

CRIMINAL CODE

Cap 195 – 29 December 1838

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CRIMINAL CODE

PRELIMINARY

1. Short title

This Act may be cited as the Criminal Code.

2. Offences

Offences which the law punishes are crimes, misdemeanours or contraventions.

3. —

BOOK I – PENALTIES

4. Crimes

Crimes are offences punishable by—

- (a) penal servitude;
- (b) a fine exceeding 5,000 rupees.

5. Misdemeanours

(1) Misdemeanours are offences punishable by—

- (a) imprisonment for a term exceeding 10 days;
- (b) a fine exceeding 5,000 rupees.

(2) —

[S. 5 amended by Act 29 of 1990; Act 5 of 1999; s. 3 (a) of Act 36 of 2008 w.e.f. 6 December 2008.]

6. Contraventions

Contraventions are offences punishable by—

- (a) imprisonment for a term not exceeding 10 days;
- (b) a fine not exceeding 5,000 rupees.

[S. 6 amended by Act 29 of 1990; Act 5 of 1999.]

7. —

8. Fines and forfeitures

Fines and forfeitures, whether of the *corpus delicti* where it is the property of the prisoner, or of the things produced by the offence, or of those things which have been used, or have been intended to be used for committing an offence, are punishments common to crimes, misdemeanours and contraventions.

9. – 10. —

11. Penal servitude

(1) The punishment of penal servitude is imposed for life or for a minimum term of 3 years.

(2) Where in any enactment the punishment of penal servitude is imposed without a term being specified, the maximum term for which the punishment may be imposed is 40 years.

[S. 11 amended by Act 1 of 1998; s. 3 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

12. Imprisonment

Where in any enactment the punishment of imprisonment is provided for an offence without a term being specified, the term for which imprisonment may be imposed may exceed 10 days but shall not exceed 10 years.

[S. 12 amended by Act 1 of 1985; s. 3 (c) of Act 36 of 2008 w.e.f. 6 December 2008.]

13. Recidivism

Where any person—

- (a) commits a crime within the 10 years following his conviction for a crime;
- (b) commits a misdemeanour within the 5 years following his conviction for a crime; or
- (c) commits a misdemeanour within the 5 years following his condemnation to imprisonment for one year or more for a misdemeanour,

the Court, in passing sentence, shall take into consideration the previous conviction or condemnation, and may inflict a penalty exceeding by one third the maximum penalty fixed for such crime or misdemeanour.

14. – 36. —

BOOK II – PERSONS PUNISHABLE, EXCUSABLE OR RESPONSIBLE

37. Accomplices

Except where otherwise provided in any enactment, the accomplices in a crime or misdemeanour shall be punished with the same kind of punishment, or one of the punishments applicable to the crime or misdemeanour, for the time that shall be fixed by the sentence.

[S. 37 amended by Act 31 of 1995.]

38. Giving instructions and aiding and abetting

(1) Any person who, by gift, promise, menace, abuse of authority or power, machination or culpable artifice instigates, or gives any instruction for, the commission of a crime or misdemeanour shall be punished as an accomplice in the crime or misdemeanour.

(2) Any person who procures arms, instruments, or any other means used in the commission of a crime or misdemeanour, knowing that they were to be so used,

(3) Any person who knowingly aids and abets the author of any crime or misdemeanour in the means of preparing, facilitating or perpetrating the crime or misdemeanour, shall be deemed an accomplice, without prejudice to the punishments specially provided by law against the authors of plots or of instigations to offences affecting the internal or external safety of the State, even in cases where the crime which was the object of the conspirators or instigators has not been committed. shall be deemed an accomplice.

39. Harboursing offenders

Any person who knows of the criminal conduct of offenders plundering in bands or committing outrages against the safety of the State, the public peace, persons, or property, habitually provides them with lodging, a place of retreat or of meeting, shall be punished as an accomplice.

39A. Culpable omission

(1) Any person who is able to take prompt action, without risk to himself or to a third party, so as to prevent the commission of a crime, or a misdemeanour which is an offence against persons, and who wilfully fails to do so, shall be punished by a fine not exceeding 10,000 rupees and by imprisonment for a term not exceeding 2 years.

(2) Any person who wilfully omits to provide to a person in danger such assistance as he could, without any risk to himself or to a third party, provide to that person by his own intervention or by calling for help,

[S. 39A inserted by s. 3 of Act 24 of 2006.]

40. Possession of property obtained unlawfully

Any person who knowingly receives, in whole or in part, or who without sufficient excuse or justification, is found to have in his possession, articles carried off, abstracted or obtained by means of a crime or misdemeanour shall be deemed to be an accomplice in the crime or misdemeanour.

41. Possession of property bearing mark of Government or third party

Any person who is found to have in his possession any article forming part of any store or manufactory of Government, and bearing the mark appropriated for any public service, or any article bearing the name or mark of a third party, or who has erased the name or mark affixed on such article, without being able to prove that he is in lawful possession of the article shall be deemed to be, and be punished as, a receiver of stolen goods, even though the article is not proved to have been stolen.

42. Insanity

(1) There is neither crime nor misdemeanour, where an accused person was in a state of insanity at the time of the act, or where he has been compelled to commit such act by a force which he could not resist, and in consequence he shall be acquitted.

(2) In this section, “insanity” includes mental disorder rendering the accused incapable of appreciating the nature and quality of the act or of knowing that it was wrong.

[S. 42 amended by Act 24 of 1998.]

43. Excuse and mitigation of penalty

No crime or misdemeanour can be excused nor the punishment mitigated, except in the cases and circumstances where the law declares the offence excusable, or permits the application of a less severe punishment.

44. Minor under 14 acting without discernment

Where an accused person is under the age of 14 and it is determined that he acted without discernment, he shall be acquitted, but shall, according to the circumstances of his case, be handed over to his relations or placed in a reformatory to be brought up and detained during such number of years as the sentence may determine, which period shall in no case exceed the period at which the accused will have reached the age of 18.

45. Minor under 14 acting with discernment

Where it is decided that an accused person under the age of 14 acted with discernment, he shall be condemned to imprisonment in a reformatory for such time as shall be determined by the judgment.

46. – 49. —

BOOK III – CRIMES AND MISDEMEANOURS

TITLE I – OFFENCES AGAINST THE STATE

CHAPTER I – OFFENCES OF A PUBLIC NATURE

50. Inducing or compelling President in the exercise of any lawful power

Any person who, by force or violence, induces or compels the President to exercise or refrain from exercising in any manner any of the powers vested in him by law, shall commit an offence and shall, on conviction, be liable to penal servitude for life or, where the Court is satisfied that compelling reasons exist which justify the imposition of a lesser sentence and has specified the reasons on the record of the proceedings, for a term not exceeding 60 years.

[S. 50 amended by Act 42 of 1993; Act 31 of 1995; s. 3 (d) of Act 36 of 2008 w.e.f. 6 December 2008.]

51. Stirring up war against the State

Any person who stirs up war against the State shall commit an offence and shall, on conviction, be sentenced to penal servitude for life or, where the Court is satisfied that compelling reasons exist which justify the imposition of a lesser sentence and has specified the reasons on the record of the proceedings, for a term not exceeding 60 years.

[S. 51 amended by Act 42 of 1993; Act 31 of 1995; s. 3 (d) of Act 36 of 2008 w.e.f. 6 December 2008.]

52. – 56. —

57. Plotting with foreign power

(1) Any person who devises any plot or keeps up intelligence with any foreign power or the agent of a foreign power in order to move or stir it up to commit hostilities or levy war against the State, or to procure for it the means of so doing, shall be punished by—

- (a) penal servitude for life or, where the Court is satisfied that compelling reasons exist which justify the imposition of a lesser sentence and has specified the reasons on the record of the proceedings, for a term not exceeding 60 years; and
- (b) forfeiture of property.

(2) The like punishment shall be applied even though such plot or intelligence has not been followed by hostilities.

[S. 57 amended by Act 42 of 1993; Act 31 of 1995; s. 3 (e) of Act 36 of 2008 w.e.f. 6 December 2008.]

58. Causing risk of war

Any person who, by any act of hostility not sanctioned by the Government, exposes the State to a declaration of war, shall be punished by penal servitude for a term not exceeding 20 years and, where war has followed, by penal servitude for a term not exceeding 30 years.

[S. 58 amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

59. Exposing citizen to reprisal

Any person who by an act not sanctioned by the Government exposes any Commonwealth citizen to meet with reprisals, shall be punished by penal servitude.

60. Inciting citizen to rise up in arms

Every attempt or plot the object of which is to excite the citizens or other inhabitants of Mauritius to arm themselves against the State, shall be punished by—

- (a) penal servitude for life or, where the Court is satisfied that compelling reasons exist which justify the imposition of a lesser sentence and has specified the reasons on the record of the proceedings, for a term not exceeding 60 years; and
- (b) forfeiture of property.

[S. 60 amended by Act 42 of 1993; Act 31 of 1995; s. 3 (e) of Act 36 of 2008 w.e.f. 6 December 2008.]

61. Inciting officer to mutiny

Any person who attempts to bribe, corrupt or seduce from his duty any officer or other person belonging to the State's land or sea forces, or attempts to incite him to mutiny or disobedience, shall be punished by penal servitude for life or, where the Court is satisfied

that substantial and compelling circumstances exist which justify the imposition of a lesser sentence and has entered those circumstances on the record of the proceedings, for a term not exceeding 60 years.

[S. 61 amended by Act 42 of 1993; Act 31 of 1995; s. 4 (1) (a) of Act 6 of 2007 w.e.f. 18 June 2007.]

62. Stirring up civil war

Any attempt or plot, the object of which is to stir civil war by arming or by inciting the inhabitants to arm themselves against one another, or carry devastation, massacre or plunder into one or more districts, shall be punishable by penal servitude for life or, where the Court is satisfied that compelling reasons exist which justify the imposition of a lesser sentence and has specified the reasons on the record of the proceedings, for a term not exceeding 60 years.

[S. 62 amended by Act 31 of 1995; s. 3 (d) of Act 36 of 2008 w.e.f. 6 December 2008.]

63. Raising armed force

Any person who—

- (a) raises or causes to be raised any armed troops;
- (b) enlists or enrolls or causes to be enlisted or enrolled any soldiers;
- (c) supplies or furnishes soldiers with arms or ammunition without the order or sanction of lawful authority;
- (d) forms part of any meeting or assembly the object of which is to exercise or instruct in the use of arms, the practice of military exercises, movements, or revolutions; or
- (e) lends aid thereunto,

shall be punished by penal servitude.

64. Taking command of armed force

Any person who—

- (a) without lawful right or reason, takes the command of an armed force, troop, fleet, squadron, man of war, fortified place, post, port or town;
- (b) continues to hold any military command against the order of the Government; or
- (c) being a commander keeps his army or troops embodied after the disbanding or dismissing of the same has been ordered,

shall be punished by penal servitude for life or, where the Court is satisfied that substantial and compelling circumstances exist which justify the imposition of a lesser sentence and has entered those circumstances on the record of the proceedings, for a term not exceeding 60 years.

[S. 64 amended by Act 31 of 1995; s. 4 (1) (a) of Act 6 of 2007 w.e.f. 18 June 2007.]

65. Setting fire to or destroying State property

Any person who sets fire to, or destroys in any way, any building, storehouse, arsenal, ship or vessel or any other property belonging to the State, or being for the use of the State, shall be punished by penal servitude.

[S. 65 amended by Act 31 of 1995.]

66. Plundering public property with armed band

(1) Any person who, for the purpose of—

- (a) taking possession of any public land, property or money, or place, town, fortress, post, storehouse, arsenal, port, ship or vessel, belonging to the State;
- (b) plundering or sharing public or national property, or the property of a body of citizens; or
- (c) attacking or resisting the civil or military authorities employed against the authors of such crime,

puts himself at the head of any armed band, or exercises any function or command in an armed band, shall be punished by penal servitude.

(2) The like punishment shall be applied to those who head the association, levy or cause to be levied, organise or cause to be organised, any such band, or who knowingly and wilfully furnish or provide them with any arms, munitions, or instruments of crime, or who send convoys of provisions, or who in any way, keep up any intelligence with the directors or commanders of such bands.

(3) Any person who forms part of any armed band described in sections 62 to 64 and 66, without exercising any command or function in the band and who is arrested on the spot, shall be punished by penal servitude for a term not exceeding 20 years.

[S. 66 reprinted by Reprint 2 of 1983; amended by Act 48 of 1991; s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

67. Harboursing armed band

Any person who, knowing the object and nature of such an armed band, without compulsion, furnishes it with lodging, a place of retreat or meeting, shall be punished by penal servitude for a term not exceeding 20 years.

[S. 67 amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

68. Withdrawing from armed band

No punishment shall be pronounced against any person who, having formed part of such an armed band, but without exercising any command or filling any office or function in it, withdraws on the first intimation from any of the civil or military authorities, but he shall incur in such cases the penalties attached to the particular crimes which he may have individually committed.

69. Interpretation of “arms”

“Arms” includes—

- (a) any cutting, piercing, or bruising machine, instrument or weapon;
- (b) any pocket knife and scissors and walking stick which have been used for killing, wounding, or striking.

70. Saving for offences amounting to high treason

Nothing in sections 62 to 71 shall prevent any crime specified in these sections from being considered and punished as a crime of high treason according to the circumstances with which it may be attended.

71. Inciting to high treason

Any person who, by words spoken in a public place or meeting, or by posted placards, or by any writing or printing, directly incites to the commission of any of the crimes or plots mentioned in sections 50, 51 and 57 to 70, shall be punished as guilty of such crime or plot, but where such incitement produces no effect, the offender, shall be punished by

penal servitude.

[S. 71 amended by Act 42 of 1923; Act 31 of 1995.]

72. Failing to reveal plot against the State

Any person having knowledge of any plot formed or of any crime contemplated against the internal or external safety of the State who does not reveal such plot or crime, and does not give information to the Government or the administrative authorities or to the police, of the circumstances relating to it which may have come to his knowledge, all the information being given within the 24 hours following the knowledge, shall, for the single fact of concealment, be punished in the manner and according to the distinctions which follow, although it is proved that he has committed no act of complicity.

73. Penalty for failing to reveal plot of high treason

In the case of high treason, any person, who, under section 72, does not make the declarations prescribed, shall be punished by penal servitude.

74. Penalty for failing to reveal plot other than of high treason

With regard to any crime or plot against the internal or external safety of the State, any person who, having knowledge thereof, does not make the declarations prescribed by section 72, shall be punished by penal servitude for a term not exceeding 20 years and by a fine not exceeding 25,000 rupees.

[S. 74 reprinted by Reprint 2 of 1983; amended by s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

75. Penalty not applicable to relative of plotter

Nevertheless where the author of the plot or crime is the husband or wife, or the lineal ascendant or descendant, or the brother or sister of the person accused of withholding such declarations, such person shall not be liable to the punishments specified in sections 73 and 74.

76. Penalty not applicable to plotter in certain cases

Any offender, who before any plot or crime against the internal or external safety of the State has been carried, or attempted to be carried into execution, and before any prosecution is commenced, is the first to give to the authorities mentioned in section 72 the information of such plot or crime and of its author or of any accomplice, or who, even after the commencement of a prosecution, procures the arrest of such author or accomplice, shall be exempted from the punishment pronounced against the author of such plot or crime.

76A. Prohibition on use of Arms of Mauritius

(1) Except with the express authorisation of the Prime Minister, no person shall—

- (a) use in connection with any business, trade, calling, professional or public activity; or
- (b) offer for sale or sell any article or any matter produced whether by technological means, in a electronic medium or otherwise, bearing,

the Arms of Mauritius.

(2) Any person who fails to comply with subsection (1), whether in Mauritius or elsewhere, shall commit an offence.

(3) Any person who commits an offence under this section shall, without prejudice to any other proceedings which may be taken against him, his activity or respecting the article or matter, be liable, on conviction, to a fine not exceeding 200,000 rupees and to

penal servitude.

(4) The Court before which a person is convicted of the offence may, in addition to the penalty imposed, order any article or matter used in the commission of the offence to be forfeited.

[S. 76A inserted by s. 3 of Act 30 of 2001; amended by s. 8 (a) of Act 36 of 2008 w.e.f. 6 December 2008.]

CHAPTER II – OFFENCES BY PUBLIC OFFICERS

77. Abuse of authority by public officer

Subject to section 78, where a public functionary, an agent of, or person appointed by the Government, orders or commits any arbitrary act, prejudicial either to individual liberty, or to the civic rights of one or more individuals, or to the Constitution of Mauritius, and does not prove that he acted by order of his superior, in matters within the competency of the latter, he shall be condemned, to imprisonment or to a fine not exceeding 25,000 rupees.

[S. 77 amended by Act 29 of 1990; s. 3 of Act 12 of 2003; s. 8 (a) of Act 36 of 2008 w.e.f. 6 December 2008.]

78. Torture by public official

(1) Subject to subsection (3), where—

- (a) any person who is a public official, or is otherwise acting in an official capacity; or
- (b) any person, at the instigation of, or with the acquiescence of, a public official or a person otherwise acting in an official capacity,

intentionally inflicts severe pain or suffering, whether physical or mental, on any other person—

- (i) to obtain a confession or other information from that other person, or a third person;
- (ii) to punish that other person for an act which that other person or a third person has committed, or is suspected of having committed;
- (iii) to intimidate or coerce that other or a third person; or
- (iv) for any reason based on discrimination of any kind,

he shall commit the offence of torture and shall, on conviction, be liable to a fine not exceeding 150,000 rupees and to imprisonment for a term not exceeding 10 years.

(2) Where the act constituting an offence under subsection (1) has been committed outside Mauritius and—

- (a) the victim is a citizen of Mauritius;
- (b) the alleged offender is in Mauritius; or
- (c) the alleged offender is in Mauritius, and Mauritius does not extradite him,

a Court shall have jurisdiction to try the offence and inflict the penalties specified in subsection (1).

(3) Subsection (1) shall not apply to any pain or suffering arising only from, or inherent in, or incidental to, a lawful sanction.

(4) It shall not be a defence for a person charged with an offence under subsection (1) to prove that he acted by order of his superior.

[S. 78 inserted by s. 4 of Act 12 of 2003; amended by s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

79. Public officer flouting claim of illegal detention

Any public functionary entrusted with the administrative or judicial police, or any person having the custody of a prisoner, who refuses or neglects to pay due regard to any demand tending to prove illegal or arbitrary any detention, whether in any house destined for the custody of persons under detention, or elsewhere and who does not prove having reported such detention to his superior officer, shall be subject to the punishment specified in section 77.

80. Arbitrary detention by public officer

Any gaoler or keeper of a gaol, prison or house of correction, who—

- (a) receives a prisoner without warrant or sentence, or who refuses, upon demand, to deliver to the prisoner a copy of the order under which the prisoner was delivered over to him;
- (b) detains or refuses to produce the prisoner to any judicial or police officer entitled to demand the appearance of the prisoner, without proving a prohibition from the Director of Public Prosecutions;
- (c) refuses to exhibit his register to any judicial or police officer,

shall commit the offence of arbitrary detention and shall, on conviction, be liable to imprisonment or to a fine not exceeding 25,000 rupees.

