendered noxious, as mentioned in paragraph (c), sells the same or offers it for sale or issues it from any dispensary for medicinal purposes as if it had not been so adulterated or rendered noxious, or causes it to be so issued by any person.

*Uniforms***Unauthorised wearing of uniform**

351. (1) Any person who, without lawful excuse or authority, wears—

- (a) any uniform of the armed or police force of any Commonwealth country; or
- (b) any clothing—
 - (i) bearing any of the regimental or other distinctive marks of such uniform, or

- (ii) having the appearance or intended to have the appearance of such uniform;

commits an offence and is liable on conviction to imprisonment for 6 months or to a fine of \$500.

(2) It shall not be an offence under this section for a person taking part in a *bona fide* theatrical or similar entertainment to wear a costume resembling a military or police uniform, when required for the purpose of representing a particular character, but in such case the badges shall not be identical with those of any armed or police force of any Commonwealth country.

Bringing contempt on uniform

352. If any person not serving in the armed or police force of any Commonwealth country—

- (a) wears the uniform of any of those forces or any dress having the appearance or bearing, or any of the regimental or other distinctive marks, of any such uniform, in such a manner or under such circumstances as to be likely to bring contempt upon that uniform; or
- (b) employs any other person so to wear that uniform or dress;

he commits an offence and is liable on conviction to imprisonment for 6 months or to a fine of \$500.

Offences against Persons or Property

Negligence with fire

353. (1) Any person who in any place negligently or recklessly carries or uses any fire commits an offence and is liable on conviction to imprisonment for 3 months or to a fine of \$250.

(2) Any person who, by the careless or improper use of fire within any town or village, endangers any lives or property therein, commits an offence and is liable on conviction to imprisonment for one year or to a fine of \$1,000 or to both.

Throwing missile, etc., in public place

354. (1) Any person who, in or in the vicinity of any public place, unlawfully throws or discharges any missile or dangerous object to the damage or danger of any property or person commits an offence and is liable on conviction to imprisonment for one year or to a fine of \$1,000 or to both.

(2) For the purposes of subsection (1), it is immaterial whether or not any person was actually injured or any property damaged, if in the circumstances of the case a reasonable person would have anticipated that such injury or damage might have occurred.

Defacing building, etc.

355. Any person who, without the consent of the owner or occupier—

- (a) posts any advertisement, bill, placard or other paper against or upon; or
- (b) writes upon, soils, marks or defaces;

any building, wall, fence, lamppost or other similar object commits an offence and is liable on conviction to imprisonment for 3 months or to a fine of \$250.

Removing boats, etc.

356. Any person who takes or attempts to take any vessel from or out of any mooring, wharf, boathouse, berth, beach, landing-stage or other place for the purpose of using the same without the consent of the owner or other person having charge thereof, and any reasonable claim of right or title thereto, commits an offence and is liable on conviction to imprisonment for one year or to a fine of \$1,000 or to both.

*Control and Treatment of Animals***Failure to control animals, etc., in public place**

357. (1) Any person in charge of any animal (other than a cat or dog) in any public place who wilfully remains at such a distance from them as not to have proper control over them, or allows any such animal whether or not under control to drag any tethering chain or rope behind it, commits an offence and is liable on conviction to a fine of \$250.

(2) Any person who allows to be at large any vicious or dangerous animal, or sets on any dog or other animal to worry or put in fear any person or animal, commits an offence and is liable on conviction to a fine of \$250.

Unlawful depasturing of animals

358. Any person who unlawfully and maliciously depastures any animal on any land, public place or thoroughfare commits an offence and is liable on conviction to imprisonment for 3 months or to a fine of \$250.

Using animal without consent of owner

359. (1) Any person who takes or drives or attempts to take or drive any animal from or out of any enclosure, stable, pasture or other place for the purpose of using the animal, without the consent of the owner or other person entrusted with the charge thereof, and without having any probable claim or title thereto, commits an offence and is liable on conviction to a fine of \$250.

(2) Proceedings in respect of an offence under subsection (1) shall be without prejudice to any other legal remedy available to the party aggrieved for the recovery of any such animal and for damages in respect of the taking or using thereof by the offender or for any injury caused to the animal.

*Offences against Police Officers***Obstructing police officer**

360. Any person who wilfully obstructs any police officer in the execution of his duties commits an offence and is liable on conviction to imprisonment for 6 months or to a fine of \$500.

Refusing to assist police officer, give name, etc.

361. (1) Any person who, in any public place, when lawfully called upon by a police officer to assist such officer in apprehending or securing any person whom such officer is endeavouring to apprehend or secure, without reasonable excuse refuses so to do, commits an offence and is liable on conviction to imprisonment for 3 months or to a fine of \$250.