[S. 80 amended by Act 29 of 1990; s. 8 (a) of Act 36 of 2008 w.e.f. 6 December 2008.]

81. Public officer detaining person in unauthorised place

Any public officer who detains, or causes to be detained, any individual, except in the places fixed by the Government, shall suffer the punishment specified in section 77.

82. Conspiracy by public officers to flout the law

(1) Any combination of measures contrary to law, or of measures against the execution of the law or against the orders of the Government, entered into, whether by an association of individuals or of bodies entrusted with any portion of the public authority, or by any deputation or correspondence among them, shall be punished by imprisonment.

(2) Where such combination has had as its object or result a plot affecting the internal safety of the State, the authors shall commit the offence of high treason, and shall be punished in conformity with sections 50, 51 and 57 to 61.

[S. 82 amended by Act 42 of 1993; Act 31 of 1995.]

83. Public officer resigning with intent to paralyse public service

Public functionaries who, in a body or individually, hand in their resignation whose object or effect is to impede or to suspend, either the administration of justice, or the accomplishment of a public service, shall be punished by a fine not exceeding 100,000 rupees.

[S. 83 amended by Act 29 of 1990; Act 5 of 1999; s. 8 (a) of Act 36 of 2008 w.e.f. 6 December 2008.]

84. Violation of domicile by public officer

Any functionary of the administrative or judicial body, or any judicial or police officer or any civil or military authority, acting in such capacity, who enters the domicile of another person against the will of that other person, except in cases provided by law, and without complying with the prescribed formalities, shall be punished by a fine not exceeding 25,000 rupees, and by imprisonment for a term not exceeding one year.

[S. 84 amended by Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

85. —

86. Violence by public officer

Any functionary, or public officer, or any agent of, or other person appointed by the Government or the police, or any other person entrusted with the execution of judicial orders or judgments, or any civil or military authority, acting in the discharge of his functions, or for the purpose of discharging such functions, who, without lawful reason, uses or causes to be used any violence towards any person, shall, according to the nature and extent of the violence used, be liable to double the punishment which would have been incurred by any other person guilty of the like crime or misdemeanour.

87. —

88. Public officer ordering use of force to prevent operation of law

Any public functionary, or any agent of or person employed by Government, who calls for or orders or causes to be called for or to be ordered, the intervention or employment of the civil or military authorities against the execution of a law, or against the collection of a legal tax, or against the execution, whether of a legal warrant or judicial order, or of any other order proceeding from lawful authority, shall be punished by penal servitude for a term not exceeding 20 years.

[S. 88 reprinted by Reprint 2 of 1983; amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

89. Penalty where order is executed

Where such requisition or order has been carried into execution, the punishment shall be penal servitude.

90. Penalty not applicable for acting under order of superior

The punishments specified in sections 88 and 89 shall not cease to be applicable to such functionaries or persons employed who shall have acted by order of their superior, unless the order is given by such superior for matters within his competence, and in relation to which obedience was due to such superior, in which cases the punishments above mentioned shall only be applicable to the superior who gave the order, unless he can prove that he likewise has acted under an order from superior authority.

91. Penalty where order provokes serious crime

Where, in consequence of such order or requisition, any other crime ensues, punishable by a severer punishment than that specified in sections 88 and 89, such severer punishment shall be applied to functionaries, agents or persons employed, who have given the said order, or made the said requisition.

CHAPTER III – CRIMES AND MISDEMEANOURS AGAINST THE PUBLIC PEACE

92. Counterfeiting gold or silver coin

(1) Any person who falsely makes or counterfeits any coin resembling or intended to resemble or pass for any gold or silver coin lawfully current in Mauritius, or in any other State, shall be punished by penal servitude.

(2) Any person who impairs, diminishes, lightens, or otherwise alters any gold or silver coin aforesaid, with intent that the coin so impaired, diminished, lightened, or altered may pass for any gold or silver coin, lawfully current as aforesaid, shall be punished by penal servitude.

93. Imitating gold or silver coin

(1) Any person who by means of any process gives the colour of gold or silver, either to any money resembling the gold and silver money mentioned in section 92 or with the intention to make it resemble the said gold or silver money, or to any blank of base metal made of a suitable size and figure to be coined, and with the manifest intention of imitating or counterfeiting any of the coins of gold or silver hereinbefore mentioned, shall be punished by penal servitude.

(2) The like punishment shall be applied to any person who, for the purpose of increasing the value of any money of silver or copper having legal currency, shall give thereunto the colour of gold or silver.

94. Dealing in and importing counterfeit gold or silver coin

Any person who buys, sells, passes off, receives or pays, or proposes to buy, sell, pass off, receive, or pay, any false or counterfeit coin, resembling or evidently made with intent to resemble any of the coins mentioned in sections 92 and 93, for a lower rate or value than that of the true coin of the same denomination, or any person who imports into Mauritius any such false or counterfeit coin, knowing the same to be false or counterfeit, shall be punished by penal servitude.

95. Knowingly offering counterfeit gold or silver coin

(1) Any person who knowingly offers, tenders or utters any false or counterfeit coin of gold or silver, resembling or made with intent to resemble any of the coins of gold or silver mentioned in sections 92 to 94 shall be punished by imprisonment for a term not exceeding 5 years.

(2) Where the offender at the time of such act is found to have in his possession, at the same time, one or more other pieces of false or counterfeit coin of gold or silver as above described, or where the offender, either the same day, or within the following 10 days, offers, tenders or utters any such other false or counterfeit coin of gold or silver, knowing the same to be false or counterfeit, such offender may be punished by the maximum term of imprisonment.

(3) In case of a subsequent conviction for an offence under this section, the punishment shall be penal servitude.

[S. 95 amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

96. Knowingly uttering counterfeit gold or silver coin

(1) Any person who is found to have in his possession 3 or more pieces of false or counterfeit coin, resembling, or made with intent to resemble any of the coins of gold or silver above mentioned, knowing them to be false or counterfeit, and with the intention to utter the same, shall be punished by penal servitude for a term not exceeding 10 years.

(2) In case of a subsequent conviction for a like offence the offender, shall be punished by penal servitude.

[S. 96 reprinted by Reprint 2 of 1983; amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

97. Making or possessing instrument used for counterfeiting gold or silver coin

Any person who, without lawful authority or excuse, the proof of which shall lie on him, knowingly makes or mends, or begins or proceeds to make or mend, or buys or sells, or has in his custody or possession any puncheon, counter puncheon, matrix, stamp, die, pattern or mould, edger, edging or other tool, collar, instrument, press or engine, which is adapted and intended for the false making, counterfeiting or marking, of any gold or silver coin mentioned in sections 92 to 96, shall be punished by penal servitude.

98. Counterfeiting copper coin

Where the offence relates to any copper or cupro-nickel coin lawfully current in Mauritius, or in any other State, the punishment shall be—

- (a) for an offence under section 92, 93 or 94, penal servitude for a term not exceeding 15 years;
- (b) for an offence under section 95 or 96, imprisonment for a term not exceeding 5 years;
- (c) for an offence under section 97, penal servitude for a term not exceeding 15 years.

[S. 98 reprinted by Reprint 2 of 1983; amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

99. Forfeiture of counterfeit coin and instrument

All false or counterfeit coins mentioned in sections 92 to 96 and 98 and all instruments, tools, engines mentioned in section 97 shall be forfeited by the Court before which the offender is tried, or, if there is no trial, by order of a Magistrate.

100. Counterfeiting seal, mark or bank note

(1) Any person who—

- (a) counterfeits the seal of Mauritius, or makes use of such counterfeit seal;
- (b) forges or counterfeits any securities issued by the Accountant-General with the stamp thereof; or
- (c) knowing that such securities are forged or counterfeit makes use thereof, or introduces them into Mauritius,

shall be punished by penal servitude.

(2) (a) Any person who—

- (i) forges or counterfeits any bank note, or any word, letter, figure, mark, sign, signature or facsimile upon or attached to any bank note;
- (ii) utters any forged or counterfeit bank note, knowing it to be forged or counterfeit; or
- (iii) introduces into Mauritius or, without lawful authority or excuse (the proof of which shall lie on him), purchases, receives or obtains from any other person, or has in his custody or possession, any forged or counterfeit bank note, knowing it to be forged or counterfeit, shall be punished by penal servitude.

(b) In paragraph (a), “bank note” includes any note of any bank or person carrying on the business of banking in any part of the world, and includes any currency note issued by or on behalf of the Government of Mauritius or of any other country.

(c) For the purposes of paragraph (b), “currency note” includes any notes which are legal tender in the country in which they are issued.

(3) Any person who, without lawful authority or excuse, the proof of which shall lie on him—

- (a) makes, uses, or knowingly has in his custody or possession any paper intended to resemble and pass as special paper such as is provided and used for making any bank note;
- (b) makes, uses, or knowingly has in his custody or possession any frame, mould or instrument for making such paper, or for producing in or on such paper any words, figures, letters, marks, lines or devices peculiar to and used

in or on any such paper;

- (c) engraves or in any way makes upon any plate, wood, stone or other material, any words, figures, letters, marks, lines or devices, the print of which resembles in whole or in part any words, figures, letters, marks, lines or devices peculiar to and used in or on any bank note;
- (d) uses or knowingly has in his custody or possession any plate, wood, stone or other material upon which any such words, figures, letters, marks, lines or devices have been engraved or in any way made as aforesaid;
- (e) uses or knowingly has in his custody or possession any paper upon which any such words, figures, letters, marks, lines or devices have been printed or in any way made as aforesaid,

shall be punished by penal servitude.

(4) Any forged or counterfeit bank note, or any machinery, implement, utensil or material used or intended to be used for the forging or counterfeiting of a bank note shall be forfeited by the Court, or, if there is no trial, by order of a Magistrate.

101. Counterfeiting Court seal

Any person who—

- (a) counterfeits or forges any seal of any Court or authority, or any puncheon used for marking wrought gold or silver; or
- (b) makes use of any counterfeit or forged paper, security, seal, or puncheon, knowing it to be forged or counterfeit,

shall be punished by penal servitude.

102. Unlawful use of seal

Any person who, having unlawfully procured possession of any real and lawful seal or puncheon, intended or destined for the purposes mentioned in section 101, uses or applies it to the prejudice of the rights or interests of the State, shall be punished by penal servitude.

103. Counterfeiting mark of Government or trader

Any person who—

- (a) counterfeits any mark destined to be put or placed, in the name of Government, on any goods or merchandise, or makes use of such counterfeit mark; or
- (b) counterfeits the mark of any private bank or commercial establishment, or uses or applies such counterfeit mark to the prejudice of the rights or interests of the Government or even of a private establishment,

shall be punished by penal servitude for a term not exceeding 20 years and by a fine not exceeding 100,000 rupees.

[S. 103 reprinted by Reprint 2 of 1983; amended by Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

104. Altering Government mark

Any person who counterfeits any mark of the Government placed upon private property, or alters or erases any mark placed upon the property of the Government, shall be punished by penal servitude.

105. Altering manufacturer's label

(1) Any person who places or causes to appear, by any addition, retrenchment, or alteration, upon any manufactured article, the name of a manufacturer, other than the real one, or the commercial name of a manufactory other than that where such article was made, or the name of a place different from that where such article was made, shall be punished by imprisonment for a term not exceeding 5 years, and by a fine not exceeding 100,000 rupees.

(2) Any trader, agent, or retailer who knowingly exposes for sale, or puts into circulation, any such article, marked with a fictitious or counterfeit name, shall be liable to the like punishment.

[S. 105 amended by Act 29 of 1990; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

105A. Electronic document or writing

For the purposes of sections 106 to 109, 111 and 112, a document or writing includes any disc, tape, sound track or other device on or in which data is recorded or stored by mechanical, electronic or other means.

[S. 105A inserted by Act 22 of 2003 w.e.f. 9 August 2003.]

106. Forgery by public officer

Any functionary, or public officer, acting in the discharge of his duty, who commits a forgery—

- (a) by a false signature;
- (b) by the alteration of any act, date, writing, or signature;
- (c) by falsely stating the presence of a person; or
- (d) by any writing made or interpolated in any register or other public act, after it has been completed or closed,

shall be punished by penal servitude.

107. Fraudulent alteration of public document

Any functionary, or public officer who, in drawing up a document or writing in the discharge of his duty, fraudulently alters its substance or particulars, whether by inserting any condition other than that directed or dictated by the parties, or by stating any false fact as true, or any fact as acknowledged which has not been so acknowledged, shall be punished by penal servitude.

108. Forgery by private individual of public or commercial writing

Any other person who commits a forgery in an authenticated and public writing, or in a commercial or bank writing—

- (a) by counterfeiting or altering any writing, date or signature, or by the use of a fictitious name;
- (b) by fabricating any agreement, condition, obligation or discharge, or inserting it in any such act after it has been completed; or
- (c) by adding to any clause, statement or fact which such act was intended to contain and certify, or by altering such clause, fact or statement,

shall be punished by penal servitude.

109. Making use of forged public writing

In every case specified in sections 106 to 108, any person who makes use of any forged document or writing knowing it to be forged, shall be punished by penal servitude

for a term not exceeding 20 years.

[S. 109 reprinted by Reprint 2 of 1983; amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

110. Sections 106 to 109 not applicable to passport

Nothing in sections 106 to 109 shall apply to any forgery committed in a passport, or to any forgery committed in such certificates as are mentioned in sections 114 to 120.

111. Forgery of private writing

Any person who, by one of the means specified in section 108, forges a private writing, shall be punished by penal servitude for a term not exceeding 20 years.

[S. 111 reprinted by Reprint 2 of 1983; amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

112. Making use of forged private writing

The like punishment shall be inflicted upon any person who makes use of the forged writing, knowing it to be forged.

113. Sections 111 and 112 not applicable to certificate covered by sections 117 to 119

The forged certificates mentioned in sections 117 to 119 are excepted from the provisions of sections 111 and 112.

114. Forgery of passport

Any person who forges a passport or falsifies a passport originally genuine, or makes use of a forged or falsified passport, shall be punished by imprisonment.

115. Public officer delivering unauthorised passport

Any public officer who delivers a passport otherwise than in accordance with the Passports Act shall commit an offence and shall, on conviction, be liable to imprisonment for a term not exceeding 5 years.

[S. 115 amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

116. —

117. Forgery of medical certificate

Any person who, for the purpose of relieving himself, or of freeing any other person from any public service forges under the name of a physician or surgeon, a certificate of sickness or infirmity, shall be punished by penal servitude for a term not exceeding 10 years.

[S. 117 reprinted by Reprint 2 of 1983; amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

118. Medical officer issuing false certificate

(1) Any medical practitioner, surgeon or dentist who, in the exercise of his functions, for the purpose of procuring an advantage to any person, falsely certifies or falsely conceals the existence of any disease or infirmity, or who gives false information with respect to the cause of such disease or infirmity or with respect to the cause of any death, shall be liable to penal servitude for a term not exceeding 10 years.

(2) Where any physician, surgeon or dentist has been induced thereunto by any gift or promise, he and any person who has offered such gift or promise shall be liable to penal

servitude for a term not exceeding 20 years.

[S. 118 reprinted by Reprint 2 of 1983; amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

119. Forgery and making use of character certificate

(1) Any person who forges, under the name of a functionary or public officer, a certificate of good behaviour, poverty, or other circumstance calculated to excite the goodwill of the Government or of individuals towards the person therein described, and to obtain for such person any situation, credit, or assistance, shall be punished by imprisonment.

(2) The like punishment shall be applied—

- (a) to any person who forges a certificate of the above description, originally genuine, for the purpose of appropriating it to any individual other than the person to whom it was originally delivered;
- (b) to any person who makes use of such forged or falsified certificate.

120. Forgery and making use of other forged certificate

Any false certificate or false permission of any other description, from which there might result, either injury towards third parties, or prejudice towards the Treasury, or any unlawful advantage to the person making use of the same, shall be punished according to sections 106 to 120, or only by a correctional punishment, according to the circumstances of the case.

121. Fine for forgery

Any person found guilty of any kind of forgery or of making use of any kind of forged writing shall be liable to a fine not exceeding 100,000 rupees which may, where it is imposed, be so imposed either in substitution for or in addition to the punishment of imprisonment or penal servitude provided for in each case.

[S. 121 amended by Act 5 of 1999; s. 8 (a) of Act 36 of 2008 w.e.f. 6 December 2008.]

122. Embezzlement and larceny by public officer or notary

(1) Any collector or person appointed to collect public money, or any public depositary or accountant, who embezzles or purloins public or private money, or any security representing the same, or any document, title, deed, movable effects, being in his charge by virtue of his functions, shall be punished by penal servitude, together with a fine not exceeding the whole amount of the sum embezzled.

(2) The like punishment shall be applicable to any notary who embezzles or purloins any document, title, security, money, or valuable security of which he may be the depositary.

123. Embezzlement and larceny of deed by public officer

(1) Any judge, administrator, functionary, or public officer, who destroys, suppresses, embezzles or purloins any deed or title, of which he may, in such capacity, be the depositary, or which may have been delivered or communicated to him by virtue of his functions, shall be punished by penal servitude for a term not exceeding 20 years.

(2) Any agent, clerk or servant whether of the Government, or of a public depositary, who shall be convicted of the like offence, shall be subject to a like punishment.

[S. 123 reprinted by Reprint 2 of 1983; amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

124. Extortion by public officer

(1) Any functionary, or public officer, or any of their clerks or servants, or any collector of duties, taxes, contributions, money, public or municipal rents, or any clerk or servant of such collector who shall be convicted of the crime of extortion or exaction, in ordering the levy of or in exacting or receiving that which he knew not to be due or to exceed what was due for duties, taxes, contributions, money or rent, or for wages or salary, shall be punished as follows – such functionary or public officer by penal servitude for a term not exceeding 20 years, and such clerk or servant by imprisonment.

(2) The offender may, in addition, be sentenced to a fine not exceeding 25,000 rupees.
[S. 124 reprinted by Reprint 2 of 1983; amended by Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

125. – 133A. —

[Ss. 125 to 133A repealed by s. 89 (b) of Act 5 of 2002 w.e.f. 1 April 2002.]

134. – 136. —

137. Public officer exercising functions without lawful authority

Any public functionary being lawfully relieved, dismissed, suspended or interdicted, and who after having had official notice thereof, shall continue the exercise of his functions, shall be punished by imprisonment, and by a fine not exceeding 100,000 rupees, without prejudice to the punishment specified in section 64.

[S. 137 amended by Act 29 of 1990; Act 5 of 1999; s. 8 (a) of Act 36 of 2008 w.e.f. 6 December 2008.]

138. Offences by public officers

Except in those cases where the law specially determines the punishments incurred for crimes or misdemeanours committed by public officers or functionaries, those among them who participate in any other crime or misdemeanour, which it was their duty to watch over, or to repress, shall always suffer the maximum of the punishment attached to that description of misdemeanour or crime.

139. Taking part in unlawful assembly

(1) Any person who takes part in an unlawful assembly shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 5 years.

(2) In this section and in the following sections, “unlawful assembly” means 12 or more persons who—

- (a) are assembled with intent to commit an offence; or
- (b) being assembled even for a lawful purpose, conduct themselves in such a manner as is likely to lead to or provoke a breach of the peace.

[S. 139 added by Act 30 of 1991; amended by Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

140. Having offensive weapon at unlawful assembly

(1) Any person who, while taking part in any unlawful assembly or riot, has in his possession an offensive weapon, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to penal servitude for a term not exceeding 10 years.

(2) In this section—

“offensive weapon” means any article made, or adapted for use, or suitable for causing injury to the person, or intended by the person having it in his possession or

under his control for that use by him or by some other person.

[S. 140 added by Act 30 of 1991; amended by s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

141. Dispersing unlawful assembly

(1) Any police officer, not below the rank of Assistant Superintendent, may—

- (a) give a warning to any person in an assembly that the assembly is unlawful;
- (b) stop and disperse any unlawful assembly.

(2) For the purposes of exercising the powers conferred by subsection (1), a police officer, not below the rank of Assistant Superintendent, may issue such orders as may be necessary and may—

- (a) use such force as may be necessary to stop or disperse the unlawful assembly; and
- (b) enter any premises or place in which persons are unlawfully assembled.

[S. 141 added by Act 30 of 1991.]

142. Remaining in unlawful assembly after warning

(1) Any person who remains in an assembly after having been duly warned by a police officer, not below the rank of Assistant Superintendent, that the assembly is unlawful shall commit an offence unless he shows to the satisfaction of the Court that he remained in the assembly after the warning through circumstances independent of his will.

(2) Any person who commits an offence under this section shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 5 years.

[S. 142 added by Act 30 of 1991; amended by Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

143. Taking part in riot*

(1) Any person who takes part in a riot shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 10 years.

(2) In this section—

“riot” means an unlawful assembly which has begun to execute the purpose for which it is assembled by a breach of the peace.

[S. 143 added by Act 30 of 1991; amended by s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

144. Interpretation of “rebellion”

Any attack, or any resistance by violence or assault against a ministerial officer, or a forest officer, or against the civil or military authorities, or an inspector or keeper of canals or an inspector of distilleries, or any person appointed to collect taxes and contributions, or the bearer of a warrant of arrest, or a sequestrator, officer or agent of the administrative or judicial police, acting for the execution of the laws, orders or warrants issuing from public authority, or of judicial warrants or judgments, is held, according to circumstances, to be a crime, or a misdemeanour of rebellion.

145. Rebellion by more than 20 armed persons

Where the rebellion is committed by more than 20 armed persons, the offenders shall be punished by penal servitude, and if they were not armed, they shall be punished by imprisonment.

EDITORIAL NOTE: Act 1 of 2000 (Public Security Act) which purports to repeal section 143 is not in operation.

146. Rebellion by 3 but not more than 20 armed persons

Where the rebellion is committed by 3 or more armed persons, not exceeding 20 in number, the punishment shall be penal servitude for a term not exceeding 20 years, and if they were not armed, the punishment shall be imprisonment.

[S. 146 reprinted by Reprint 2 of 1983; amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

147. Rebellion by less than 3 armed persons

Where the rebellion is committed by one or 2 armed persons only, it shall be punished by imprisonment, and where it is committed without arms, by imprisonment for a term not exceeding 5 years.

[S. 147 amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

148. Rebellion by band or mob

In case of rebellion committed by a band or mob, section 68 shall be applicable to the rebels without office or employment, in such band, who have retired at the first intimation given by public authority.

149. Interpretation of “armed meeting”

Any meeting of persons for crime or a misdemeanour, is held to be an armed meeting, where more than 2 persons carry ostensible arms.

150. Carrying concealed arms

Those persons who are found carrying concealed arms, and who have formed part of a troop or meeting not held to be armed, shall be individually punished in like manner as if they had formed part of an armed troop or meeting.

151. Penalty for offence committed during rebellion

The authors of any crime or misdemeanour committed during the progress and in consequence of a rebellion, shall suffer the punishment pronounced against such crime or misdemeanour, if such punishment is more severe than that for rebellion.

152. Inciting rebellion

(1) Any person who has instigated rebellion, whether by a speech made in a public place or *tenu dans des lieux ou réunions publics, soit par placards affichés, soit par écrits ou imprimés.*

(2) Where the rebellion has not taken place, the person so instigating, shall be punished by imprisonment for a term not exceeding 10 years.

[S. 152 amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

153. Fine for rebellion

Where the sentence is merely imprisonment for rebellion, the offender may also be condemned to a fine not exceeding 100,000 rupees.

[S. 153 amended by Act 29 of 1990; Act 5 of 1999; s. 8 (a) of Act 36 of 2008 w.e.f. 6 December 2008.]

154. Rebellious meeting

(1) Meetings with or without arms, attended with violence or threats against the administrative authority, or the officers or agents of police, or against the civil or military authorities shall be punished as rebellious meetings, when formed—

- (a) by workmen, or day labourers, employed in any public works, or in any manufactory, or on any landed estate;
- (b) by persons admitted into an alms house; or
- (c) by prisoners accused or convicted of any offence.

(2) Such punishment shall be always applied to those who have instigated the rebellion.

155. Rebellion by prisoner

The punishment for rebellion, pronounced against prisoners, persons charged, convicted of any other crime or misdemeanour shall be by them undergone as follows—

- (a) by those who, on account of the crimes or misdemeanours which have caused their detention, are or may be condemned to a punishment not capital, immediately after the expiry of such punishment; and
- (b) by the others immediately after the final decree or judgment, which has acquitted them, or absolved them from the offence for which they were detained.

156. Outrage against depository of public authority

(1) Any outrage committed publicly, in any manner, whether against one or more members of the Cabinet or of the Assembly, or against a tribunal or Court or one or more Magistrates, or a public functionary, or a minister of a religion recognised in Mauritius provided such outrage is committed against any of the aforesaid, whilst acting in the exercise of their functions, or on account of such functions, shall be punished by imprisonment, and by a fine not exceeding 100,000 rupees.

(2) The like offence against an assessor or juryman on account of his functions, or against a witness on account of his evidence, shall be punished by imprisonment for a term not exceeding 5 years, and by a fine not exceeding 100,000 rupees.

(3) Where the offence is against a ministerial officer, or an agent of the civil or military authorities, the punishment shall be imprisonment for a term not exceeding one year, and a fine not exceeding 25,000 rupees.

[S. 156 replaced by Act 2 of 1983; amended by Act 29 of 1990; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

157. Outrage against commander of civil or military authorities

The punishment shall be imprisonment for a term not exceeding one year, if the outrage mentioned in section 156 has been directed against a commander of the civil or military authorities.

[S. 157 amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

158. Assault against member of Assembly or judicial officer

(1) Any person who, even without arms and though no wound should ensue, strikes or assaults a member of the Cabinet, or of the Assembly, or a Magistrate or Judge, in the exercise of his functions, or on account of such functions, shall be punished by penal servitude for a term not exceeding 6 years and by a fine not exceeding 100,000 rupees.

(2) Where such assault is committed in the Assembly Chamber, or during the sitting of a Court or tribunal, the punishment may be penal servitude for a term not exceeding 20 years and a fine not exceeding 100,000 rupees.

[S. 158 reprinted by Reprint 2 of 1983; amended by Act 48 of 1991; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

159. Assault against agent of civil or military authorities

Any violence of the description specified in section 158, where directed against a ministerial officer, an agent of the civil or military authorities or any person entrusted with a public duty, and where committed whilst such officer, agent or person is performing his public duty or where committed in relation thereto, shall be punished by imprisonment for a term not exceeding 2 years and by a fine not exceeding 25,000 rupees.

[S. 159 amended by Act 29 of 1990; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

160. Assault with wounding or premeditation

Where the violence used against the functionaries or agents mentioned in sections 158 and 159 has caused effusion of blood, or a wound, or illness, and, even where such violence has caused no effusion of blood, nor wound, nor illness, where the blows have been given with premeditation or lying in wait, the punishment shall be penal servitude.

161. —

162. Witness giving false excuse

Any witness, judicially summoned, who has alleged an excuse proved to be false, shall be condemned to imprisonment for a term not exceeding 2 years and to a fine not exceeding 100,000 rupees.

[S. 162 amended by Act 29 of 1990; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

163. Penalty for responsible officer in case of escape of prisoner

Where a prisoner escapes, the officers and constables of Police, the keepers of prisons, gaolers, turnkeys, and all other persons entrusted with the charge, conveyance, or custody of such prisoner shall be punished in the manner specified in sections 164 to 172.

164. Aiding prisoner charged with misdemeanour

Where the party escaping is charged with, or accused, or convicted of, a misdemeanour, the person entrusted with the custody or conveyance of such party shall be punished, in the case of negligence, by imprisonment for a term not exceeding one year, and in the case of connivance, by imprisonment for a term not exceeding 4 years.

[S. 164 amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

165. Aiding prisoner charged with crime

Where the party escaping is charged with, or accused, or convicted of, a crime, the punishment, as regards the persons entrusted with the custody or conveyance of such party, shall, in the case of negligence, be imprisonment for a term not exceeding one year and in the case of connivance, the punishment shall be penal servitude for a term not exceeding 10 years.

[S. 165 reprinted by Reprint 2 of 1983; amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

166. Aiding prisoner to escape by violence

Where the escape has been effected or attempted by violence or breach of prison, the punishment as regards those who have aided it by furnishing any instrument calculated for effecting such escape, shall, where the party escaping is of the description specified in section 164, be imprisonment, and of that in section 165, be penal servitude for a term not

exceeding 10 years.

[S. 166 reprinted by Reprint 2 of 1983; amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

167. Third party aiding prisoner to escape by violence

(1) Where the violence, or breach of prison has been committed by third parties, for the purpose of aiding the escape of the prisoner, the offenders, shall be punished by penal servitude for a term not exceeding 20 years.

(2) Where such third parties have succeeded in procuring or facilitating such escape, by bribing the turnkey or gaoler, or by connivance with them, they shall suffer the like punishment as such turnkey or gaoler.

[S. 167 reprinted by Reprint 2 of 1983; amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

168. Aiding prisoner to escape by supply of arms

(1) Where such escape has been facilitated by the supply of any arms, the keeper or person entrusted with the conveyance of the prisoner who has participated in such escape, shall be punished by penal servitude for a term not exceeding 20 years.

(2) Where the crime is committed by another person, that person shall be liable to the same punishment.

[S. 168 reprinted by Reprint 2 of 1983; amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

169. Supplying prisoner with instrument for escape

Any person who supplies a prisoner with, or endeavours to introduce into a prison, any instrument, or anything calculated to facilitate the escape of a prisoner, shall be punished by imprisonment for a term not exceeding 2 years.

[S. 169 amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

170. Escaping from legal custody

Any prisoner who escapes or attempts to escape, by breach of prison or by violence, shall, for such act only, be punished by imprisonment not exceeding one year, and shall undergo such punishment immediately after the expiry of that which he incurred for the crime or misdemeanour for which he was imprisoned, or immediately after the decree or judgment which acquitted or absolved him from such crime or misdemeanour, the punishment being without prejudice to any severer punishment which he may have incurred for any other crime which he may have committed in the course of such violence.

171. Penalty not applicable in case of negligence of responsible officer

The punishment of imprisonment provided in sections 163 to 170 against those entrusted with the conveyance or custody of any prisoner, shall, in the case of negligence only, cease, on the party that had escaped being captured or produced, where that takes place within 4 months of such escape and that such party has not been arrested for any other crime or misdemeanour committed subsequently.

172. Harboursing criminal

(1) Any person who harbours, or causes to be harboured, any person whom he knew to have committed a crime, or to have been condemned for such crime, or against whom he knew that a warrant of arrest or imprisonment had been issued, shall be punished by imprisonment.

(2) Relations in the direct line of ascent or descent, and the husband or wife, brother or sister of the offenders so harboured are excepted from subsection (1).

173. Failing to prevent breaking of Government seal

Where a seal affixed, whether by order of the Government, or under a judicial decree made in any matter, is broken, the person in charge of it, for mere negligence, shall be punished by imprisonment for a term not exceeding one year.

[S. 173 amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

174. Penalty where seal relates to criminal proceedings

Where such breaking of seals relates to papers or effects appertaining to a criminal proceeding, or to an individual charged with, or accused of, a crime punishable by penal servitude, or who has been sentenced to such punishment, the person in charge shall, for his negligence, be punished by imprisonment.

175. Breaking of seal relating to criminal proceedings

Any person who wilfully breaks any seal affixed on papers or effects specified in section 174, or participates in such breaking of seal, shall be punished by penal servitude for a term not exceeding 10 years, or by imprisonment, and where he was the guardian of the papers or effects, he may be punished by penal servitude for a term not exceeding 20 years.

[S. 175 reprinted by Reprint 2 of 1983; amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

176. Breaking of other seal

With respect to all other breakings of seals, the offender shall be punished by imprisonment, and where he is the guardian thereof, he may be punished by penal servitude for a term not exceeding 10 years.

[S. 176 reprinted by Reprint 2 of 1983; amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

177. Larceny by breaking of seal

Any larceny committed by means of the breaking of a seal, shall be punished as larceny with breaking.

178. Failing to prevent purloining of document entrusted to depository

With regard to the purloining, destruction, or carrying off of criminal proceedings or articles appertaining thereto, or of any other papers, registers, deeds, or effects contained in the archives, registries or places of public deposit, or entrusted to a public depository in his capacity as such, the punishment for negligence to be applied to the registrar, archivist, notary or other depository, shall be imprisonment for a term not exceeding 2 years, and a fine not exceeding 100,000 rupees.

[S. 178 amended by Act 29 of 1990; Act 5 of 1999; amended by s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

179. Purloining of document from place of public deposit

(1) Any person who is convicted of the purloining, carrying off, or destruction specified in section 178 shall be punished by penal servitude for a term not exceeding 20 years.

(2) Where such crime is committed by the depository himself, he shall be punished by penal servitude.

[S. 179 reprinted by Reprint 2 of 1983; amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

180. Breaking of seal, and purloining of document, by violence

Where such breaking of seal, purloining, carrying off or destruction of articles is committed with violence towards any person, the punishment shall be penal servitude for a term not exceeding 20 years, without prejudice to any severer punishment which the nature of such violence, or of any other crime by which it may be attended, may require.

[S. 180 reprinted by Reprint 2 of 1983; amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

181. Damaging monument

(1) Any person who destroys, throws down, mutilates, or damages any monument, statue, or other object intended for public utility or embellishment and erected by public authority, shall be punished by imprisonment for a term not exceeding 2 years, and by a fine not exceeding 100,000 rupees.

(2) The like punishment shall apply to any carrying away of, or any damage done to, any public symbol of the President.

(3) Where such monument, statue, or other object, so destroyed, thrown down, mutilated or damaged, was devoted to any one of the cults or religions authorised in Mauritius, the offender shall be punished by imprisonment for a term not exceeding 2 years, and by a fine not exceeding 100,000 rupees.

(4) The punishment shall be imprisonment, and a fine not exceeding 100,000 rupees, if such offence is committed in the interior of a building devoted to religion, or to the practice of any religion which is authorised in Mauritius.

[S. 181 amended by Act 29 of 1990; Act 48 of 1991; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

181A. Protection of flag

(1) Any person who, by any means or in any manner—

- (a) holds up to; or
- (b) brings into,

hatred or ridicule the Flag of Mauritius or of any other State shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 5 years.

(2) Where in any criminal proceedings, any question arises whether or not a flag is the Flag of Mauritius or that of any other State, a certificate issued by or under the authority of the Prime Minister stating any fact relating to that question shall be conclusive evidence of that fact.

[S. 181A amended by Act 30 of 1991; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

182. Usurping public function

Any person who, without any title, takes upon himself any public functions, civil or military, or performs any act appertaining to such functions, shall be punished by imprisonment, without prejudice to the punishment for forgery, if such act bears the character of that crime.

182A. Unlawful wearing of uniform

(1) Any person who, without lawful authority—

- (a) wears any uniform of the Police Force or of the armed forces where he is not entitled to do so;
- (b) wears any article of clothing or other article likely to be mistaken for uniform mentioned in paragraph (a) unless he satisfies the Court that he had no intention that it should be so mistaken;
- (c) has in his possession, or sells or otherwise disposes of, a uniform mentioned in paragraph (a), to any person who is not authorised to wear that uniform,

shall commit an offence.

(2) (a) No person shall import a uniform mentioned in subsection (1) (a) without the permission of the Commissioner of Police.

(b) A person who fails to comply with paragraph (a) shall commit an offence.

(3) In this section—

“uniform” includes headgear, badge, brassard, clothing, equipment and every article forming part of a uniform.

(4) Any person who commits an offence under this section shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 4 years.

[S. 182A amended by Act 30 of 1991; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

183. Interference with freedom of conscience

Any person who by open and overt act, or by threats, compels another to practise one of the authorised religions or to attend the practice of such religion, or to celebrate certain days of rest, or prevents him therefrom, and any person who, in consequence, compels him to open or shut his manufactories, shops or premises, and to perform or discontinue certain works, or who prevents him therefrom, shall be punished for such offence alone, by a fine not exceeding 100,000 rupees, and by imprisonment for a term not exceeding 2 years.

[S. 183 amended by Act 29 of 1990; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

184. Disturbing religious ceremony

Any person who, whether in a building devoted to or actually used for the practice of a religion which is established in Mauritius, or even at the outside of such building, disturbs, or prevents the ceremonies of such religion, shall be punished by a fine not exceeding 100,000 rupees and imprisonment for a term not exceeding 2 years.

[S. 184 amended by Act 29 of 1990; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

185. Outrage on religious worship

Any person who, by word or gesture, commits an outrage on the objects used for religious worship in the place devoted to or actually used for such religious worship, or upon any minister of such religion whilst officiating as such, shall be punished by a fine not exceeding 100,000 rupees, and imprisonment for a term not exceeding 2 years.

[S. 185 amended by Act 29 of 1990; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

186. Assaulting and outraging minister of religion

Any person who assaults a minister of religion, whilst officiating as such shall be liable to a fine not exceeding 100,000 rupees and to imprisonment.

187. Penalty not applicable where there is a severer penalty

Sections 183 to 186 apply only to the disturbances, outrages and assaults, which from their nature and circumstances are not punishable with severer penalties under the other provisions of this Code.

188. Association of malefactors

Any association of malefactors against the persons or property of individuals, is a crime against the public peace.

189. Interpretation of “association of malefactors”

Such crime exists by the mere fact of an organisation of a band, or of correspondence between such band and its chiefs or commanders, or of an agreement having as object to give an account or to make a distribution of division of the produce of their wrongful acts.

190. Ringleader of association of malefactors

Where even such crime is not accompanied or followed by any other crime, the author or director of such association, and the chief or subordinate commanders of such band, shall be punished by penal servitude.

191. Forming part of, and aiding or harbouring, association of malefactors

Any other person forming part of such band, and any person who knowingly and wilfully supplies such band or any portion thereof, with arms, ammunition, instruments of crime, lodging, or place of retreat or meeting, shall be punished by penal servitude for a term not exceeding 20 years.