(2) Any person who, when lawfully required so to do by a judicial officer or police officer, refuses to give his name and address, or gives a false name and address, commits an offence and is liable on conviction to imprisonment for 3 months or to a fine of \$250.

*Use of Vehicles and Animals***Driving and riding**

362. (1) Any person who rides or drives furiously in any public place in such a manner as is calculated to endanger the life or limb of persons lawfully in and upon such public place commits an offence and is liable on conviction to imprisonment for 3 months or to a fine of \$250.

(2) Any person who wilfully or carelessly drives any animal, or drives any vehicle, against any other person or against any other animal or vehicle, being ridden or driven respectively by any other person in any public place, commits an offence and is liable on conviction to imprisonment for 3 months or to a fine of \$250.

(3) Any driver of any vehicle who is found riding in or on the same without having and holding the reins, or who when holding the reins rides on the shaft of such vehicle, or is at such a distance from the same that he cannot have proper control over the animal or animals drawing the same, or who does not observe the customary rules of the road when meeting or passing or being passed or overtaken by any vehicle, commits an offence and is liable on conviction to imprisonment for 3 months or to a fine of \$250.

Vehicles to be marked

363. Any person being the owner of any cart, dray or wagon which is in use, without having the name of the owner legibly marked on the off or right-hand side thereof with paint, commits an offence and is liable on conviction to imprisonment for 3 months or to a fine of \$250.

*Jurisdiction in Respect of Offence under this Part***Jurisdiction in respect of offence under this Part**

364. (1) Where the facts alleged to constitute an offence charged under this Part appear to the Magistrate also to constitute another offence, not triable summarily, under some other Part or under some other law, the Magistrate, in his discretion, may stay the proceedings brought in respect of such offence under this Part and hold a preliminary inquiry with a view to committing the accused person for trial before the High Court for that other offence.

(2) Where the person committed for trial under subsection (1) is convicted before the High Court of that other offence, no further proceedings shall be taken on the same facts for an offence under this Part.

PART 26
MISCELLANEOUS

Arrest without warrant

365. (1) The powers of summary arrest conferred by this section shall apply to offences for which the sentence is fixed by law or for which a person (not previously convicted) may under or by virtue of any enactment be sentenced to imprisonment for a term of 5 years or longer, and to attempts to commit any such offence, and in this Code and in any other law “arrestable offence” means any such offence or attempt.

(2) Any person may arrest, without a warrant, anyone who is, or whom he, with reasonable cause suspects to be, in the act of committing an arrestable offence.

(3) Where an arrestable offence has been committed, any person may arrest without warrant anyone who is, or whom he, with reasonable cause suspects to be, guilty of the offence.

(4) Where a police officer, with reasonable cause, suspects that an arrestable offence has been committed, he may arrest without warrant anyone whom he, with reasonable cause, suspects to be guilty of that offence.

(5) A police officer may arrest, without warrant, any person who is, or whom he, with reasonable cause, suspects to be, about to commit an arrestable offence.

(6) For the purpose of arresting a person under any power conferred by this section, a police officer may enter, if need be by force, and search any place where that person is or where the police officer, with reasonable cause, suspects him to be.

(7) This section shall not affect the operation of any enactment restricting the institution of proceedings for an offence, nor prejudice any power of arrest conferred by law apart from this section.

Further provisions concerning arrestable offences

366. For the avoidance of doubt, where an offence is triable either summarily or on indictment and is punishable by imprisonment for 5 years or longer, if tried on indictment, it shall be deemed to be an arrestable offence notwithstanding that it would be punishable by a lesser term if tried summarily.

Provisions relating to cases in which the consent of the Attorney General is required

367. Where in this Code or any other law it is provided that no prosecution shall be commenced except by or with the consent of the Attorney General, such provision shall be deemed not to prevent the arrest, or the issue of a warrant for the arrest, of a person for such an offence, or the remand in custody or on bail of a person charged with such an offence pending the decision of the Attorney General in the matter.

Alternative verdicts

368. Without prejudice to the provisions of the Criminal Procedure Act or to any other provisions of this Code, where a person is charged with an offence mentioned in Column 1 of the Schedule, if the court finds that he is not guilty of the offence charged but that, on the evidence before the court,

he is guilty of another offence under a section of this Code or other Act referred to in Column 2 of the Schedule, he may be convicted of that other offence although he was not charged with it.

Restriction on proceedings for offences under common law

369. (1) Where any act or omission constitutes an offence under this Code and also under common law, proceedings in respect of that offence shall be brought under the relevant provision of this Code and not under common law, and the common law offence in any such case shall in respect of its application to Anguilla, be deemed to have been abolished.

(2) Where any act or omission constitutes an offence under this Code and also under some other enactment, proceedings in respect of that offence shall not be brought under that other enactment except by, or with the consent of, the Attorney General.