[S. 191 reprinted by Reprint 2 of 1983; amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

192. – 195. —

196. Begging

(1) Any person found begging, shall, if an asylum or work house is available be punished by imprisonment for 6 months.

(2) Where there is no such establishment, able-bodied beggars shall be punished by imprisonment for one month.

(3) Any person referred to in subsection (1) or (2) may, instead of being sentenced to imprisonment, be ordered to pay a fine not exceeding 2,000 rupees.

[S. 196 amended by Act 29 of 1990; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

197. Begging with threat

Any beggar, even though not able-bodied, who uses threats, or without permission from the owner or person living in a house, enters either a place of abode, or any enclosure belonging to it, or who feigns any sore or infirmity, or who begs in a body, shall be punished by imprisonment.

198. Interpretation of “vagrant”

Any beggar, in case of a subsequent conviction for an offence under section 196 or 197, shall be declared to be a vagrant, and shall be punished as prescribed.

201. Begging with violence

Any beggar who uses any violence against any person shall be punished by imprisonment, without prejudice to any severer punishment which may be required in consequence of the nature and circumstances of such violence.

202. Publishing matter without description of author

Any publication, or distribution of any work, writing, advertisement, notice, newspaper, periodical paper, or of any other printed writing, which does not contain the real description of the name, profession, and place of abode of the author of the manuscript, or of the printer, as the case may be, shall, on this account alone, make every person, who knowingly contributes to the publication or distribution thereof, liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding one year.

[S. 202 amended by Act 29 of 1990; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

203. Penalty applicable for revealing author of writing

The punishment shall be that provided in section 382 in the case of—

- (a) any crier, bill sticker, vendor or distributor, who makes known the person from whom he received the manuscript or printed writing;
- (b) any person who being guilty of the offences specified in section 202, makes known the printer;
- (c) the printer or engraver who makes known the author or the person who entrusted him with the printing or engraving.

204. Publishing matter conducive to crime

(1) Where the manuscript or printed writing contains any instigation to a crime or a misdemeanour, the crier, bill sticker, vendor or distributor shall be punished as the accomplice of the instigator, unless such crier, bill sticker, vendor or distributor makes known the person from whom he has received the manuscript or printed writing containing such instigation.

(2) Where such disclosure is made, the crier, bill sticker, vendor, or distributor shall only be liable to imprisonment for a term not exceeding one year, and the punishment for being an accomplice shall only apply to those who have not made known the persons from whom they received the manuscript or printed writing, and also to the printer, where he is known.

[S. 204 amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

205. Forfeiture of publication

In every case specified in sections 202 to 204, any copies seized shall be forfeited.

206. Outrage against public and religious morality

- (1) (a) Any person who—
 - (i) by words, exclamations or threats used in a public place or meeting;
 - (ii) by any writing, newspaper, pamphlet or other printed matter, or by any drawing, engraving, picture, emblem or image, sold or distributed or put up for sale or exhibited in any public place or meeting; or

(iii) by any placard or handbill exhibited for public inspection, commits any outrage against any religion legally established, or against good morals or against public and religious morality (*la morale publique et religieuse*), shall, on conviction, be liable to imprisonment for a term not exceeding 2 years and to a fine not exceeding 100,000 rupees.

(b) Matters of opinion on religious questions, decently expressed or written, shall not be deemed to be an outrage.

(2) Any person who hawks for sale, or circulates, or exhibits any such writing, newspaper, pamphlet, or other printed matter, drawing, engraving, picture, emblem or image, placard or handbill, shall, on conviction, be liable to the penalty specified in subsection (1).

(3) The copies of any obscene writing, newspaper, pamphlet, or other printed matter, drawing, engraving, picture, emblem or image, placard or handbill, which are exposed to public view, or hawked for sale, may be seized and forfeited.

(4) The Public Officers' Protection Act shall apply to subsection (3).

[S. 206 amended by Act 29 of 1990; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

207. Penalty applicable for revealing author of outrage against religion

The punishment shall be that provided in section 382 in the case of—

- (a) any crier, bill sticker, vendor or distributor, who makes known the person from whom he received the article, by means of which the offence has been committed;
- (b) any person who makes known the printer or engraver;
- (c) the printer, or engraver, who makes known the author or person who entrusted him with the printing or engraving.

208. Penalty applicable to author of outrage against religion

In every case specified in sections 202 to 207, and where the author is known, he shall not be condemned to a punishment less than that provided for the description of the offence of which he is guilty.

209. Penalty for assisting illegal publication

Any person, who, without having been thereunto authorised by the police, acts as crier or sticker of any printed writing, drawing or engraving, although bearing the name of the author, printer, drawer or engraver thereof, shall be punished by imprisonment for a term not exceeding 3 years.

[S. 209 amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

210. – 213. —

214. Binding person to engage in breach of public order

(1) Any person who, in any manner and under any form, administers any oath, or causes the consent to any engagement, having as object or consequence to bind any individual to engage in an act having a seditious purpose, or tending to disturb the public peace, or to form part of any association or meeting instituted for such purpose, or to obey the orders or command of any body or committee not legally constituted, or of any chief, commander or other person having no legal authority, or not to make known or denounce any of the persons forming part of such society, or not to give information or evidence against such persons, nor to disclose or divulge any of the acts connected

therewith, shall be punished by penal servitude.

(2) The like punishment shall be applied to all those who have aided, assisted, or abetted in administering the oath or engagement.

TITLE II – OFFENCES AGAINST INDIVIDUALS

CHAPTER I – OFFENCES AGAINST THE PERSON

215. Interpretation of “manslaughter”

Homicide committed wilfully is manslaughter.

216. Interpretation of “murder”

Manslaughter committed with premeditation or by lying in wait is murder.

217. Interpretation of “premeditation”

Premeditation consists in the determined intention of attempting the person of any particular individual, or of any individual who may be found or met with, even though such intention should depend upon some circumstance or condition.

218. Interpretation of “lying in wait”

Lying in wait consists in waiting for a greater or lesser time, in one or more places, for an individual, whether for the purpose of inflicting death or for committing any act of violence upon such individual.

219. —

220. Murder of newly born child and infanticide

(1) Any person who by a wilful act of commission or omission, done with intent to cause the death of a newly born child, causes the death of such newly born child, shall be guilty of the crime of murder of a newly born child.

(2) Where such crime is committed by a woman in respect of her newly born child but at the time of the act of commission or omission she had not fully recovered from the effect of giving birth to such child and by reason thereof the balance of her mind was then disturbed, she shall, notwithstanding that the circumstances were such that but for this section the offence would have amounted to murder of a newly born child, be guilty of the crime of infanticide, and may be dealt with and punished as if guilty of infanticide.

(3) Where on the trial of a woman for the murder of her newly born child, the jury is of the opinion that she, by any wilful act of commission or omission caused its death, but that at the time of such act of commission or omission she had not fully recovered from the effect of giving birth to such child, and that by reason thereof the balance of her mind was then disturbed, the jury may, notwithstanding that the circumstances were such that but for this section it might have returned a verdict of murder of a newly born child, return a verdict of infanticide instead.

(4) A jury on a criminal information for the murder of a newly born child or for infanticide may return a verdict of manslaughter or a verdict of involuntary homicide, or a verdict of guilty but insane or a verdict of concealment of birth under section 70 of the Civil Status Act.

[S. 220 amended by Act 23 of 1981.]

221. —

222. Penalty for murder and infanticide

(1) Any person who is convicted of—

- (a) murder or murder of a newly born child, shall be sentenced to penal servitude for life or, where the Court is satisfied that substantial and compelling circumstances exist which justify the imposition of a lesser sentence and has entered those circumstances on the record of the proceedings, for a term not exceeding 60 years;
- (b) attempt at murder or attempt at murder of a newly born child, shall be liable to penal servitude for life or, where the Court is satisfied that substantial and compelling circumstances exist which justify the imposition of a lesser sentence and has entered those circumstances on the record of the proceedings, for a term not exceeding 60 years.

(2) Any woman guilty of infanticide shall be liable to penal servitude for a term not exceeding 35 years.

(3) Any woman guilty of attempt at infanticide shall be liable to penal servitude.

[S. 222 reprinted by Reprint 2 of 1983; amended by Act 31 of 1995; s. 4 (1) (b) of Act 6 of 2007 w.e.f. 18 June 2007.]

223. Penalty for manslaughter

(1) Any person guilty of manslaughter preceding, accompanying or following another crime shall be liable to penal servitude for life or, where the Court is satisfied that substantial and compelling circumstances exist which justify the imposition of a lesser sentence and has entered those circumstances on the record of the proceedings, for a term not exceeding 60 years.

(2) Any person who attempts to commit manslaughter in the cases mentioned in this section shall be liable to penal servitude.

(3) In every other case, a person guilty of manslaughter shall be liable to penal servitude for a term not exceeding 45 years.

[S. 223 reprinted by Reprint 2 of 1983; amended by s. 4 (1) (c) of Act 6 of 2007 w.e.f. 18 June 2007.]

224. Demanding by written threat of violence

Any person, who by any writing, whether anonymous or signed, threatens any individual with murder, poisoning or any other attempt against the person of such individual punishable by penal servitude, shall be punished by penal servitude, where the threat is accompanied by an order to deposit a sum of money in a certain place, or to fulfil any other condition.

[S. 224 amended by Act 31 of 1995.]

225. Threatening in writing

Where the threat is not accompanied by any order or condition, the punishment shall be imprisonment.

226. Threatening verbally

Where the threat, so accompanied by an order or condition, has been made verbally, the offender shall be punished by imprisonment for a term not exceeding 2 years.

[S. 226 amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

227. Demanding by threat of false accusation

Any person who falsely charges or threatens to charge any person with having committed an offence, with intent to extort or obtain by intimidation from such person, money or other property, shall, on conviction, be liable to penal servitude for a term not

exceeding 20 years.

[S. 227 reprinted by Reprint 2 of 1983; amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

228. Assault with aggravating circumstance

(1) Any person who wilfully inflicts any wound or blow, or is the author of any other violence or assault, shall, if such act of violence has caused any sickness or incapacity for personal labour for more than 20 days, be punished by imprisonment and a fine not exceeding 100,000 rupees.

(2) Where as a result of any act of violence specified in subsection (1) the person injured or assaulted has had an arm, a leg or a thigh broken, or has lost the use of both eyes or of one eye only, the offender shall be punished by penal servitude for a term not exceeding 20 years and to a fine not exceeding 100,000 rupees.

(3) Where the wound or blow inflicted wilfully, but without intention to kill, shall nevertheless cause death, the offender shall be punished by penal servitude for a term not exceeding 20 years.

(4) Where the crime specified in subsection (3) has preceded, accompanied or followed another crime, the offender shall be punished by penal servitude.

(5) (a) Notwithstanding section 152 of the Criminal Procedure Act, where it is averred that the victim of any offence specified in subsections (1) to (4) is a minor under the age of 16 or a physically or mentally handicapped person, the person charged shall, on conviction, be liable to imprisonment for a term of not less than 2 years.

(b) Part X of the Criminal Procedure Act and the Probation of Offenders Act shall not apply to a person liable to be sentenced under paragraph (a).

[S. 228 reprinted by Reprint 2 of 1983; amended by Act 29 of 1990; Act 13 of 1998; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

228A. Assault with corrosive substance

(1) Any person who, by means of an acid or other corrosive substance, wilfully inflicts any wound or blow on any other person, shall be punished by imprisonment.

(2) Where as a result of an act of violence specified in subsection (1), the person injured—

- (a) suffers sickness or incapacity for personal labour for more than 20 days; or
- (b) loses the use of one eye or both eyes,

the offender shall be punished by penal servitude.

(3) Part X of the Criminal Procedure Act and the Probation of Offenders Act shall not apply to a person liable to be sentenced under this section.

[S. 228A inserted by s. 3 of Act 25 of 2001.]

229. Assault with premeditation

Where there has been premeditation or lying in wait, the punishment, if death has ensued, shall be penal servitude, and if death has not ensued, shall be penal servitude for a term not exceeding 20 years.

[S. 229 reprinted by Reprint 2 of 1983; amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

230. Assault

(1) Where such wound, blow or other violence or assault has not caused any sickness or incapacity from personal labour of the description mentioned in section 228 the

offender shall be punished by imprisonment for a term not exceeding 2 years, and by a fine not exceeding 50,000 rupees.

(2) Where there has been premeditation or lying in wait, the offender shall be punished by imprisonment and by a fine not exceeding 100,000 rupees.

(3) (a) Notwithstanding section 152 of the Criminal Procedure Act, where it is averred that the assault is directed against a minor under the age of 14 or a physically or mentally handicapped person, a person charged under subsection (2) shall, on conviction, be liable to imprisonment for a term of not less than 3 months.

(b) Part X of the Criminal Procedure Act and the Probation of Offenders Act shall not apply to a person liable to be sentenced under paragraph (a).

[S. 230 amended by Act 29 of 1990; Act 13 of 1998; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

231. Assault upon father or mother

In the cases provided for by sections 228 and 229, where the offender has committed the crime upon his father or mother, whether legitimate, natural or adoptive or upon his spouse or any person with whom he lives or has lived maritally or any minor child of such person, such offender shall be liable to the punishment set forth in those sections according to the distinctions therein established.

[S. 231 amended by Act 29 of 1990; Act 13 of 1998; s. 4 (1) (d) of Act 6 of 2007 w.e.f. 18 June 2007.]

232. Assault by seditious gathering

Where the crimes or misdemeanours specified in sections 215 to 238 are committed by a seditious meeting, with rebellion or plunder, they shall be imputable to the chiefs, authors, instigators, and incitors of such meeting, rebellion or plunder, who shall be punished as guilty of such crimes or misdemeanours, and be condemned to the like punishments as those who have personally committed them.

233. Dealing in offensive weapon

(1) Any person who manufactures or sells any stiletto, dagger, knife in the shape of a dagger, whether for the pocket or for a fowling piece or any bayonet, swordstick, loaded stick, other than those ironed at the end, or any other offensive weapon hidden or secreted, shall be punished by imprisonment for a term not exceeding 5 years.

(2) The bearer of any arms specified in subsection (1) may be punished by a fine not exceeding 25,000 rupees.

(3) In either case, the arms shall be forfeited.

(4) The penalty specified in subsections (1) and (2) is without prejudice to any severer punishment, according to circumstances, in case of complicity in any crime.

[S. 233 amended by Act 29 of 1990; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

233A. Sale or offer for sale of offensive instrument in the open

(1) Any person who sells, exposes, keeps or offers for sale on the street, in a fair, or in any other open-air space, an axe, knife, cutlass, hook of any type, or any instrument or tool with a blade or pointed edge, shall commit an offence.

(2) The offender shall be liable, on conviction, to a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding 10 years.

(3) Where any person is convicted of an offence under subsection (1), the Court may make an order for—

(a) the forfeiture and disposal of any article in respect of which the offence was

committed;

(b) the cancellation of the licence or permit held by the offender.

[S. 233A inserted by s. 4 of Act 30 of 2001; amended by s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

233B. Sale or offer for sale of offensive instrument to person under 12

(1) Any person who sells or offers for sale an axe, knife, cutlass, hook of any type, or any instrument or tool with a blade or pointed edge, to any person under the age of 12 shall commit an offence.

(2) It shall be a defence to any prosecution under subsection (1) that the person charged had reasonable cause to believe that the child was above the age of 12.

(3) The offender shall be liable, on conviction, to a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding 4 years.

(4) Where any person is convicted of an offence under subsection (1), the Court may make an order for the forfeiture and disposal of any article in respect of which the offence was committed.

[S. 233B inserted by s. 4 of Act 30 of 2001; amended by s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

234. Castration

(1) Any person guilty of the crime of castration, or amputation or destruction of any organ necessary to generation, shall be punished by penal servitude.

(2) Where death has ensued therefrom, the offender shall be punished by penal servitude for life or, where the Court is satisfied that compelling reasons exist which justify the imposition of a lesser sentence and has specified the reasons on the record of the proceedings, for a term not exceeding 60 years.

[S. 234 reprinted by Reprint 2 of 1983; amended by s. 3 (f) of Act 36 of 2008 w.e.f. 6 December 2008.]

235. Abortion

(1) Any person who, by any food, drink, medicine, or by violence, or by any other means, procures the miscarriage of any woman quick with child, or supplies the means of procuring such miscarriage, whether the woman consents or not, shall be punished by penal servitude for a term not exceeding 10 years.

(2) The like punishment shall be pronounced against any woman who procures her own miscarriage, or who consents to make use of the means pointed out or administered to her with that intent, if such miscarriage ensues.

(3) Any physician, surgeon, or pharmacist who points out, facilitates or administers the means of miscarriage shall, where miscarriage has ensued, be liable, on conviction, to penal servitude.

[S. 235 reprinted by Reprint 2 of 1983.]

236. Administering noxious substance

(1) Any person who administers to or causes to be administered to or taken by any other person any drug, poison or other destructive or noxious thing, so as to endanger the life of such person, or so as to inflict upon such person any grievous bodily harm, or so as to stupefy or overpower such person and facilitate the commission of any offence, shall be liable to penal servitude for a term not exceeding 20 years.

(2) Where death has ensued from the commission of an offence under subsection (1), the offender shall be punished by penal servitude for a term not exceeding 45 years.

(3) Any person who 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, shall be liable to penal servitude for a term not exceeding 10 years.

[S. 236 reprinted by Reprint 2 of 1983; amended by s. 4 (1) (e) of Act 6 of 2007 w.e.f. 18 June 2007; s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

237. Selling adulterated liquor

(1) Any person who sells or retails any adulterated liquor, containing any ingredient harmful to health, shall be punished by imprisonment and by a fine not exceeding 100,000 rupees.

(2) The adulterated liquor, found to belong to the vendor or retailer, shall be seized and forfeited.

[S. 237 amended by Act 29 of 1990; Act 5 of 1999; s. 8 (a) of Act 36 of 2008 w.e.f. 6 December 2008.]

238. Selling unwholesome medicine

Any person who sells, or exposes for sale, any damaged or harmful medicine shall suffer the punishment specified in section 237.

239. Involuntary homicide and wounds and blows

(1) Any person who, by unskilfulness, imprudence, want of caution, negligence or non-observance of regulations, involuntarily commits homicide, or is the unwilling cause of homicide shall be punished by imprisonment and by a fine not exceeding 150,000 rupees.

(2) Where wounds or blows only have ensued, the punishment shall be a fine not exceeding 100,000 rupees and imprisonment for a term not exceeding one year.

[S. 239 amended by Act 29 of 1990; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

240. Manslaughter and wounds and blows under provocation

Manslaughter and wounds and blows, are excusable, as far as it is provided for hereinafter, if they have been provoked by severe blows or violence towards individuals.

241. Manslaughter and wounds and blows in defence of property by day

(1) The crimes and misdemeanours mentioned in section 240, are likewise excusable, if they have been committed in repelling, during the day, the scaling or breaking down of any enclosure, wall, or entrance of any house or inhabited apartment, or of the dependencies thereof.

(2) Where the act takes place during the night, the matter is governed by section 247.

242. Manslaughter in case of adultery

Manslaughter committed by any person on his spouse, as well as on his accomplice, at the very moment he finds them in the act of adultery is excusable.

243. Castration under provocation

The crime of castration, where it is provoked by any immediate violent outrage on chastity, shall be deemed to be an excusable crime or wound.

244. Penalty in case of excusable offence

Where the fact of excuse is proved, if it relates to an offence deemed to be a crime, the punishment shall be reduced to imprisonment, and, if it relates to a misdemeanour, the punishment shall be reduced to imprisonment for a term not exceeding one year.[S. 244 amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

245. Homicide and wounds and blows under lawful authority

There is neither crime nor misdemeanour, where homicide, wounds or blows are ordered by law, and commanded by lawful authority.

246. Homicide and wounds and blows in self defence

There is neither crime nor misdemeanour, where homicide, wounds or blows are commanded by an actual necessity of the lawful defence of oneself or of another person.

247. Interpretation of “self defence”

Actual necessity of defence includes the cases where—

- (a) homicide has been committed, or wounds made, or blows inflicted in repelling during the night, the scaling or breaking of the enclosure, wall or entrance of a house, or inhabited apartment, or of the dependencies thereof;
- (b) the act has taken place in defending oneself against the author of any robbery or plunder executed with violence.

248. Indecent act in public

Any person who commits any grossly indecent act in public (*outrage public à la pudeur*) shall be liable to imprisonment for a term not exceeding 2 years and to a fine not exceeding 100,000 rupees.

[S. 248 amended by Act 29 of 1990; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

249. Rape, attempt upon chastity and illegal sexual intercourse

(1) Any person who is guilty of the crime of rape shall be liable to penal servitude for a term which shall not be less than 10 years.

(1A) Notwithstanding any other enactment, where a person is convicted of an offence under subsection (1), the Intermediate Court shall have—

- (a) jurisdiction to inflict penal servitude for a term not exceeding 40 years;
- (b) power to order sentences of penal servitude to be served consecutively, provided that the terms of such sentences shall not in the aggregate exceed 40 years.

(1B) Notwithstanding any other enactment, prosecution for the offence of rape may, at the sole discretion of the Director of Public Prosecutions, take place before a Judge without a jury where it is averred that the offence of rape was committed by 2 or more individuals.

(1C) Sections 151 and 197 of the Criminal Procedure Act, and the Probation of Offenders Act, shall not apply to a conviction for the offence of rape.

(2) Any person who commits an indecent act (*attentat à la pudeur*) by force or without consent upon a person of either sex, shall be liable to penal servitude for a term not exceeding 10 years.

(3) Any person who commits an indecent act (*attentat à la pudeur*), even without violence and with consent, upon a child of either sex under the age of 12 shall be liable to penal servitude for a term not exceeding 10 years.

(4) Any person who has sexual intercourse with a minor under the age of 16 or a mentally handicapped person, even with his consent, shall, be liable to penal servitude for a term not exceeding 20 years.

(5) (a) Any person who has sexual intercourse with a specified person, even with consent, shall commit an offence and shall, on conviction, be liable to penal servitude.

(b) Any person who commits an indecent act (*attentat à la pudeur*), even without violence and with consent, upon a specified person shall commit an offence and shall, on conviction, be liable to penal servitude for a term not exceeding 16 years.

(c) In this subsection, “specified person”—

(i) means any person who, in relation to the person charged, comes within the prohibited degrees set out in articles 151, 152 and 153 of the Code Civil Mauricien;

(ii) includes—

(A) a stepchild or an adopted child, of whatever age, of the person charged;

(B) a child of whatever age whose custody or guardianship has been entrusted to the person charged by virtue of any other enactment or of an order of a Court;

(C) a child of whatever age or a mentally handicapped person, other than the spouse of, but living under the same roof as, the person charged or who is the child of the partner of the person charged.

(6) No prosecution shall be instituted under this section except on an information filed with the consent of the Director of Public Prosecutions.

(7) It shall be a sufficient defence to any prosecution under subsection (3) or (4) that the person charged had reasonable cause to believe that the child was above the age of 12 or 16, as the case may be.

[S. 249 amended by Act 20 of 1990; Act 26 of 1991; Act 13 of 1998; s. 3 of Act 30 of 2003; s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

250. Sodomy and bestiality

(1) Any person who is guilty of the crime of sodomy or bestiality shall be liable to penal servitude for a term not exceeding 5 years.

(2) (a) Notwithstanding sections 151 and 152 of the Criminal Procedure Act, where it is averred that the sodomy is committed on a minor or a physically or mentally handicapped person, the person charged shall, on conviction, be liable to imprisonment for a term of not less than 2 years.

(b) Part X of the Criminal Procedure Act and the Probation of Offenders Act shall not apply to a person liable to be sentenced under paragraph (a).

[S. 250 reprinted by Reprint 2 of 1983; amended by Act 13 of 1998.]

251. Debauching youth

(1) Any person who offends against morality, by habitually exciting, encouraging, or facilitating the debauchery or corruption of youth of either sex under the age of 18 shall be punished by imprisonment for a term not exceeding 10 years.

(2) Where such prostitution or corruption has been excited, encouraged or facilitated by the father, mother, guardian or other person entrusted with the care of youth so debauched, the punishment shall be imprisonment for a term not exceeding 15 years.

(3) (a) Notwithstanding section 152 of the Criminal Procedure Act, any person

charged under subsection (1) or (2) shall be liable to the minimum penalties provided in that subsection.

(b) Part X of the Criminal Procedure Act and the Probation of Offenders Act shall not apply to a person liable to be sentenced under paragraph (a).

[S. 251 amended by Act 29 of 1990; Act 13 of 1998; s. 3 (g) of Act 36 of 2008 w.e.f. 6 December 2008.]

252. Interdiction from guardianship

(1) Any person convicted of an offence specified in section 251 shall be interdicted from any guardianship and curatorship—

- (a) for a period not exceeding 5 years in the case of a person specified in section 251 (1);
- (b) for a period not exceeding 20 years in the case of a person specified in section 251 (2).

(2) Where such offence has been committed by the father or mother, the offender shall also be deprived of the rights and advantages which are granted to him or her, upon the person and property of the child, by articles 371 to 387 of the Code Civil Mauricien.

253. Procuring, enticing and exploiting prostitute

(1) Any person who, to gratify the passions of another and for gain—

- (a) procures, entices or leads away, for purposes of prostitution, another person;
- (b) exploits, or is an accomplice in, the prostitution of another person, even with the consent of that person;
- (c) draws a benefit from the prostitution of some other person, shares the earnings of, or receives subsidies from, another person who habitually indulges in prostitution,

shall commit an offence.

(2) Any person who commits, or is an accomplice in the commission of, any of the offences mentioned in subsection (1) shall commit an offence regardless of motives or gain where—

- (a) the person procured, enticed, led away, exploited, in relation to whose prostitution a benefit is drawn, whose earnings are shared or from whom subsidies are received is less than 18 years of age at the time of the offence;
- (b) the person is procured, enticed, led away or exploited for the purpose of being sent abroad;
- (c) the person is procured, enticed, led away or exploited by the use of fraud, deceit, threat, violence or any other means of duress.

(3) No person shall be convicted of an offence under this section upon the evidence of one witness, unless such witness is corroborated in some material particular by evidence implicating the accused.

(4) Any person guilty of an offence under this section shall be liable on conviction to imprisonment for a term which, notwithstanding section 152 of the Criminal Procedure Act, shall be not more than 20 years together with a fine not exceeding 200,000 rupees.

(5) Part X of the Criminal Procedure Act and the Probation of Offenders Act shall not apply to a person liable to be sentenced under this section.

[S. 253 amended by Act 29 of 1990; Act 13 of 1998; s. 3 (h) of Act 36 of 2008 w.e.f. 6 December 2008.]

254. Sexual harassment

(1) Any person who, by abuse of the authority conferred upon him by his functions, harasses another person by means of orders, threats or constraints in order to obtain favours of a sexual nature, shall commit an offence and shall, on conviction, be liable to imprisonment for a term not exceeding 10 years and to a fine not exceeding 200,000 rupees.

(2) (a) Notwithstanding section 152 of the Criminal Procedure Act, where it is averred that the victim of the sexual harassment is a minor or a mentally handicapped person, the person charged under subsection (1) shall, on conviction, be liable to imprisonment for a term not less than one year and to a fine not exceeding 200,000 rupees.

(b) Part X of the Criminal Procedure Act and the Probation of Offenders Act shall not apply to a person liable to be sentenced under paragraph (a).

[S. 254 added by Act 13 of 1998; amended by s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

255. – 256. —

257. Bigamy

(1) Any person who, being married, marries another person before the dissolution of the first marriage, shall be punished by penal servitude for a term not exceeding 20 years.

(2) Any public officer who lends his aid and assistance for such subsequent marriage, knowing the existence of the first, shall suffer the like punishment.

(3) In this section, “marriage” means a civil marriage under section 24 of the Civil Status Act and a religious marriage having civil effect under sections 27 and 28 of the Civil Status Act.

[S. 257 reprinted by Reprint 1 of 1983; Act 2 of 1983; amended by Act 23 of 1981; s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

258. Unlawful arrest, detention and sequestration

(1) Any person who, without any order from the constituted authorities, and except in cases where the law directs the arrest of accused parties, detains, or sequesters any person, shall be punished by penal servitude for a term not exceeding 20 years and by a fine not exceeding 100,000 rupees.

(2) Any person who knowingly lends a place for effecting such detention or sequestration, shall suffer the like punishment.

(3) (a) Notwithstanding sections 151 and 152 of the Criminal Procedure Act, where it is averred that the person sequestered is a minor or a physically or mentally handicapped person, the person charged shall, on conviction, be liable to imprisonment for a term of not less than 2 years.

(b) Part X of the Criminal Procedure Act and the Probation of Offenders Act shall not apply to a person liable to be sentenced under paragraph (a).

[S. 258 reprinted by Reprint 2 of 1983; amended by Act 29 of 1990; Act 13 of 1998; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

259. Penalty for unlawful arrest in certain cases

In the following cases—

- (a) where the arrest has been executed in false dress or a forged name, or under a forged order from the public authority;
- (b) where the individual arrested, detained or sequestered, has been threatened with death; or

- (c) where such individual has been subjected to any corporal torture, the offenders,

shall be punished by penal servitude for a term not exceeding 20 years.

[S. 259 amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

260. Family abandonment

(1) Any father or mother who, without any serious reason, abandons for more than 2 months the family residence and eludes all or part of his or her moral or material obligations resulting from parental authority shall commit an offence.

(2) Any husband who without serious reason, voluntarily abandons for more than 2 months his wife whom he knows to be pregnant shall commit an offence.

(3) Any father or mother who, through ill-treatment, pernicious examples of habitual drunkenness or notorious ill-conduct, lack of care or direction, seriously endangers the health, security or morality of any of his minor children shall commit an offence.

(4) A partner of any father or mother who, through any means specified in subsection (3), seriously endangers the health, security or morality of any of his partner's minor children shall commit an offence.

(5) Any person who commits an offence under this section shall, on conviction, be liable to imprisonment for a term not exceeding 5 years and to a fine not exceeding 100,000 rupees.

[S. 260 added by Act 13 of 1998; amended by s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

261. Failure to pay alimony

(1) Any person who, having been judicially ordered to pay alimony to his spouse or children, voluntarily fails, during 2 months, to pay the full amount of alimony so ordered to his spouse or children, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 2 years.

(2) Any default in the payment of alimony shall, until the contrary is proved, be presumed to be voluntary.

(3) Part X of the Criminal Procedure Act and the Probation of Offenders Act shall not apply to a person liable to be sentenced under subsection (1).

(4) A prosecution for an offence under this section shall take place in the district in which the person entitled to the payment of the alimony is ordinarily resident.

[S. 261 added by Act 13 of 1998; amended by s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

262. Change of domicile

Any person who, having the custody of a minor, fails to notify to any person who, by virtue of a judgment, has a right of visit or lodging in respect of the said minor, any change of his domicile or of the residence of the minor, shall commit an offence and shall, on conviction, be liable to imprisonment for a term not exceeding one year and to a fine not exceeding 50,000 rupees.

[S. 262 added by Act 13 of 1998; amended by s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

262A. – 271. —

[Ss. 262A to 271 repealed by s. 6 of Act 34 of 2005 w.e.f. 17 December 2005.]

272. Burying corpse without lawful authority

Any person who, without having obtained the authorisation of the public officer, where such authorisation is required, causes the body of any deceased person to be

buried, shall be punished by imprisonment, or by a fine not exceeding 100,000 rupees, without prejudice to the prosecution for any crime which the parties guilty of such misdemeanour might be accused of, in connection therewith.

[S. 272 amended by Act 29 of 1990; Act 5 of 1999; s. 8 (a) of Act 36 of 2008 w.e.f. 6 December 2008.]

273. Concealing corpse

Any person who conceals or hides the body of a person killed, or having died from the effects of any blow or wound, shall be punished by imprisonment, and by a fine not exceeding 100,000 rupees, without prejudice to any severer punishment where the offender participated in the crime.

[S. 273 amended by Act 29 of 1990; Act 5 of 1999; s. 8 (a) of Act 36 of 2008 w.e.f. 6 December 2008.]

274. Declaration in case of sudden or violent death

(1) In every case of sudden or violent death, the persons declaring such death, as well as any medical practitioner or surgeon, who is aware of that fact shall be bound to make a declaration of that fact to the civil status officer.

(2) The punishment where no such declaration is made shall be a fine not exceeding 50,000 rupees against each of the persons specified in subsection (1).

[S. 274 amended by Act 29 of 1990; Act 5 of 1999; s. 8 (a) of Act 36 of 2008 w.e.f. 6 December 2008.]

275. Violating tomb

Any person who is convicted of violation of a tomb or grave, shall be punished by imprisonment for a term not exceeding 2 years, and by a fine not exceeding 50,000 rupees, without prejudice to the punishment for any crime or misdemeanour which may have been committed at the same time.

[S. 275 amended by Act 29 of 1990; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

276. Giving false evidence in case of crime

(1) Any person who is convicted of giving false evidence in the prosecution of a crime, either for or against the prisoner, shall be punished by penal servitude for a term not exceeding 20 years.

(2) Where the prisoner has been sentenced to a severer punishment than that of hard labour, the false witness who has given evidence against the prisoner shall suffer the like punishment.

[S. 276 reprinted by Reprint 2 of 1983; amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

277. Giving false evidence in case of misdemeanour

Any person who is convicted of giving false evidence in the prosecution of an offence, other than a crime, either for or against the prisoner, shall be punished by penal servitude for a term not exceeding 20 years and to a fine not exceeding 100,000 rupees.

[S. 277 reprinted by Reprint 2 of 1983; amended by Act 29 of 1990; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

278. Giving false evidence in civil matter

Any person convicted of giving false evidence in a civil suit, shall be punished by penal servitude for a term not exceeding 20 years and to a fine not exceeding 100,000

rupees.

[S. 278 reprinted by Reprint 2 of 1983; amended by Act 29 of 1990; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

279. Giving false evidence for reward

(1) Any false witness in a criminal or civil suit who received any money, reward or promise, shall be punished by penal servitude and to a fine not exceeding 100,000 rupees.

(2) In every case, whatever the false witness has received shall be forfeited.

[S. 279 amended by Act 29 of 1990; Act 5 of 1999; s. 8 (a) of Act 36 of 2008 w.e.f. 6 December 2008.]

280. Subornation of perjury

Any person convicted of subornation of perjury shall be condemned to the same punishment as the perjured witness.

***280A. Interference with witnesses and potential witnesses**

[EDITORIAL NOTE: This section has been added by the Public Security Act (Act 1 of 2000). It is not reproduced as Act 1 of 2000 is not in force.]

281. Giving false evidence on decisory oath

Any party in a civil suit who has been judicially put upon his oath, and makes a false declaration, shall be punished by penal servitude for a term not exceeding 20 years and by a fine not exceeding 100,000 rupees.

[S. 281 reprinted by Reprint 2 of 1983; amended by Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

282. Stirring up racial hatred

(1) Any person who, with intent to stir up contempt or hatred against any section or part of any section of the public distinguished by race, caste, place of origin, political opinions, colour or creed—

- (a) publishes or distributes any writing which is threatening, abusive or insulting;
- (b) uses in any public place or at any public meeting or procession any gesture or word which is threatening, abusive or insulting; or
- (c) broadcasts any matter which is threatening, abusive or insulting,

shall commit an offence and shall on conviction, be liable to a fine not exceeding 100,000 rupees and penal servitude for a term not exceeding 20 years.

(2) Any person who prints, publishes, posts up, distributes, exhibits or circulates any writing, gesture, word or matter mentioned in subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 4 years.

(3) Any writing in respect of, or in connection with, which an offence has been committed under this section shall be forfeited.

(4) In this section—

“broadcast” means using radio-communication whether by sound or vision, for reception by members of the public;

“writing” means—

- (a) any newspaper, pamphlet or other printed matter; or

- (b) any writing, drawing, engraving, picture, illustration, emblem or image, sold, or put up for sale or distributed to the public or exhibited at any public place or meeting or procession or any poster or writing exposed to the public view.

[S. 282 added by Act 30 of 1991; amended by s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

283. Sedition

(1) Any person who, by any means specified in section 206—

- (a) holds or brings into hatred or contempt, or excites disaffection towards, the Government or the administration of justice;
- (b) raises discontent or disaffection among the citizens of Mauritius or promotes feelings or ill will and hostility between different classes of such citizens,

shall commit the offence of sedition and shall, on conviction, be liable to imprisonment for a term not exceeding 2 years and a fine not exceeding 100,000 rupees.

(2) A person shall not commit an offence under this section or section 284 where the writing or words used show that such person intended merely to—

- (a) express disapprobation of the measures of the Government with a view to obtain their alteration by lawful means; or
- (b) express disapprobation of the measures of the administration or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection.

[S. 283 amended by Act 42 of 1993; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

284. Inciting disobedience or resistance to law

Any person who, by any of the means specified in section 206, instigates disobedience or resistance to the laws, or to the authorities entrusted with their execution, shall be liable to imprisonment for a term not exceeding 2 years, and a fine not exceeding 25,000 rupees.

[S. 284 amended by Act 29 of 1990; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

285. Interpretation of “publication”

In sections 285 to 287A—

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

“publication” includes all written or printed matter and anything, whether of a nature similar to written or printed matter or not, containing any visible representation, or by its form, shape, or in any manner capable of suggesting words or ideas, and every copy and reproduction of or extract from any publication.

286. Importing seditious publication

(1) Where the President is of opinion that any publication is seditious, he may, if he thinks fit, by Proclamation, prohibit the importation into Mauritius of that publication and also, in the case of a periodical publication, of any past or future issue of that publication.

(2) Any person who imports, sells, distributes, posts, prints, publishes, copies, reproduces, or has in his possession, power or control, any publication of which the importation is for the time being prohibited by Proclamation, shall commit an offence, and the publication shall be forfeited.