Abolition of distinctions between felony and misdemeanour

370. (1) All distinctions between felony and misdemeanour are abolished.

(2) Subject to the provisions of this Code and of the Criminal Procedure Act, on all matters on which a distinction has previously been made between felony and misdemeanour the law and practice in relation thereto shall be the same as the law and practice applicable in relation to misdemeanours immediately before the coming into force of this Code.

Abolition of certain common law offences

371. (1) The following offences under common law are abolished—

- (a) larceny;
- (b) robbery;
- (c) burglary;
- (d) receiving stolen property;
- (e) obtaining property by threats;
- (f) extortion by colour of office or franchise;
- (g) false accounting by public officers;
- (h) concealment of treasure trove;
- (i) except as regards offences relating to the public revenue, cheating;
- (j) any distinct offence, under the common law, of maintenance (including champerty and embracery);
- (k) challenging to fight;
- (l) eavesdropping;
- (m) being a common barrator, a common scold or a common nightwalker.

(2) For the avoidance of doubt, it is hereby declared that to the extent (if any) that the following Acts of the Parliament of England apply in Anguilla, namely—

- (a) the Champerty Act;
- (b) the Maintenance and Embracery Act 1540;
- (c) the Treason Act 1351; and
- (d) the Treason Act 1695;

they are hereby repealed in relation to Anguilla.

Abolition of corporal punishment

372. No person shall be sentenced by a court or ordered by visiting justices to whipping or flogging, and in so far as any enactment confers power on a court to pass a sentence of, or on visiting justices to order whipping or flogging, such enactment and any sentence or order passed or made in pursuance of it, shall cease to have effect from 29th September, 1998.

Citation

373. This Act may be cited as the Criminal Code, Revised Statutes of Anguilla, Chapter C140.

SCHEDULE
(Section 368)

TABLE OF ALTERNATIVE VERDICTS

Column 1	Column 2
Offence charged and section of this Code	Alternative conviction of other offence and section of this Code or other law creating offence
Administering poison so as to endanger life or inflict grievous bodily harm, s. 209	Administering poison with intent to injure, etc., s. 210
Burglary, s. 259	Destroying or damaging property, s. 311 Theft, s. 257
Wounding or causing grievous bodily harm with intent, s. 204	Wounding or inflicting grievous bodily harm, s. 205
Child destruction, s. 186	Concealing birth of a child, s. 201 Use of poison, etc., or instruments to cause miscarriage, s. 184
Incest, s. 164	Sexual intercourse with minor suffering from mental disorder, s. 145 Sexual intercourse with person between 14 and 16 years of age, s. 144 Sexual intercourse with person under 14 years of age, s. 143 Unlawful sexual intercourse with woman suffering from mental disorder, s.165
Attempted buggery, and indecent assault, on a man, s. 167	Common assault, s. 222
Indecent assault on a woman, s. 168	Common assault, s. 222
Infanticide, s. 194	Child destruction, s. 186
Wounding or inflicting grievous bodily harm, s. 205	Assault causing actual bodily harm, s. 223 Common assault, s. 222

Manslaughter, s. 192 Killing where use of vehicle involved	Aiding, abetting, etc., suicide, s. 197 Child destruction, s. 186 Causing death by reckless or dangerous driving, s. 52 of the Vehicles and Road Traffic Act¹ (Am. in L.R. 15/12/2014)
Murder, ss.187 and 189	Aiding, abetting, etc., suicide, s. 197 Any other offence of which he might be found guilty on a charge of murder Attempted murder, s. 191 Child destruction, s. 186 Concealing birth of a child, s. 201 Infanticide, s. 194 Manslaughter, s. 192 Wounding or causing grievous bodily harm with intent, s. 204
Rape, s. 162	Administering drugs to facilitate sexual intercourse, s. 172 Common assault, s. 222 Indecent assault on a woman, s. 168 Indecent assault on minor, s. 147 Procuring woman by threats or false pretences, s. 171 Sexual intercourse with minor suffering from mental disorder, s. 145 Sexual intercourse with person between 14 and 16 years of age, s. 144 Sexual intercourse with person under 14 years of age, s. 143 Unlawful sexual intercourse with woman suffering from mental disorder, s. 165

¹ This section has been corrected to reflect the renumbering of the Vehicles and Road Traffic Act, R.S.A. c. V10 (15/12/2014).

Sodomy and bestiality, s. 163	Common assault, s. 222 Attempted buggery, and indecent assault, on a man, s. 167
Theft, s. 257	Handling stolen goods, s. 273 Taking conveyance without authority, s. 264 Using animal without consent of owner, s. 359
Use of poison, etc., or instruments to cause miscarriage, s. 184	Child destruction, s. 186