(3) Any person to whom a publication of which the importation is for the time being prohibited by Proclamation is sent without his knowledge or privity or in execution of an

order given before the prohibition on its importation came into effect, or who has such a publication in his possession, power, or control, at the time when the prohibition or its importation comes into effect shall forthwith deliver it to the officer in charge of the nearest police station, and, if he fails to do so, he shall commit an offence.

(4) Any person who complies with subsection (3) or is convicted of a breach of its provisions shall not be fined or imprisoned for having imported the same publication or for having it in his possession, power, or control.

(5) Any licensee under the Postal Services Act who suspects that any postal packet contains a publication of which the importation is for the time being prohibited shall send the packet to the Director-General of the Mauritius Revenue Authority.

[S. 286 amended by Act 48 of 1991.]

287. Suspending publication of newspaper containing seditious publication

(1) Where any person is convicted under this Code of sedition in any newspaper, the Court may, if it thinks fit, either in lieu of or in addition to any other punishment, make orders as to the following matters—

- (a) prohibiting, either absolutely or except on conditions to be specified in the order, for any period not exceeding one year from the date of the order, the future publication of that newspaper; and
- (b) that for the period aforesaid any printing press used in the production of the newspaper be used only on conditions to be specified in the order or that it be seized by the police and detained by them for the period aforesaid.

(2) Where any person contravenes an order made under this section, he shall commit an offence.

287A. Prohibiting circulation of seditious publication

(1) Where, on the application of the Director of Public Prosecutions, it is shown to the satisfaction of a Judge or a Magistrate that the issue or circulation of a seditious publication is or, if commenced or continued, would be likely to lead to unlawful violence or appears to have the object of promoting feelings of hostility between different classes of the community, the Judge or Magistrate shall make an order (in this section called a prohibition order) prohibiting the issue and circulation of that publication (in this section called a prohibited publication) and requiring every person having any copy of the prohibited publication in his possession, power, or control, forthwith to deliver every such copy into the custody of the police.

(2) An order under this section may be made in Chambers *ex parte* on the application of the Director of Public Prosecutions.

(3) It shall be sufficient if the order so describes the prohibited publication that it can be identified by a reasonable person who compares the prohibited publication with the description in the prohibition order.

(4) Every person on whom a copy of a prohibition order is served by any police officer shall forthwith deliver to that officer every prohibited publication in his possession, power, or control, and, if he fails to do so, he shall commit an offence.

(5) Every person who knows that a prohibited publication is in his possession, power, or control, shall forthwith deliver it to the person in charge of the nearest police station, and if he fails to do so, he shall commit an offence.

(6) The Judge or Magistrate may, if he thinks fit, either before or after or without service of the prohibition order on any person, issue a warrant authorising the Commissioner of Police or his assistants to break, enter, and search, either by day or night, any building or place specified in the order, and any enclosure, room, box, receptacle, or thing in such building or place, and to seize and carry away every

prohibited publication there found, and to use such force as may be necessary for the purpose.

(7) A copy of the prohibition order and of the search warrant shall be left in a conspicuous position at every building or place so entered.

(8) (a) The owner of any prohibited publication delivered or seized under this Code may, within 14 days after the delivery or seizure, apply to the Judge or Magistrate for the discharge of the prohibition order, and where on the hearing of the petition, it is decided that the prohibition order ought not to have been made, the Judge or Magistrate shall discharge the order and shall order the prohibited publication delivered by or seized from the owner to be returned to him.

(b) Any person dissatisfied with any order made under paragraph (a) shall have a right of appeal to the Supreme Court.

(9) Every prohibited publication delivered or seized under this section with respect to which an application is not made within the time aforesaid or which is not ordered to be returned to the owner shall be forfeited and dealt with in such manner as the President may direct.

[S. 287A amended by Act 48 of 1991.]

287B. Penalty for seditious publication

Every person who commits an offence under section 286, 287 or 287A—

- (a) shall not be prosecuted except upon an information by the Director of Public Prosecutions;
- (b) shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

[S. 287B amended by Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

288. Interpretation of “defamation”

(1) Any imputation or allegation of a fact prejudicial to the honour, character or reputation of the person to whom such fact is imputed or alleged is a defamation.

(2) Any imputation or allegation concerning the honour, character or reputation of a deceased person is a defamation where it is calculated to throw discredit on or be hurtful to the feelings of the family or relatives of the deceased.

(3) Any person who, by any of the means specified in section 206, is guilty of defamation shall be liable to imprisonment for a term not exceeding 5 years and a fine not exceeding 50,000 rupees.

(4) No offence is committed under this section where the writing or words—

- (a) impute or allege anything which is true concerning any person, where the publisher can show that it was for the public good that the imputation or allegation should be published;
- (b) are a fair and *bona fide* comment or criticism of the conduct of a public servant in the discharge of his public functions or respecting his character so far as his character appears in that conduct and no further;
- (c) are a fair and *bona fide* comment or criticism of the conduct of any person touching any public question, and respecting his character so far as his character appears in that conduct;
- (d) are an impartial and accurate report of the proceedings of any Court or of the result of any such proceedings, unless the Court has itself prohibited the publication, or the subject matter of the trial is unfit for publication, or the subject matter of the proceedings is blasphemous or obscene;

- (e) are a fair and *bona fide* comment or criticism of the merits of any case, civil or criminal, which has been decided by any Court, or respecting the conduct of any person as a party, witness, or agent in any such case, or respecting the character of such person, so far as his character appears in that conduct;
- (f) are a fair and *bona fide* comment or criticism of the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author so far as his character appears in such performance;
- (g) are written or uttered by a person having over another any authority, either conferred by law, or arising out of a lawful contract made with that other, and pass in good faith any censure on the conduct of that other to any person having an interest in such conduct, or in a newspaper if there was no other way for the writer efficiently to protect his interest or the interests of society in matters to which such lawful authority relates;
- (h) prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter or accusation;
- (i) amount to an imputation or allegation on the character of another, provided that the imputation or allegation is made in good faith for the protection of the interests of the person making it, or of any other person, or for the public good;
- (j) convey a caution in good faith to one person against another, provided that such caution is intended for the good of the person to whom it is conveyed, or of some person in whom that person is interested or for the public good; or
- (k) publish an impartial and accurate report of the proceedings of any public meeting, or (except where neither the public nor any newspaper reporter is admitted) of any meeting of the Assembly or of a municipal council.

[S. 288 amended by Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

289. Publication of reply by newspaper

(1) (a) The owner or editor of any newspaper shall further be bound to insert gratuitously within 3 days (or in the next number where the paper is not a daily) the reply of any person named or referred to in the newspaper, provided such reply does not contain any matter amounting to an offence under any enactment, and provided such reply is not foreign to the subject in connection with which such person has been named or referred to in the newspaper, without prejudice to the other penalties to which the article may give rise.

(b) This insertion shall be made in the same place and in the same type as the original article and shall be published without charge provided it does not exceed twice the length of the article.

(c) In that case the excess shall be charged for at advertisement rate.

(2) Any owner or editor who contravenes subsection (1) shall be liable to a fine not exceeding 100,000 rupees, and shall insert the reply within 3 days of such conviction (or in the next number if the paper is not a daily), failing which he shall be liable to a further fine not exceeding 100,000 rupees.

[S. 289 amended by Act 29 of 1990; Act 5 of 1999; s. 8 (a) of Act 36 of 2008 w.e.f. 6 December 2008.]

290. Privilege for Court proceedings

(1) No civil or criminal action, suit or other proceeding for defamation or insult

(injure) shall lie against—

- (a) —
- (b) a member of the Ministère Public, a State Prosecutor, or the State Attorney for anything said or written by him in his official capacity;
- (c) a barrister or advocate for anything said by him as Counsel for a party to any judicial proceeding;
- (d) a witness for anything said by him in giving evidence;
- (e) any person being a party to proceedings before any Court, or any attorney or agent of such party, for words spoken or writings produced in the course of such proceedings before such Court.

(2) In the case of words spoken or of writings produced before any Court, defamatory allegations, foreign to the cause at issue, may give rise, either to a public prosecution, or to a civil action by the parties in the suit, where the right to such action has been reserved to such parties by the Court, and may, in every case, give rise to a civil action from a third party.

[S. 290 amended by Act 48 of 1991.]

291. Criminal intimidation

Any person who threatens another, either by writing or verbally, with making any disclosure or imputation which may cause any injury to his person, reputation or property, or to the person, or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, shall be guilty of criminal intimidation, and shall be liable to imprisonment for a term not exceeding 5 years and to a fine not exceeding 100,000 rupees.

[S. 291 amended by Act 29 of 1990; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

292. – 295. —

296. Insult

Any injurious expression or any term of contempt or invective, or other abusive language, not carrying with it the imputation of a fact, is an insult (*injure*) and any person who is guilty of the offence shall be liable to the following penalties—

- (a) where the offence is committed by means of words, exclamations or threats not made use of in public, a fine not exceeding 50,000 rupees;
- (b) where the offence is committed by means of words, exclamations or threats made use of in public, a fine not exceeding 100,000 rupees;
- (c) where the offence is committed by means of any written or printed matter, drawing, picture, emblem or image, imprisonment for a term not exceeding 2 years and a fine not exceeding 100,000 rupees.

[S. 296 amended by Act 29 of 1990; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

296A. —

297. False and malicious denunciation in writing

Any person who makes a false and malicious denunciation in writing against any individual to any officer of justice or to any officer of police, whether administrative or

judicial, shall be liable to imprisonment for a term not exceeding 5 years and a fine not exceeding 100,000 rupees.

[S. 297 amended by Act 29 of 1990; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

298. Effecting public mischief

Any person who knowingly makes to a police officer a false statement in writing concerning an imaginary offence shall commit the offence of effecting a public mischief and shall be liable to imprisonment for a term not exceeding 2 years and to a fine not exceeding 100,000 rupees.

[S. 298 amended by Act 29 of 1990; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

299. Publishing false news

The publication, diffusion or reproduction, by any means, of false news or of news which though true in substance has been altered in one or more parts or falsely attributed to some other person, if the publication, diffusion or reproduction is of such a nature as to disturb public order or public peace, shall be punished—

- (a) where the offence is committed by means of any spoken words by a fine not exceeding 100,000 rupees and imprisonment for a term not exceeding 2 years;
- (b) where the offence is committed by means of any writing, newspaper, pamphlet or printed matter or by any means other than spoken words, by a fine which shall not be less than 20,000 rupees and not more than 50,000 rupees and imprisonment for a term not exceeding one year,

unless it is proved by the accused that the publication, the diffusion or reproduction was made in good faith and after making sufficient inquiries to ascertain its truth.

[S. 299 amended by Act 1 of 1985; Act 29 of 1990; Act 40 of 1990; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

300. Disclosing professional secret

Any physician, surgeon, as well as any pharmacist, midwife, or any other person, who may, in consequence of his or her profession or avocation, become the depositary of any secret confided to him or her, and who, except when compelled by law, to become informer, reveals such secret, shall be punished by imprisonment for a term not exceeding 2 years and by a fine not exceeding 100,000 rupees.

[S. 300 amended by Act 29 of 1990; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

300A. —

[S. 300A inserted by Act 18 of 1998; amended by s. 8 of Act 36 of 2008 w.e.f. 6 December 2008; repealed by s. 64 (1) of Act 13 of 2004 w.e.f. 16 February 2009.]

CHAPTER II – OFFENCES AGAINST PROPERTY

301. Larceny

(1) Any person who fraudulently abstracts anything not belonging to himself shall commit larceny and be liable, on conviction, to imprisonment and to a fine not exceeding 100,000 rupees.

(2) The abstraction of property by the husband to the prejudice of the wife, or by the wife to the prejudice of the husband, shall not give rise to a prosecution.

[S. 301 amended by Act 29 of 1990; Act 5 of 1999; s. 8 (a) of Act 36 of 2008 w.e.f. 6 December 2008.]

301A. Penalty for other larcenies

(1) Every person who is convicted of an offence under section 303, 304, 305, 306 or 307 and who at the time of the commission of the offence was masked, made use of an offensive weapon which caused injury or had in his possession a firearm or a mock firearm shall be punished for a term not exceeding 30 years.

(2) For the purposes of subsection (1), “offensive weapon” means any article made, or adapted for use, or suitable for causing injury to the person.

(3) The Probation of Offenders Act shall not apply to an offence punishable under subsection (1) except where the accused is under the age of 18 at the date of the sentence.

(4) The Intermediate Court shall, notwithstanding—

- (a) section 113 of the Courts Act, have jurisdiction to inflict the penalty provided under subsection (1);
- (b) section 139 of the Criminal Procedure Act, have power to order sentences imposed under this section to be served consecutively, provided that the terms of such sentences shall not in the aggregate exceed 30 years.

[S. 301A inserted by Act 1 of 1985; amended by s. 3 (i) of Act 36 of 2008 w.e.f. 6 December 2008.]

302. Larceny of produce of soil

(1) Any person who fraudulently abstracts, steals, takes or carries away any crop or other produce of the soil, whether the same before being so abstracted, stolen, taken or carried away had or had not yet been detached from the soil, shall commit larceny and be liable on conviction to imprisonment and to a fine not exceeding 50,000 rupees.

(2) Where such larceny is committed under any of the circumstances specified in sections 303, 304, 305, 306 and 309, the offender shall be liable to the punishments enacted in the said sections respectively.

[S. 302 amended by Act 29 of 1990; Act 5 of 1999; s. 8 (a) of Act 36 of 2008 w.e.f. 6 December 2008.]

303. Larceny with wounding

(1) Any person who commits a larceny, and either at the time of such larceny, or immediately before or after the same, wounds any person with an offensive weapon or with any instrument, shall be punished by penal servitude.

(2) (a) Notwithstanding sections 151 and 152 of the Criminal Procedure Act, where it is averred that the person wounded is a minor or a physically or mentally handicapped person, the person charged shall, on conviction, be liable to imprisonment for a term of not less than 2 years.

(b) Part X of the Criminal Procedure Act and the Probation of Offenders Act shall not apply to a person liable to be sentenced under paragraph (a).

[S. 303 amended by Act 13 of 1998.]

304. Larceny with violence by night breaking

(1) Any person who with intent to commit a larceny, at night, and by means of breaking, enters a dwelling house, and, with intent to kill, assaults any person being in such house, or wounds, beats or strikes such person, shall be punishable by penal servitude.

(2) (a) Notwithstanding sections 151 and 152 of the Criminal Procedure Act, where it

is averred that the person assaulted is a minor or a physically or mentally handicapped person, the person charged shall, on conviction, be liable to imprisonment for a term of not less than 2 years.

(b) Part X of the Criminal Procedure Act and the Probation of Offenders Act shall not apply to a person liable to be sentenced under paragraph (a).

[S. 304 amended by Act 13 of 1998.]

305. Larceny with other aggravating circumstance

(1) The punishment of penal servitude shall be applied to any person convicted of the crime of larceny attended by any one of the following circumstances—

- (a) where the offender, being armed with an offensive weapon or with any instrument, has committed the larceny or assaulted any person with intent to rob him;
- (b) where the larceny has been committed, or where the assault upon any person with intent to rob him, has been made by 2 or more individuals;
- (c) where at the time of the larceny being committed, or immediately before or after the larceny, the offender has beaten or struck any person, or used any violence whatever towards such person;
- (d) where the larceny is committed in a dwelling house, and where the offender has by any menace, put in bodily fear any person in such house; or
- (e) where the larceny has been committed upon any person on a public road.

(2) (a) Notwithstanding sections 151 and 152 of the Criminal Procedure Act, where it is averred that any person specified in subsection (1) (a) to (1) (e) is a minor or a physically or mentally handicapped person, the person charged shall, on conviction, be liable to imprisonment for a term of not less than 2 years.

(b) Part X of the Criminal Procedure Act and the Probation of Offenders Act shall not apply to a person liable to be sentenced under paragraph (a).

[S. 305 amended by Act 13 of 1998.]

306. Larceny by night breaking

Any person who is convicted of larceny, committed during the night by means of breaking, shall be punished by penal servitude.

307. Penalty for extortion

(1) Any person who extorts or obtains from any person through intimidation by charging or threatening to charge such person with having committed an offence, money or other property, shall be punished with penal servitude.

(2) (a) Notwithstanding sections 151 and 152 of the Criminal Procedure Act, where it is averred that the offence under subsection (1) is committed upon a minor, the person charged shall, on conviction, be liable to imprisonment for a term of not less than 2 years.

(b) Part X of the Criminal Procedure Act and the Probation of Offenders Act shall not apply to a person liable to be sentenced under paragraph (a).

[S. 307 amended by Act 13 of 1998.]

308. Looting

(1) Any person who plunders or steals any part of a ship or vessel, in distress, wrecked, stranded, or cast on shore, or any goods or articles, belonging to such ship or vessel, or steals any article from a house whilst the house is on fire, shall be punished by penal servitude.

(2) Without prejudice to any other enactment, where in any area which has been the scene of a riot or civil commotion or in any area to which this section has been applied by order of the Commissioner of Police, any person—

- (a) steals any article from premises which—
 - (i) have been damaged by riot or civil commotion; or
 - (ii) have been vacated by reason of riot, civil commotion or in consequence of directions given for the purpose of preserving public safety or public order or for protecting persons and property; or
- (b)
 - (i) steals any article which has been left exposed, or unprotected as a consequence of riot or civil commotion;
 - (ii) unlawfully enters any premises;
 - (iii) damages any property, assaults any person; or
 - (iv) is found with any offensive weapon or house breaking implement with intent to commit an offence,

he shall commit an offence and shall, on conviction, be liable to a fine not exceeding 150,000 rupees and to penal servitude for a term not exceeding 20 years.

[S. 308 amended by Act 30 of 1991; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

309. Larceny with breaking and larceny by servant

(1) The punishment of penal servitude for a term not exceeding 12 years shall be applied to any person convicted of the crime of larceny committed with external or internal breaking, scaling, or false keys, but not attended by any of the circumstances specified in the preceding sections.

(2) The like punishment shall be applied—

- (a) where the offender is a servant, or a person on wages, even if the larceny has been committed upon an individual whom he did not serve, but who was either in the house of the master of such offender, or in that to which such offender had accompanied his master;
- (b) where such offender is a workman, journeyman, or apprentice, in the house, manufactory, or shop of his master;
- (c) where the offender is a person habitually employed on the premises where he committed the larceny;
- (d) where the offender is an inn or hotelkeeper, carrier, boatman, or any person employed by them, where they have stolen, in whole or in part, the goods entrusted to them in that capacity.

[S. 309 reprinted by Reprint 2 of 1983; amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

310. Larceny with violence

(1) Any person who commits an assault with intent to commit larceny, or who with threats or by force, demands anything belonging to another person with intent to steal the same, shall be liable to imprisonment.

(2) (a) Notwithstanding section 152 of the Criminal Procedure Act, where it is averred that the person assaulted, threatened or against whom force is used is a minor or physically or mentally handicapped person, the person charged shall, on conviction, be liable to imprisonment for a term of not less than 2 years.

(b) Part X of the Criminal Procedure Act and the Probation of Offenders Act shall not apply to a person liable to be sentenced under paragraph (a).

311. Penalty for recidivism in larceny

Any person having already been condemned correctionally more than once for larceny, who subsequently commits a misdemeanour of the like nature shall be deemed to have committed a crime, and

shall be punished by penal servitude.

312. Interpretation of “dwelling house”

(1) Any building, lodging, lodge or movable hut, which without being actually inhabited, is destined to be inhabited, and all the appurtenances thereof, as the yard, lower yard, barn, stable, or any building therein enclosed, whatever its use, and even though enclosed by a special enclosure in the general enclosure or space occupied by the premises, shall be deemed a dwelling house, as regards the applicatio

(2) Public edifices or buildings are deemed to be dwelling houses.n of punishment.

313. Interpretation of “enclosure”

Any land surrounded by a ditch, or by pales, hurdles, planks, green or dry hedge, or wall, whatever is the nature of the materials of which the same may be composed, and whatever is the height, depth, age or state of decay of such enclosure, although there is no door shutting by a key or otherwise, or although the door consists of an open railing, and is usually left open, is deemed to be an enclosure.

314. Interpretation of “enclosure” and of “appurtenance of dwelling house”

Any park or pen, destined to confine cattle in the country, in whatever way it may be made, even though it is movable, is likewise deemed to be an enclosure, and if it is attached to any movable hut or other shelter destined for the use of the keeper of such cattle, such park or pen shall be deemed to be an appurtenance of a dwelling house.

315. Interpretation of “breaking”

Any forcing, rupture, injuring, demolition or removal of any wall, roof, floor, door, window, lock, padlock or other utensil or instrument used for shutting in, or for preventing a passage, or of any enclosure of any description, is deemed a breaking.

316. External and internal breaking

Breaking is either external or internal.

317. Interpretation of “external breaking”

External breaking is that by means of which a passage is made for entering into any house, yard, lower yard, enclosure or appurtenance, or into any private room or lodging.

318. Interpretation of “internal breaking”

(1) Internal breaking is that which, after the offender has entered any of the places mentioned in section 317, is made of any door, or enclosure inside, as well as of any press, or other locked furniture.

(2) The mere carrying away of a chest, box, bale wrapped up in a cloth and corded, or other locked furniture containing any article, although the breaking does not take place on the spot, is deemed an internal breaking.

319. Interpretation of “scaling”

(1) The entry into any house, building, yard, lower yard, edifice of any description, garden, park or enclosure, by going over the wall, door, roof, or any other enclosure, is deemed a scaling.

(2) The entry by any subterraneous aperture other than that which has been established as an entrance is deemed a scaling.

320. Interpretation of “false key”

Any hook, picklock, skeleton key, or any key counterfeited, altered, mislaid or stolen, or not destined by the owner, possessor, tenant, innkeeper or lodger, for the lock, padlock or other fastening to which such key has been applied by the offender, shall be deemed a false key.

321. Counterfeiting key

(1) Any person who without lawful motive counterfeits or alters, any key, shall be condemned to imprisonment for a term not exceeding 2 years, and to a fine not exceeding 25,000 rupees.

(2) Where the offender is a locksmith by trade, he shall be punished by penal servitude for a term not exceeding 20 years.

(3) The penalties specified in subsections (1) and (2) are without prejudice to any severer punishment according to circumstances, in case of complicity in any crime.

[S. 321 reprinted by Reprint 2 of 1983; amended by Act 29 of 1990; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

322. Larceny of obligatory writing and purloining seizure

(1) Any person who, by force, violence, or compulsion, extorts the signature to, or the delivery of any writing, deed, title, or other document, containing or creating any obligation, condition or discharge, shall be punished by penal servitude for a term not exceeding 20 years.

(2) The party whose property has been judicially attached, and who destroys or purloins, or attempts to destroy or purloin any of the articles or goods so attached and entrusted to his custody, shall be punished by imprisonment.

(3) Such party shall be punished by imprisonment for a term not exceeding 2 years, where the articles attached and so destroyed or purloined, or attempted to be destroyed or purloined, had been entrusted to the custody of a third person.

(4) Any person who knowingly receives the goods or articles purloined, and the husband or wife or the relations in the direct ascending or descending line of the party whose property has been attached, who aids such party in destroying or purloining the articles, shall suffer the same punishment as that to which such party has become liable.

[S. 322 reprinted by Reprint 2 of 1983; amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

323. Enticing away servant

Any person who is convicted of having enticed away, concealed, secreted, or employed any servant or apprentice duly engaged, or of having persuaded or endeavoured to persuade such servant or apprentice to leave the service of his master, or to absent himself therefrom, shall be condemned to imprisonment for a term not exceeding one year and to a fine not exceeding 10,000 rupees.

[S. 323 amended by s. 3 (j) of Act 36 of 2008 w.e.f. 6 December 2008.]

323A. Falsely obtaining credit

(1) Any person who, knowing that he is unable to pay therefor, orders, and partakes of drinks or food, on premises used for that purpose, whether he is residing in such premises or not, shall be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

(2) The same penalty shall be inflicted on any person who, knowing that he is unable to pay therefor, books a room in a hotel or boarding house and occupies it.

[S. 323A amended by Act 29 of 1990; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

324. – 329. —

330. Swindling

(1) Any person who, by using a fictitious name, or assuming a false character, or by employing fraudulent pretences, to establish the belief of the existence of any fictitious operation or of any imaginary power or credit, or to create the expectation or apprehension of any success, accident or other chimerical event, or who, by means of a cheque drawn on any banker in Mauritius to the order of any person or to bearer, for the payment of which there is insufficient provision at the time of the presentment thereof, obtains the remittance or delivery of any funds, movable property, obligation, condition, bill, acknowledgement, acquittance or discharge, and by any such means as aforesaid, swindles another person out of the whole or of a part of his property, shall be punished by penal servitude for a term not exceeding 20 years, and by a fine not exceeding 150,000 rupees.

(2) (a) Notwithstanding sections 151 and 152 of the Criminal Procedure Act, where it is averred that the person swindled is a minor or a mentally handicapped person, the person charged shall, on conviction, be liable to imprisonment for a term of not less than 2 years together with a fine not exceeding 10,000 rupees.

(b) Part X of the Criminal Procedure Act and the Probation of Offenders Act shall not apply to a person liable to be sentenced under paragraph (a).

[S. 330 reprinted by Reprint 2 of 1983; amended by Act 13 of 1998; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

330A. Dealing unlawfully in lottery ticket

(1) Any person who sells, or distributes, or organises the sale or distribution of, shares in tickets for any lawfully promoted lottery without being the owner or lawful possessor of the official ticket or tickets declared to be those covering the said sale or distribution or in respect of any one or more tickets, sells, distributes or organises the sale or distribution of a number of shares greater than that which corresponds to the division as agreed upon or stipulated, shall be guilty of swindling and liable to the penalties applicable to that crime.

(2) Any person who sells, distributes or organises the sale or distribution of such shares and who is unable, at the request of a police officer, to prove that he is the owner or lawful possessor of the official ticket or tickets declared to be those covering the said sale or distribution shall be punished by imprisonment and by a fine not exceeding 100,000 rupees.

[S. 330A amended by Act 29 of 1990; Act 5 of 1999; s. 8 (a) of Act 36 of 2008 w.e.f. 6 December 2008.]

330B. Issuing cheque without provision

(1) Any person who, in bad faith issues a cheque for the payment of which there is no provision or no sufficient provision or, after the issue of a cheque either withdraws in whole or in part any provision for the payment thereof or prevents the drawee from effecting payment shall be punished by imprisonment and by a fine not exceeding 100,000 rupees.

(2) Any person who knowingly agrees to receive a cheque issued in the circumstances specified in subsection (1) shall be liable to the like punishment.

[S. 330B amended by Act 29 of 1990; Act 5 of 1999; s. 8 (a) of Act 36 of 2008 w.e.f. 6 December 2008.]

331. Breach of trust of minor

Any person who takes advantage of the wants, weaknesses, or passions of a minor, for the purpose of making the minor subscribe to his prejudice, any bond, acquittance or discharge for loan of money, movable effects, commercial bill, or other valuable consideration, under whatever form such transaction is made or disguised, shall be punished by imprisonment, and by a fine not exceeding 100,000 rupees.

[S. 331 amended by Act 5 of 1999; s. 8 (a) of Act 36 of 2008 w.e.f. 6 December 2008.]

332. Fraudulently using blank document

(1) Any person who, taking advantage of a document signed in blank entrusted to him, fraudulently writes before the signature, any obligation, discharge or other engagement of a nature to compromise the person or fortune of the party whose signature is affixed thereunto, shall be punished by penal servitude for a term not exceeding 10 years, and by a fine not exceeding 100,000 rupees.

(2) Where the blank signature has not been entrusted to the offender, he shall be prosecuted for forgery, and shall be punished accordingly.

[S. 332 reprinted by Reprint 2 of 1983; amended by Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

333. Embezzlement

(1) Any person who embezzles, squanders away or destroys or attempts to embezzle, squander away or destroy to the prejudice of the owner, possessor or holder, any goods, money, valuables, security, bill, acquittance or other document containing or creating an obligation or discharge, which has been delivered to such person merely in pursuance of any lease or hiring (*louage*), deposit (*dépôt*), agency (*mandat*), pledge (*nantissement*), loan for use (*prêt à usage*), or for any work with or without a promise of remuneration with the condition that the same be returned or produced or be used or employed for a specific purpose, shall be punished by imprisonment and a fine not exceeding 100,000 rupees.

(2) Where the offence has been committed by a public or a ministerial officer, or by a servant or a person in service receiving wages, or a pupil, clerk, workman, journeyman or apprentice, to the prejudice of his master, the punishment shall be penal servitude for a term not exceeding 20 years, without prejudice to sections 178, 179 and 180 in respect of the embezzlement, abstraction or destruction of money, goods, or papers when committed in places of public deposit.

[S. 333 reprinted by Reprint 2 of 1983; amended by Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

333A. Embezzlement of security or charge

Any person who—

- (a) being a debtor, borrower or surety, destroys, embezzles or attempts to destroy or embezzle, any property furnished by him as security with or without actual parting of possession;
- (b) in relation to a charge, without the consent of the appropriate authorised body—
 - (i) in favour of which he has created a fixed charge, or

- (ii) after having been notified of the conversion of a floating charge into a fixed one, sells or otherwise disposes of any property subject to the charge,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 4 years.

[S. 333A amended by Act 8 of 1983; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

334. Removing document produced in Court

Any person who, after having produced in a judicial suit any deed, document or memorial, makes away with the same, shall be punished by a fine not exceeding 100,000 rupees.

[S. 334 amended by Act 29 of 1990; Act 5 of 1999; s. 8 (a) of Act 36 of 2008 w.e.f. 6 December 2008.]

335. —

336. Pawnbroking and money lending without lawful authority

Any person who establishes or keeps a house for the lending of money on pledge or pawn, without lawful authority, or who is habitually addicted to the making of loans of that description, or who being duly authorised does not comply with the conditions and formalities which have been imposed upon him, shall be punished by imprisonment for a term not exceeding one year and by a fine not exceeding 50,000 rupees.

[S. 336 amended by Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

337. Hindering judicial sale

(1) Any person who at the adjudication of the property, usufruct, or lease of any property, or of any undertaking, supply, work, or engagement, impedes the freedom of any judicial sale, or of any tender, by assault, violence or threat whether before or during such sale or tender, shall be punished by imprisonment for a term not exceeding one year, and by a fine not exceeding 100,000 rupees.

(2) The like punishment shall be applied to any person who by gift or promise, prevents any person from bidding.

[S. 337 amended by Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

338. Speculating fraudulently

Any person who, by any fraudulent ways or means, causes a rise or fall in the price of provisions or merchandise, or of public bills or securities above or below the price which would have been determined by a natural and fair commercial competition, shall be punished by imprisonment for a term not exceeding 100,000 rupees.

[S. 338 amended by Act 5 of 1999; s. 8 (a) of Act 36 of 2008 w.e.f. 6 December 2008.]

339. Penalty for speculating in certain cases

The term of imprisonment and the amount of the fine may be doubled where the artifices have been practised with regard to grain, flour, bread and other farinaceous substances.

340. – 342. —

343. Deceiving purchaser

(1) Any person who—

- (a) deceives a purchaser, as to the standard of gold or silver, or the quality of a false stone by selling it for a precious one, or as to the nature of any goods; or
- (b) by using any false weight or measure, deceives in regard to the quantity of goods sold,

shall be punished by imprisonment for a term not exceeding 2 years, and by a fine not exceeding 100,000 rupees.

(2) The name of an offender under subsection (1) shall be published in the *Gazette*.

(3) (a) The article with which an offence has been committed under subsection (1), or the value thereof, where they still belong to the vendor, shall be forfeited.

(b) The false weights and measures shall likewise be forfeited, and shall also be destroyed.

(4) (a) Notwithstanding sections 152 and 153 of the Criminal Procedure Act, where it is averred that the deceived purchaser is a minor below the age of 16 or a mentally handicapped person, the person charged shall, on conviction, be liable to imprisonment for a term of not less than 3 months together with a fine of not less than 1,000 rupees.

(b) Part X of the Criminal Procedure Act and the Probation of Offenders Act shall not apply to a person liable to be sentenced under paragraph (a).

[S. 343 amended by Act 29 of 1990; Act 13 of 1998; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

344. Failing to honour public contract

Any person who contracts for any supply, undertaking or superintendence, on account of the land or sea forces and who, wilfully and without being compelled by superior force, causes a failure in the contract so entrusted to him, shall be punished by penal servitude for a term not exceeding 20 years, and by a fine not exceeding 100,000 rupees.

[S. 344 reprinted by Reprint 2 of 1983; amended by Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

345. Public officer assisting defaulting contractor

Any public functionary, agent of the Government or person appointed or paid by the Government, who assists the offender in his breach of contract, shall be punished by penal servitude for a term not exceeding 20 years, without prejudice to any severer punishment, in the case of collusion with the enemy.

[S. 345 reprinted by Reprint 2 of 1983; amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

346. Arson

(1) Any person who wilfully sets fire to any building, ship, boat, storehouse, timber-yard or any other place when they are inhabited or in use as a residence or as a place of meeting, whether the same belongs to him or not, shall be liable to penal servitude.

(2) Where the building, ship, boat, storehouse, timber-yard or other place is not inhabited nor in use as a residence or as a place of meeting, and does not belong to him, he shall be liable to penal servitude for a term not exceeding 20 years.

(3) Any person who wilfully sets fire to any forest, plantation, or to any wood, timber, coppice, or crop, whether standing or cut, which does not belong to him, shall be liable to penal servitude for a term not exceeding 20 years.

(4) Any person who in setting fire to his vehicle, building, ship, boat, storehouse, timber-yard or other place, when they are not inhabited nor in use as a residence or as a place of meeting, or to his forest, plantation, wood, timber, coppice or crop, whether

standing or cut, wilfully causes or attempts to cause any loss, prejudice or injury to any other person, shall be liable to penal servitude for a term not exceeding 20 years.

(5) Any person who wilfully sets fire to any motor vehicle, whether it belongs to him or not, shall be liable to penal servitude.

(6) Any person who by setting fire to anything whether it belongs to him or not, wilfully sets fire to any property or thing specified in subsections (1) to (5), shall be liable to penal servitude for a term not exceeding 20 years.

[S. 346 reprinted by Reprint 2 of 1983; amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

347. Arson causing death

In all cases specified in section 346, where the fire caused the death of one or more persons, being in the place or vehicle set on fire at the moment of the fire breaking forth, the punishment shall be penal servitude for life or, where the Court is satisfied that compelling reasons exist which justify the imposition of a lesser sentence and has specified the reasons on the record of the proceedings, for a term not exceeding 60 years.

[S. 347 amended by Act 31 of 1995; s. 3 (k) of Act 36 of 2008 w.e.f. 6 December 2008.]

348. Threatening arson

Any threat to set fire to a dwelling-place, or to any other property, shall be punished by the same punishment as a threat to murder, and according to the distinctions specified in sections 224, 225 and 226.

349. Damaging public property, private enterprise or vehicle

(1) Any person who wilfully destroys, breaks down, damages, or renders useless, by any means, in whole or in part, any building, bridge, ship, vessel, boat, dike, causeway or other erection, any public property, any engine, utensil, or any article used in the business of a country estate, or of a manufacture belonging to another person or any vehicle belonging to another person, shall be punished by penal servitude not exceeding 20 years and by a fine not exceeding 25,000 rupees.

(2) Any person, who, without lawful authority—

(a) damages or interferes with any military installations, dock, harbour, road, power station, transmission line, water supply system, telegraph or telephone apparatus or installation, broadcasting station, or other means of communication or aircraft, aircraft material, airport landing ground or mooring;

(b) obstructs or endangers the safety of any vessel, aircraft or vehicle,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to penal servitude for a term not exceeding 20 years.

(3) In this section—

“military installation” means any building, installation or other property belonging to or used by the Police Force or the armed forces;

“vehicle”—

(a) means any vehicle designed or adapted for use on any road; and

(b) includes any other means of conveyance.

[S. 349 amended by Act 29 of 1990; Act 30 of 1991; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

350. Hindering public works by force

(1) Any person who by violence opposes the carrying on of any work ordered by Government, shall be punished by imprisonment, and by a fine not exceeding 100,000 rupees.

(2) The instigators shall suffer the like punishment.

[S. 350 amended by Act 29 of 1990; Act 5 of 1999; s. 8 (a) of Act 36 of 2008 w.e.f. 6 December 2008.]

351. Destroying document

Any person who wilfully burns or destroys, any register, minute or original act of public authority, or any deed, promissory note, bill of exchange, commercial or bank security, containing or creating any obligation, condition or discharge, shall be punished by penal servitude for a term not exceeding 20 years, or by imprisonment and by a fine not exceeding 100,000 rupees.

[S. 351 amended by Act 29 of 1990; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

352. Damaging property by band

(1) Any person who plunders, or damages provisions, goods or merchandise or any other property committed by a body or band, and with open force, shall be punished by penal servitude for a term not exceeding 20 years, and by a fine not exceeding 100,000 rupees.

(2) Any person who, without lawful authority, enters or attempts to enter any premises—

- (a) by using violence towards any other person or building;
- (b) by threats to any other person; or
- (c) while in a body or band consisting of 5 or more persons,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 150,000 rupees and to penal servitude for a term not exceeding 20 years.

[S. 352 reprinted by Reprint 1 of 1983; Reprint 2 of 1983; amended by Act 29 of 1990; Act 30 of 1991; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

353. Damaging goods used for manufacture

Any person who, by means of a corrosive liquid or in any other manner, wilfully spoils any goods or materials used for manufacture, or any manufactured article, shall be punished by imprisonment, and by a fine not exceeding 100,000 rupees.

[S. 353 amended by Act 29 of 1990; Act 5 of 1999; s. 8 (a) of Act 36 of 2008 w.e.f. 6 December 2008.]

354. Damaging crop

Any person who destroys any standing crop, or any plant growing naturally or by the labour of man, shall be punished by imprisonment, and by a fine not exceeding 100,000 rupees.

[S. 354 amended by Act 29 of 1990; Act 5 of 1999; s. 8 (a) of Act 36 of 2008 w.e.f. 6 December 2008.]

355. Damaging tree

(1) Any person who breaks or destroys any tree, knowing it belongs to another person, or growing in any square, highway, road, street, or in any public, vicinal or private path, traverse, sera puni d'une peine d'emprisonnement qui ne pourra excéder 5 ans, et d'une amende qui n'excèdera pas 100,000 roupies.

shall be punished by imprisonment for a term not exceeding 5 years, and by a fine not exceeding 100,000 rupees.

(2) The like punishment shall be applied, where one or more trees have been damaged, cut, or barked, so as to cause the destruction of the same, or where one or more grafts have been destroyed.

[S. 355 amended by Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

356. Damaging agricultural product

Any person who cuts or pulls out of the ground any grain, forage, fruit, vegetable, or any other produce, knowing it belongs to another person, shall be punished by imprisonment for a term not exceeding 2 years and by a fine not exceeding 100,000 rupees.

[S. 356 amended by Act 29 of 1990; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

357. Damaging agricultural instrument

The breaking or destruction of any agricultural instrument, park or pen for cattle, or of any keeper's hut, shall be punished by imprisonment for a term not exceeding 2 years, and by a fine not exceeding 100,000 rupees.

[S. 357 amended by Act 29 of 1990; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

358. Poisoning animal

Any person who poisons any horse, or other animal used for draught, riding or carrying burden, or any horned cattle, sheep, goat, pig, watch-dog, poultry, or any fish in any pond, tank, reservoir or river, shall be punished by penal servitude for a term not exceeding 20 years and by a fine not exceeding 100,000 rupees.

[S. 358 reprinted by Reprint 2 of 1983; amended by Act 29 of 1990; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

359. Killing animal

(1) Any person who wilfully and maliciously kills any of the animals specified in section 358, shall be punished as follows—

- (a) where the offence has been committed in any building, enclosure, appurtenance, or on any ground of which the owner of the animal killed is the proprietor, lessee, cultivator or tenant, the punishment shall be imprisonment and a fine not exceeding 100,000 rupees;
- (b) where the offence has been committed in any other place, the imprisonment shall not exceed 2 years.

(2) The punishment of imprisonment shall be inflicted where any enclosure is forced.

[S. 359 amended by Act 29 of 1990; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

360. Injuring animal

(1) Any person who wilfully and maliciously wounds or maims any of the animals specified in section 358, or wounds, maims, or kills any other domestic animal, in a place of which the owner of the animal is the proprietor, lessee, cultivator or tenant, shall be punished by imprisonment for a term not exceeding one year, and by a fine not exceeding 100,000 rupees.

(2) Where the offence has been committed in any other place, the imprisonment shall not exceed one year.

(3) The punishment of imprisonment shall be inflicted where any enclosure has been forced.

[S. 360 amended by Act 29 of 1990; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

361. Penalty for offence by keeper of animal

In the cases provided for in sections 358 to 360, where the offence is committed by a person to whom the keeping of animals was entrusted, the punishment shall be penal servitude for a term not exceeding 20 years.

[S. 361 reprinted by Reprint 2 of 1983; amended by s. 8 (b) of Act 36 of 2008 w.e.f. 6 December 2008.]

362. Damaging enclosure

Any person who, whether in whole or in part, fills up any ditch, destroys any enclosure made of any materials, cuts or tears up any hedge, whether quick or dead, or displaces or takes away any landmark, cornerstone or tree, planted or known as establishing the boundaries between different properties, shall be punished by imprisonment for a term not exceeding 2 years, and by a fine not exceeding 100,000 rupees.

[S. 362 amended by Act 29 of 1990; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

363. Damaging building

Any person who throws any stone or other hard substance against the house, building or enclosure, of another person or into any garden or enclosure, shall be punished by imprisonment for a term not exceeding 2 years and by a fine not exceeding 100,000 rupees, without prejudice to any severer punishment, if any wound or accident has ensued.

[S. 363 amended by Act 29 of 1990; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

364. Flooding road or property

Any proprietor, farmer or other person having the possession and use of any mill, machinery, or pond, who by raising the overfall of the water above the height fixed by the competent authority, inundates any road, or the property of another person, shall be punished by a fine not exceeding 100,000 rupees.

[S. 364 amended by Act 29 of 1990; Act 5 of 1999; s. 8 (a) of Act 36 of 2008 w.e.f. 6 December 2008.]

365. Damaging property by fire

The burning of any property, belonging to another person, which is caused by the decay or want of repair, or the foul state of any oven, chimney, forge, adjoining house or machinery, or by any fire lighted in a field at a distance of less than 100 toises from any house, building, forest, heath, wood, orchard, plantation, hedge, stack of straw or grain, straw, hay, forage, or any other mass of combustible matter, or by any fire or light carried or left without sufficient precaution, or by any fireworks lighted or let off with negligence or imprudence, shall be punished by a fine not exceeding 100,000 rupees.

[S. 365 amended by Act 29 of 1990; Act 5 of 1999; s. 8 (a) of Act 36 of 2008 w.e.f. 6 December 2008.]

366. Failing to notify of infected animal

Any person having the possession or charge of any animal or cattle, suspected of being infected with any contagious disorder, who does not give immediate notice thereof

to the Commissioner of Police if in Port Louis, or to the Superintendent of Police of the District where the animal or cattle is, and who, before the Superintendent of Police has replied to such information, does not keep the animal or cattle shut in, shall be punished by a fine not exceeding 100,000 rupees.

[S. 366 amended by Act 29 of 1990; Act 5 of 1999; s. 8 (a) of Act 36 of 2008 w.e.f. 6 December 2008.]

367. Allowing infected animal to communicate with others

Any person who in defiance of the prohibition given by lawful authority, allows his infected animals or cattle to communicate with others, shall likewise be punished by imprisonment for a term not exceeding one year and by a fine not exceeding 50,000 rupees.

[S. 367 amended by Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

368. Permitting contagion of disease

Where, from the communication specified in section 367, there ensues contagion among such other animals, those who have contravened the prohibition given by lawful authority, shall be punished by imprisonment for a term not exceeding 2 years and by a fine not exceeding 50,000 rupees, without prejudice to the execution of any enactment relative to the epidemic diseases of animals, and the application of the penalties there prescribed.

[S. 368 amended by Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

369. Damaging goods and chattels

Any person who, in any case not provided for by sections 346 to 368, causes any wilful damage to the goods and chattels of another person, shall be punished by imprisonment for a term not exceeding 2 years and by a fine not exceeding 100,000 rupees.

[S. 369 amended by Act 29 of 1990; Act 5 of 1999; s. 8 of Act 36 of 2008 w.e.f. 6 December 2008.]

369A. – 369B. —

[Ss. 369A and 369B repealed by s. 23 of Act 22 of 2003 w.e.f. 9 August 2003.]

BOOK IV – CONTRAVENTIONS

370. – 377. —

PART I – FIRST CLASS CONTRAVENTIONS

378. First class contraventions

A fine not exceeding 1,000 rupees shall be incurred by any person who—

- (a) neglects to light or clean any street or passage in the places where the law imposes this obligation upon the inhabitants;
- (b) obstructs the public way, by depositing or leaving on it any materials or things, which may hinder or diminish the free and safe passage of the same, or neglects to place a light upon the materials which he has heaped up, or upon the excavation which he has made in any street or public place, after having obtained the sanction of the police, or without such sanction, makes any such excavation;
- (c) neglects or refuses to execute any enactment concerning highways, or to

- obey any summons issued by the Commissioner of Police to repair or demolish any building threatening to fall;
- (d) places on a window, balcony or elsewhere, any article, the fall of which may hurt persons passing by;
 - (e) neglects to clear away and destroy in the street, along the footpath of the house in which he dwells, weeds, grass, and other plants of every description;
 - (f) carries fire in the street, except in a lantern or vase, or with such other precautionary means as are calculated to guard against accident by fire;
 - (g) leaves in any street, road, public place, square or field, any crowbar, bar, or other engine, instrument or arms, of which an improper use may be made by malefactors or thieves, or any stone or other article that may impede the free passage of the pub
 - (h) keeps any loaded cart or dray on the public way, for a longer time than is necessary, or after unloading the same, leaves on the public way such cart, or any forage or other article taken from the cart;lic way;
 - (i) without the permission of the police, erects a tent in a street or public place, or in front of any house or building, or fixes a rope or sets up a stake in any such place;
 - (j) sets up against his house any prop or enclosure, encroaching on the street, or any shed, table for the exposure of goods, trap door or other work, calculated to obstruct or impede the passage except in cases of building, repairing or demolishing, where the props, enclosures or other works on the public way have been authorised by the Commissioner of Police who shall determine the manner in which the same shall be made and the time of their removal;
 - (k) does not fasten the windows, shutters and doors of his house, enclosure or outhouse, in such manner as persons passing by may not be obstructed or hurt by the same;
 - (l) neglects to cause the front of his house or premises, and the footpath and drain in front of the same to be swept, and to collect the sweepings together, in sufficient time for removal by the vehicles used for that purpose;
 - (m) throws in the street or puts in front of his house any dung, earth, rubbish or any other thing not removable by the vehicles and calculated to impede the free passage, or the salubrity of the highway;
 - (n) without due caution, throws filth, water or any other thing on another person;
 - (o) throws filth or any other thing into or near any stream, canal, or running water, fountain or public reservoir, or washes or bathes therein;
 - (p) throws, makes, or puts any refuse in the street;
 - (q) is found drunk and incapable in any street highway, road, square or other public place;
 - (r) is dressed in an indecent manner;
 - (s) bathes or shows himself in an indecent state, in any place open to public view;
 - (t) without authority, or in any manner contrary to the authority obtained, makes or keeps in the street any drain or sink for the carrying away of the filth coming from his Courtyard or premises;
 - (u) allows an animal other than a dog, belonging to him to stray;
 - (v) throws into any street, public place or suburb or into any harbour, river, stream, canal or ditch, any dead animal, or does not cause the same to be

buried in the place indicated by the Police;

- (w) exposes for sale, or causes to be exposed for sale, elsewhere than in the bazaar, fruits, meat, vegetables, drinks or any other thing which ought to be sold in the public market place;
- (x) without permission, sells or causes to be sold in the street, or elsewhere than in the place pointed out by the licence, articles of haberdashery, hardware, second hand clothes, or other such commodities;
- (y) without any other circumstance provided for by law, gathers or eats on the spot, fruit belonging to another person;
- (z) passes through ground belonging to another person, or enters upon such ground contrary to the will of the owner;
- (za) has a keeper thereof who does not keep in sight, the cattle or animals entrusted to his care, or leaves them to stray by themselves;
- (zb) before the hour fixed by the police, causes to be carried to the place prescribed, any tub of filth, by traversing any street or public place in the town, or causes the same to be carried elsewhere than the place prescribed, and any person who puts or throws any filth in any part of the town, or in its immediate vicinity, except in the places specified for that purpose by the competent authority.

[S. 378 amended by Act 29 of 1990; Act 19 of 1995; Act 5 of 1999.]

379. Forfeiture of object of first class contraventions

The instruments, arms, animals, and bazaar commodities specified in section 378 (g), (u), (w) and (x) shall be forfeited.

380. Imprisonment in certain cases

In the case of an offence under section 378 (q) or (s) imprisonment for a term not exceeding 3 days may be added to the fine.

381. Penalty for recidivism

In case of a subsequent conviction for a similar offence, double the term of imprisonment may be pronounced in the cases specified in section 378 (q) and (s), and double the fine in all cases.

PART II – SECOND CLASS CONTRAVENTIONS

382. Second class contraventions

A fine not exceeding 2,000 rupees and imprisonment for a term not exceeding 4 days shall be incurred by—

- (a) any keeper of a hotel, inn or lodging house, who neglects to insert in a register kept for that purpose, the name, profession, usual domicile, and date of arrival and departure of every individual who sleeps or spends a night in the inn, hotel or lodging house, and any keeper who fails to produce such register whenever required to do so to the Commissioner of Police or to any other police officer, without prejudice to the responsibility of such keeper for any crime or misdemeanour committed by any person who lodges or sojourns with such keeper, and is not regularly inscribed as be
- (b) any person not being the owner, usufructuary, tenant or renter of, nor having the use nor the right of passage over any land, or who being neither agent of, nor employed by any of these persons, enters and passes over such land, or any portion thereof, if the same had been prepared or planted, or had been sown, or had any crop growing therein;fore mentioned;

- (c) any person who causes or permits his herds, cattle, beasts of burden, of draft or for riding to pass over the land of another person before the whole of the crop has been cleared away;
- (d) any person whose cart does not bear on the outside the name of the owner, and the number given by the police painted on a black ground in white letters and figures of one inch in height and placed on both sides of the cart, and also any person who neglects to provide for the driving of such cart by 2 drivers on foot, where there are more than 2 animals attached to the cart;
- (e) any driver of a cart, carriage or vehicle, or of any beast of burden, who neglects to keep constantly within reach of his horses, draft animals, beasts of burden, carriage or vehicle, so as to be able to lead or drive the same, and to leave free to the right, one half at least of the street, way, road or causeway;
- (f) any rider of a tricycle, bicycle or other cycle who neglects to leave to the right one half at least of the street, way, road or causeway;
- (g) any person who runs the risk of doing any injury by the rapidity or unskilful management of any carriage, vehicle or animal;
- (h) any person whose horse, ass, mule, ox, cow, sheep or goat is found in a street or public place without a driver;
- (i) any person who allows any madman, being under his charge, or any dangerous or ferocious animal, to wander about, even though no harm or injury ensues;
- (j) any person who establishes or keeps in a street, road, public place or square, any game of chance, whatever may be the nature or description of the same, as well as the limits or extent of the risk or chance which may be run;
- (k) any person who sells or retails any adulterated liquor without prejudice to any severer punishment, where the ingredients employed are prejudicial to health;
- (l) any person who without lawful excuse refuses or neglects to perform any labour or service, or to lend the assistance which is required of him, in case of any accident, tumult, inundation, fire, or other calamity, as also in case of any robbery, illegal meeting, plundering, flagrant offence, hue and cry, or judicial execution;
- (m) any person coming within sections 203 and 207;
- (n) any person who sticks up, sells or distributes any drawing or engraving contrary to the principles of morality, without prejudice to the prosecution to be instituted against the author of such drawing or engraving;
- (o) any person who exposes for sale any eatable, if the same is spoiled, tainted or hurtful;
- (p) any person who breaks in any horse or mule, either for saddle or harness, in any street or public place in town at any hour, or in the Champ-de-Mars before 8 am or after 4 pm;
- (q) any person who rides or leads in the street a horse or mule without a bridle;
- (r) any person who sends cattle, or causes the same to be taken for pasture into any street or within the precincts of the town or causes the same to go through the town at any other hours than those notified by the police.

[S. 382 amended by Act 29 of 1990; Act 5 of 1999.]

383. —

384. Forfeiture of object of second class contraventions

The following shall be seized and forfeited—

- (a) any table, instrument or article used for gambling in a street, road or public way, as well as any stake funds or other articles offered to the players as specified in section 382 (j);
- (b) any adulterated liquor found to belong to the seller or retailer.

PART III – THIRD CLASS CONTRAVENTIONS

385. Third class contraventions

A fine not exceeding 3,000 rupees and imprisonment for a term not exceeding 10 days shall be incurred by—

- (a) any person who neglects to keep in good order, to repair or to clean any oven, chimney or place in which fire is used;
- (b) any person who lets off fireworks in any town, borough, village, public road, or in the vicinity thereof, without the permission of the Police;
- (c) any person who makes a fire in any house, outhouse, or hut in which there is no hearth or chimney to receive it;
- (d) any person who plunders wood or fruit belonging to another person and carries off the same, whether on the back of a man or of a beast of burden, or takes grain or other produce of the ground from any field;
- (e) any person who steals any fowl or pigeon, where no complaint is brought before the Police;
- (f) any person who takes or carries away any earth, stone, gravel, or turf, whether from a highway or road, or from ground belonging to the Government, or from land belonging to another person;
- (g) any person who, without the permission of the Municipal Council in the towns of Port Louis, Beau Bassin-Rose Hill, Quatre Bornes, Curepipe and Vacoas-Phoenix or of a Superintendent of Police in any other place, lights a fire in any street or public place, or in any suburb or yard, or in any field, at a distance of less than 50 metres from any house, building, orchard, plantation, stack of hay, heap of grain, straw, forage, or other combustible materials, even though no accident ensues;
- (h) any keeper of an hotel, inn or lodging house, who inscribes in his register, under a fictitious name or description any person who lodged or spent a night in such hotel, inn or lodging house without prejudice to the responsibility of such keeper;
- (i) any keeper of an inn, eating-house, or coffee house who furnishes any soldiers with drink or the means of gambling, and any keeper of a coffee house who after midnight has any customer in such coffee house, or permits gambling there;
- (j) any person who causes the death or wounding of any animal or cattle belonging to another person, by the wandering about of any mad-man, or of any dangerous or ferocious animal, or by the rapidity, unskilful management, or the overloading of any carriage or vehicle, horse, draft animal, beast of burden, or animal for riding;
- (k) any person who causes the like injury by using or employing arms without proper caution or skill, or by throwing any stone or other hard substance;
- (l) any person who causes the like accident by the old age, state of decay, want of repair or proper upkeeping up of any house or building, or by the heaping up of materials, or making an excavation or any similar work in or near any

street, road, public place or way, or without due or usual precaution;

- (m) any person who follows the trade of a diviner, fortune-teller, or interpreter of dreams;
- (n) any person who prepares or exposes for sale the flesh of any animal, which is unhealthy or unfit to be killed for butcher's meat;
- (o) any person who distributes or sells any prescription, drug, medicine, composition, or recipe, for the cure of any disease, infirmity, or wound, unless he has first obtained the requisite authority for that purpose, without prejudice to the penalties which may be awarded, if any accident ensues from the effect of using such composition or recipe;
- (p) any person who has any false weight or measure in his storehouse, shop, manufactory, or counting house, or in the market or bazaar, without prejudice to punishments against those who have made use of such false weight or measure;
- (q) any person who makes use of any weight or measure different from those established by the laws in force;
- (r) any person who disturbs the public peace by behaving in a disorderly manner;
- (s) any person who at night wantonly blows a whistle, or uses any other instrument, emitting or producing a sound similar to the sound of the police alarm whistle.

[S. 385 amended by Act 29 of 1990; Act 5 of 1999.]

386. —

387. Forfeiture of object of third class contraventions

The following shall be seized and forfeited—

- (a) the false weights and measures, as well as the weights and measures differing from those established by law;
 - (b) the instruments, utensils, or other articles used or intended to be used for exercising the trade of a diviner, fortune teller, or interpreter of dreams;
 - (c) the drugs, medicines, compositions, apparatus and utensils of any quack or other vendor not duly licensed;
 - (d) the meat described in section 385 (n) which shall also be destroyed.
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